

Instructions for Order to Show Cause Forms

READ ALL THE INSTRUCTIONS AND REVIEW THE FORMS BEFORE BEGINNING

YOU CAN USE THESE FORMS IF...

- You have a divorce decree, temporary order, or other civil order from a Court in South Dakota, or have registered your court order from another jurisdiction with a South Dakota Court.

AND

- The other party is **aware of and has willfully disobeyed** the decree, temporary order, or other order issued by the Court;

IMPORTANT NOTICES

- The person requesting that the court issue an order is the **Petitioner**. The person being filed against is the **Respondent**, however, the caption of this case must appear exactly the same as it is on the original court order you are requesting be enforced.
- An **Order to Show Cause** is a directive issued by the Court at a Petitioner's request requiring a Respondent to appear and show cause as to why they have not complied with an order of the Court. The **Motion and Affidavit for Order to Show Cause** is the Petitioner's sworn statement requesting the Court to issue the Order. If the Judge finds that there is not sufficient cause presented in the **Motion and Affidavit for Order to Show Cause**, the **Motion** and **Order** will be denied and no further action will be taken.
- These forms can only be used if there is an existing court order that the Respondent is aware of and has **willfully** refused to comply with. **These forms cannot be used to modify an existing order or request the Court issue a new one.**
- If you do not already have one you will need to get a **certified copy** of the final **Judgment and Decree of Divorce**, or other civil order that you are trying to enforce, and attach it to these forms. You would get a certified copy from the Clerk of Courts office in the county your case is filed in.
- Court employees **cannot** help you fill out forms or give you legal advice. If you have questions please **consult an attorney** or call the Legal Form Help Line. Type or print using dark ink.
- The Court expects every person who appears in court without an attorney to know and follow the law. The Judge will not be able to give you any help in court.

FOLLOW THESE INSTRUCTIONS TO FILE FOR AN ORDER TO SHOW CAUSE.

1. Fill out the caption (top part of the form) and Section 1 of the **Motion and Affidavit for Order to Show Cause (UJS-)**. The information to fill in the caption - case name and number, County, and Circuit - is at the top of your current Order. Be sure to copy the information **exactly** as it is on your court order. Stop when you get to Section 2.
2. **DO NOT** fill in Section 2 until you are **in the presence** of a Notary Public or a Clerk of Court. By signing your name you are telling the court that you are telling the truth and that you have a good faith reason for your requests. If you are not telling the truth, or if you are misleading the court, or if you are serving or filing this document for an improper purpose, the court can impose penalties upon **you**.

3. Attach a certified copy of your current court order to the *Motion and Affidavit for Order to Show Cause*.
4. Fill out **only** the top portion (caption) of the *Order to Show Cause (UJS-*) exactly like on your other orders. The Judge will complete and sign the *Order to Show Cause* if they order a hearing.
5. Make copies of all paper work to keep for your files. You can also pay the clerk for copies.
6. File the **original** *Motion and Affidavit for Order to Show Cause* with the certified copy of your court order attached, and the proposed *Order to Show Cause* with the Clerk of Court. The Clerk will file stamp your documents and give them to the judge to review. This may take a few days.
7. Based upon the information within the *Motion and Affidavit for Order to Show Cause* and the prior court order you attached, the Judge may sign the proposed *Order to Show Cause* and set a hearing date. If the Judge signs the order, the clerk will notify you that a date for a hearing has been set. The clerk will also notify you if the Judge denies your motion. You must be sure to include your phone number on the *Motion and Affidavit for Order to Show Cause* so the clerk will be able to contact you. If you have not heard from the clerk in 5 business days you should call their office back and inquire as to the status of your case.
8. As soon as a hearing date has been set, you will need to come back to the Clerk's office and get certified copies of all the paperwork filed for service on the other party. You will need \$4 to pay for the certified copies.
9. The respondent must be served with all the documents filed in the case at least 10 days before the hearing date, and you **must** provide proof to the Court that they were served. To do this you will take your certified paperwork to your local Sheriff's office and pay the Sheriff to serve the other party. Once they have served the other party the Sheriff will give you a *Proof of Service* that you must file immediately with the Clerk of Courts office. If you cannot afford to pay for the service fee to the Sheriff you can ask the Clerk for a waiver form and the court may waive the fee.
10. **Failure to file proof of service will most likely result in the dismissal of your petition.**
11. You must go to court on the date and time set for the hearing. Bring copies of all your documents with you to the hearing. Bring any proof you have or witnesses who can verify your claims to the hearing. If you need a subpoena for a witness the clerk will issue one for you. Fees apply. Subpoenas should be issued as soon as you have filed the completed proof of service to ensure adequate notice. Court hearings are formal. **Do not** bring children to the hearing. You should be polite to everyone in the courtroom and address the Judge as "your honor." Speak to the Judge only when directed. Do not talk or argue with the other party during the hearing. If you and the respondent have resolved the issue before the hearing, call the Clerk and cancel the hearing.