

## Procedures and Sanctions for Common Forms of Contempt

The following table indicates whether the acts described in the Michigan Judicial Institute’s *Contempt of Court Benchbook*, Chapter 5, constitute direct or indirect contempt and whether the acts may be treated as civil or criminal contempt of court. See the benchbook’s Chapter 3 for detailed treatment of the procedures required for each type of contempt proceeding.

Contumacious conduct	Whether conduct is direct or indirect contempt	Whether conduct is civil or criminal contempt
Attorney’s failure to appear in court	Always indirect contempt.	Civil or criminal contempt proceedings may be instituted. Attorney’s willfulness need not be proven to order civil sanctions, including costs of assembling jury panel. <i>In re Contempt of McRipley (People v Gardner)</i> , 204 Mich App 298, 301-02 (1994).
Attorney’s misconduct in courtroom	Always direct contempt. Summary contempt proceedings may be instituted if necessary to restore order and preserve the court’s authority.	Most reported cases involve criminal sanctions, but civil sanctions may be appropriate where it is still possible to restore order in the courtroom.
Contempt of court under the Juvenile Code	May be either direct or indirect contempt. Summary punishment may be imposed if the violation occurred in the immediate view and presence of the court.	Civil or criminal contempt proceedings may be instituted.
Criminal defendant’s disruptive behavior in court	Always direct contempt. Summary contempt proceedings may be instituted if necessary to restore order and preserve the court’s authority.	Civil or criminal contempt sanctions may be imposed.

Contumacious conduct	Whether conduct is direct or indirect contempt	Whether conduct is civil or criminal contempt
Criticism of the court	May be either direct or indirect contempt. Summary punishment may be imposed if the violation occurred in the immediate view and presence of the court.	Civil or criminal contempt proceedings may be instituted.
Failure of witness to appear or testify as ordered by subpoena	Always indirect contempt.	Civil or criminal contempt proceedings may be instituted.
Failure to pay child or spousal support	Always indirect contempt.	Civil contempt proceedings are mandated by <a href="#">MCL 552.631(1)</a> , but criminal proceedings may be appropriate in certain situations. <i>Borden v Borden</i> , 67 Mich App 45, 49 n 1 (1976).
Failure to pay money judgment	Always indirect contempt.	Civil or criminal contempt proceedings may be instituted, but a coercive civil sanction may better achieve the desired result.
Fiduciaries who violate court orders	Always indirect contempt.	Civil or criminal contempt proceedings may be instituted.
Filing false pleadings and documents	Always indirect contempt.	Most reported cases involve criminal contempt proceedings.
Grand jury witness's refusal to testify	Always direct contempt. Summary contempt proceedings may be instituted if necessary to restore order and preserve the court's authority.	Only civil contempt sanctions may be imposed. <i>Spalter v Wayne Circuit Judge</i> , 35 Mich App 156, 164-65 (1971).
Improper attempt to affect jurors and potential jurors	Always indirect contempt.	Criminal contempt proceedings must be instituted.

<b>Contumacious conduct</b>	<b>Whether conduct is direct or indirect contempt</b>	<b>Whether conduct is civil or criminal contempt</b>
Improper attempt to affect witness testimony	Always indirect contempt.	Criminal contempt proceedings must be instituted. <i>Russell v Wayne Circuit Judge</i> , 136 Mich 624, 625 (1904).
Juror misconduct	Usually indirect contempt.	Civil or criminal contempt proceedings may be instituted.
Obstructing judicial process or service	Always indirect contempt.	Civil or criminal contempt proceedings may be instituted.
Parties and attorneys in civil cases who violate discovery orders	Always indirect contempt.	Civil or criminal contempt proceedings may be instituted.
Violation of court order	May be either direct or indirect contempt. Summary punishment may be imposed if the violation occurred in the immediate view and presence of the court.	Civil or criminal contempt proceedings may be instituted.
Violation of court order regarding nuisance	Always indirect contempt.	Criminal contempt proceedings must be instituted. <i>Michigan ex rel Wayne Pros v Powers</i> , 97 Mich App 166, 171 (1980).
Violation of parenting time order in divorce judgment	Always indirect contempt.	If it is possible to restore the status quo by granting additional parenting time, civil contempt proceedings may be instituted. If it is not possible to restore the status quo, criminal contempt proceedings may be instituted. <i>Jaikins v Jaikins</i> , 12 Mich App 115, 121 (1968). <sup>1</sup>

<b>Contumacious conduct</b>	<b>Whether conduct is direct or indirect contempt</b>	<b>Whether conduct is civil or criminal contempt</b>
Violation of personal protection order	Usually indirect contempt.	Criminal contempt proceedings are usually instituted, but statute and court rule allow for imposition of civil sanctions, which may be appropriate in certain situations (e.g., respondent fails to relinquish property).
Witness's refusal to testify	Always direct contempt. Summary contempt proceedings may be instituted if necessary to restore order and preserve the court's authority.	Under <a href="#">MCL 600.1725</a> , a coercive (civil) commitment is the prescribed punishment.

1. Note that the Friend of the Court can only initiate civil contempt proceedings. See [MCL 552.511b](#); [MCL 552.641](#); [MCL 552.644](#).