

STEP 7: AFTER THE HEARING

If the warrant application is denied or the applicant drops it, the applicant cannot refile it if it's based on the same facts.

If a warrant is issued, the accused may be arrested if they're at the courthouse. If you have a warrant against you and try to run, you could face additional charges. You still have the right to remain silent and get a lawyer.

Being arrested or having a warrant issued does not mean you are guilty. This is just the start of the criminal process. The case will be sent to a prosecutor to decide whether to charge you.

KEY LEGAL DEFINITIONS

Affidavit: A written statement that someone swears to under oath in front of someone that is legally authorized, like a judge or notary public.

Calendar: A list, in alphabetical order, of all the cases in each courtroom every day.

Defendant: In a criminal case, the person accused of the crime.

Dismiss WITH Prejudice: When a court dismisses a case and will not allow another suit to be filed on the same claim in the future.

Dismiss WITHOUT Prejudice: When a court dismisses a case but will allow other suits to be filed on the same claim.

Evidence: Legally presented proof through witnesses, documents, & objects.

Hearsay: A statement made out of court that is not based on the witness's own personal knowledge and is offered to prove the truth of the matter asserted.

Probable Cause: It means it is more likely than not that a crime has been committed by the accused.

Subpoena: A court order requiring the witness to testify.

POSSIBLE CRIMINAL PENALTIES

- A non-custodial parent accused of abandoning their child in a dependent state may face a felony or misdemeanor.
- A non-custodial parent who abandons their child may face a misdemeanor charge, punishable by a fine of up to \$1,000 and up to 12 months in jail.
- A non-custodial parent who abandons their child and leaves the state of Georgia may face a felony charge, punishable by imprisonment from 1 to 3 years. However, the felony can be reduced to a misdemeanor.
- A non-custodial parent convicted of child abandonment three times may face a felony charge, punishable by imprisonment from 1 to 3 years. This charge cannot be reduced to a misdemeanor.

CONTACT US TODAY!

Monday - Thursday | 8:30 a.m. - 5:00 p.m.



PHONE
404-613-9307



EMAIL
Magistrate.JArequests@FultonCountyGA.Gov



IN-PERSON
185 Shirley C. Franklin BLVD SW (formerly 185 Central AVE SW), Atlanta, GA 30303



WEBSITE
www.MagistrateFulton.Org

Disclaimer: The information in this pamphlet is not legal advice. It is intended to give a general description of the services available through the R.E.A.C.H. Clinic. Consult an attorney for legal advice about your case.



Thank You!

CHIEF MAGISTRATE JUDGE
Cassandra Kirk

Magistrate Court of Fulton County



WARRANT APPLICATION
Child Abandonment

CHILD ABANDONMENT WARRANT HEARING

- The custodial parent can go to court to ask for a warrant against the non-custodial parent for abandoning their child.
- Also known as a probable cause hearing, which determines if there is enough evidence to believe a crime was committed. It is not a trial.
- At the hearing, the applicant must present evidence and the accused may present evidence, but is not required to do so. The judge will listen to the evidence presented and determine if the applicant met their burden.
- The judge will issue an arrest warrant for the accused if the judge finds probable cause. In rare cases, the judge may issue a warrant without a hearing.

WHAT IS CHILD ABANDONMENT?

- When a parent does not provide enough food, clothing, or shelter for their child on purpose. It is a continuing offense.
- The accused can be prosecuted again even if they were acquitted or convicted before, as long as the child is left in a dependent condition for at least 30 days.
- It can be a misdemeanor or a felony, depending on the facts. It is not a defense to say that the accused parent has never supported the child.
- The accused parent has the right to ask for a DNA test, but they must pay for it. **O.C.G.A. § 19-10-1**

WHERE TO FILE A WARRANT APPLICATION

- If a child is born out of wedlock, the case can be filed in the county where the child and mother live at the time the arrest warrant is sworn out.
- If the child and mother live in different counties, the case should be filed in the county where the child lives.

BEFORE YOU FILE REMEMBER!

- The incident must have occurred in Fulton County.
- Have the full legal name, height, race, and eye color of the person you are accusing.
- Have an address where the person can be served.
- Be prepared to show evidence to the court.
- Know the last time the non-custodial parent provided support (money, food, clothing, or shelter) to the child.

