

## **INSTRUCTIONS FOR FILING A *PRO SE* MOTION TO APPOINT COUNSEL IN CIVIL CHILD SUPPORT CONTEMPT PROCEEDINGS<sup>1</sup>**

The attached motion may be used by *indigent* parents who face incarceration without counsel in civil child support contempt proceedings where the Georgia Department of Human Services (DHS) is a party and is represented by counsel. The only relief requested in the attached motion is the appointment of counsel. Parents who can afford to hire counsel should *not* use this form.

This motion does not preclude a finding of willful contempt and the issuance of an incarceration order. Nor does it challenge previous contempt orders or any aspect of the underlying child support order.

It will be up to the judge to decide whether to appoint counsel or not.

This form was created by attorneys at the Law Office of the Southern Center for Human Rights (SCHR). **SCHR does not represent you in your child support case or any other matter. SCHR cannot represent you in any contempt action or provide you with legal advice about your case. SCHR cannot file this motion for you. Please do not send your motion to SCHR.** Using this motion does not create an attorney-client relationship, nor is it meant to be legal advice.

Read each and every sentence of this form carefully and make sure that it is true with respect to your case before filing this form motion. This motion is styled as a “*pro se*” motion, meaning that the person who files it is not represented by a lawyer. If you *are* represented by a lawyer, you should not file this motion.

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<sup>1</sup> **DISCLAIMER:** The information in this document applies only in the State of Georgia. In July 2013, the information contained in this document was correct. The law changes rapidly and the information in this document may no longer be correct. This document provides general information only. This is not legal advice and cannot replace legal advice. Anyone seeking specific legal advice should contact an attorney. Viewing the website of the Southern Center for Human Rights or sending an e-mail message through our website does not create an attorney-client relationship.

The instructions below describe the steps necessary to fill out the motion. There are several blank spaces on the form. You should fill in these blank spaces to the best of your ability or the court may not accept the motion.

## **A. COMPLETE THE MOTION**

### **CASE CAPTION**

The case caption is located on the first page of the motion.

**NAME OF COUNTY:** At the very top of the first page, fill in the blank space with the *name of the county* of the court that issued the child support contempt order in your case. (Write in the name of the county of the superior court where your contempt case is pending, even if you live or are incarcerated in a different county).

**CASE NUMBER:** At the top of the first page, fill in the superior court case number for your child support contempt case. If you have more than one child support case, you may wish to complete one motion for each case. Your case number can be found on DHS' Motion for Contempt or the court's Order to Show Cause (or other court papers scheduling your contempt hearing). If you don't have access to those papers, you may contact the superior court clerk's office to ask for your case number.

**PARTIES:** You are the defendant. Fill in your name on the first page, above the line that reads "name of non-custodial parent." Fill in the name(s) of your child or children above the line that reads "name(s) of child(ren)."

### **INTRODUCTION/FIRST PARAGRAPH**

On page 1, write your full name in the blank space in the first sentence of the motion where it says "I, \_\_\_\_\_, the Defendant in this matter..."

### **STATEMENT OF FACTS**

The statement of facts starts on page 2.

**PARAGRAPH 1:** Fill in your age.

**PARAGRAPH 2:** Fill in the highest grade you completed in school. If you received your GED, you may indicate that in the blank provided.

PARAGRAPH 6: In the first blank, fill in the name of the county of the superior court where your child support order originated. This should be the same county listed in the case caption on page 1. In the second blank, fill in the date of your upcoming contempt hearing. If you are unsure of the date, you may contact the superior court clerk's office to ask for the next contempt hearing date in your case.

## LEGAL ARGUMENT

This section provides the legal basis for your motion to appoint counsel. You do not need to fill out anything in this section.

## CONCLUSION

The conclusion is on page 5. Sign your name on the "Defendant" line, fill in your current mailing address, and write the date on which you mailed or delivered the motion to the court.

### **B. COMPLETE THE CERTIFICATE OF SERVICE**

You must provide a copy of your motion to the opposing party – that is, the local DHS child support office that oversees your case. The "Certificate of Service" is a document that certifies that you have sent a copy of the motion to DHS. On the page marked "Certificate of Service," write in the address of the local DHS office in the blank provided. By signing this form, you are telling the court that you have served DHS with a copy of your motion.

### **C. FILE THE MOTION WITH THE CLERK OF COURT AND SEND A COPY TO THE LOCAL DHS CHILD SUPPORT OFFICE**

File your motion in the superior court where your child support contempt case is pending. You may file your motion with the court by mailing it to the clerk of the superior court. (You can usually find the address of the clerk's office in the blue/government pages in the local telephone book.). Alternatively, you can bring your motion to the clerk's office in person. If possible, keep a copy of the motion for your records.

The decision to grant or deny your motion is up to the judge in your case. After receiving your motion, the judge may or may not bring you into court for a hearing, and may or may not grant your motion.