STEP 1: APPLICANT FILES APPLICATION

How to file a warrant application in the Clerk's Office:

- Bring a government-issued photo ID.
- Describe the alleged crime – who, what, when, where, and how.
- Pay a \$20 filing fee for each person accused of a crime. There is no fee for domestic violence or sexual offenses.
- After paying at the accounting office, bring proof of payment back to the Clerk's Office to get a court date.

CLERK'S OFFICE

136 Pryor Street, Suite TG-100
Atlanta, GA 30303. (404) 613-5313

STEP 2: THE COURT SCHEDULES HEARING

- A probable cause hearing will be scheduled promptly, typically within three weeks, after the warrant application is filed.
- A valid address must be provided for the hearing; otherwise, it will not be scheduled.
- If the mailed notice is returned undeliverable, the case will be dismissed, but the applicant can refile with the correct address.

STEP 3: THE COURT NOTIFIES THE ACCUSED

- The court will notify both parties of the hearing date, time, location, and charges.
- This will give them time to gather witnesses and evidence.
- The accused will be notified by personal service or by mail at the last known address you provide.

THE ACCUSED'S RIGHTS

- The right to remain silent and to have a lawyer. If you cannot afford a lawyer, one may be appointed to represent you. You may also represent yourself in court.
- Warrant application hearings are recorded. Anything you say during the hearing may be used against you in court in the future. You are not required to say anything that may be used against you.
- If you receive notice of the hearing and do not show up, or if you choose to remain silent, the judge will not hold it against you. However, the judge will make a decision based on the evidence presented at the hearing.

STEP 4: PREPARE FOR THE HEARING

- **Research.** Look at the crime listed in the warrant application and gather evidence to support your case.
- **Standard of Proof.** Remember that the applicant only needs to prove that there's "probable cause," which is a low standard of proof.
- **Subpoenas.** If you need a witness to testify, you can subpoena them. Hearsay evidence is allowed in a warrant application hearing, but witness testimony in court may add credibility to your case.
- **Legal Representation.** If you want a lawyer, you must provide one in enough time to avoid delays. **The case will not be continued for failure to obtain a lawyer.**

REMEMBER!

- The judge may limit the evidence presented, ask you questions, or ask the witness questions.
- Both sides can present evidence & ask questions of witnesses.
- The applicant can dismiss it at or before the hearing.

STEP 5: OPTIONAL MEDIATION

- We offer free mediation to help people resolve their case before the hearing. But, you don't have to mediate.
- If you want to mediate, come to court as scheduled and tell the clerk.
- The other party may not want to mediate.
- If you can't agree, the case will be heard as scheduled.

STEP 6: ATTEND THE HEARING

Court Appearance:

- The Applicant must attend the hearing.
- The Accused may attend the hearing if they chose.

Child Support: They will be available to discuss the case with the applicant. Parents may reach an agreement without a hearing. Agreed-upon agreements should be presented to the assistant solicitor-general for review and submitted to the judge.

Seating: The Marshal will direct seating based on your role in the case. The applicant will sit on one side and the accused will sit on the other side.

Calendar Call: The judge or clerk will call the names of the parties to confirm their presence. Cases will start when both parties are present and ready.

Addressing the Judge. When your name is called, tell the court what you want to do:

- **Payment:** If you are going to pay child support today. The judge will tell you how much to pay. You must pay with a money order. Cash is not allowed.
- **DNA:** If you don't believe you are the child's father. You cannot say this if there is already an open child support case against you for the child.
- **Hearing:** If you want a hearing. Be prepared to show proof of what child support you have or haven't paid or received in the past 30 days.

Preliminary Procedure: The judge will swear in the applicant, verifying the warrant application's accuracy. Both parties may present evidence and cross-examine witnesses. **The Accused may chose to exercise their right to remain silent.**

The noncustodial parent may also start the child support process. They can use receipts of any payments they made to the custodial parent as evidence at the hearing.

After the hearing, the judge will decide whether there's probable cause. If there's probable cause, the judge will issue an warrant for the non-custodial parent arrest. In rare cases, the decision may be held for further review.