

Application - Contravention

FORM 18 Family Court Rules - Rule 433

Please type or print clearly and mark [X] all boxes that apply. Attach extra pages if you need more space to answer any questions.

Filed in:

- Family Court of Western Australia
 Other (specify) _____

Filed on behalf of:

- Father/husband _____
(FULL NAME)
 Mother/wife _____
(FULL NAME)
 Other _____
(FULL NAME)

File number

Filed at

Filed on

Location

Court date _____

Time _____

IMPORTANT INFORMATION FOR THE APPLICANT AND THE RESPONDENT IS ON PAGES 5 AND 6.

Part A About this application

1 This application:

- alleges that an order or bond has been contravened and seeks that the respondent be dealt with under Division 13A of Part VII of the *Family Law Act** (for example, an order affecting children); **or**
 alleges that an order or bond has been contravened and seeks that the respondent be dealt with under Part XIII A of the *Family Law Act** (for example, an order not affecting children); **or**
 alleges that the respondent has prevented or hindered action under a recovery order in breach of section 67X(2) of the *Family Law Act*.*

* or equivalent *Family Court Act* (WA) legislation where appropriate

Part B About the parties to this application

2 APPLICANT

Family name as used now

Given names

3

Contact address (address for service) in Australia. You do not have to give your residential address. You may give another address at which you are satisfied that you will receive documents. If a lawyer's address, include the firm name.

State	Postcode
Phone	Fax *
DX	
Lawyer's code	
Email *	

RESPONDENT

Family name as used now

Given names

Address

State	Postcode
Phone	Fax *
DX	
Lawyer's code	
Email *	

* Please do not include email or fax addresses unless you are willing to receive documents from the Court and other parties in that way.

Part C About the independent children's lawyer (if appointed)

4 Independent children's lawyer family name Given names

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5 The contact address (address for service) in Australia for the independent children's lawyer is:

	State	Postcode
Phone	Fax*	
DX	Email*	
Lawyer's code		

* Please do not include email or fax addresses unless you are willing to receive documents from the Court and other parties in that way.

Part D Details of the alleged contravention

- You must attach a copy of the order, bond, agreement, registered parenting plan or undertaking that you allege has been contravened, or a copy of the recovery order if you have it.
- At Items 6 and 7, you must set out the details of the act or omission which you allege contravened the order, bond, agreement, registered parenting plan or undertaking, or which prevented or hindered the action under the recovery order.
- If you allege that there is more than one contravention, you must set out the details for each contravention separately on an additional sheet, in accordance with Items 8 and 9 of this form.

6 State the paragraph number of the attached order, bond, agreement, registered parenting plan or undertaking that you allege has been contravened (eg, 2, 6, 7). **NOTE:** This is not required if preventing or hindering action under recovery order is alleged.

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7 State precisely what the respondent did or did not do which you allege amounts to a contravention, including the date, time and place, if applicable. See the examples below. Do not set out the evidence upon which you rely to prove the alleged contravention. This must be set out in an affidavit filed with this form (see Rule 433).

Date	Time	Place
/ /		

Statement of the alleged contravention

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Example of an order affecting children

Date Time Place

29/03/04 9 am 18 Main St, Mainville

Statement of the alleged contravention

The respondent without reasonable excuse refused to allow the applicant to spend time with the child John Citizen.

Example of an order NOT affecting children

Date Time Place

29/03/04 9 am 18 Main St, Mainville

Statement of the alleged contravention

The respondent without reasonable excuse sold the Holden motor vehicle, registration number ABC 123

Example of preventing or hindering the action under a recovery order

Date Time Place

29/03/04 9 am 18 Main St, Mainville

Statement of the alleged contravention

The respondent without reasonable excuse refused to allow the Australian Federal Police to enter his/her home to search for the child John Citizen.

Part D Details of the alleged contravention (continued)

- Only complete these paragraphs if you allege more than one contravention.
- Photocopy this page for each additional contravention that you allege, and alter the paragraph numbers as necessary, eg, from 8 and 9, to 10 and 11 etc.

8 State the paragraph number of the attached order, bond, agreement, registered parenting plan or undertaking that you allege has been contravened.

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9 State precisely what the respondent did or did not do which you allege amounts to a contravention, including the date, time and place, if applicable. See the examples on page 2.

Do not set out the evidence upon which you rely to prove the alleged contravention. This must be set out in an affidavit filed with this form.

Date	Time	Place
/ /		

Statement of the alleged contravention

Part E Affidavit of applicant

PLEASE DO NOT COMPLETE THIS PART OF THE FORM UNTIL YOU ARE WITH A PERSON WHO IS LEGALLY ABLE TO WITNESS YOUR SIGNATURE.

You must complete the following affidavit. You must sign it in the presence of a Justice of the Peace, Notary public, or lawyer. The person witnessing the affidavit will fill in the place and date.

I swear* /affirm* that:

- I am the applicant
- I have read this Application
- The facts of which I have personal knowledge are true
- All other facts are true to the best of my knowledge, information and belief.

Signature of Applicant

Place Date / /

Before me (signature of witness)

Full name of witness (please print)

- Justice of the Peace
- Notary public
- Lawyer

* delete whichever is inapplicable

This application was prepared by applicant/s lawyer

PRINT NAME AND LAWYER'S CODE

Important Notices to the Respondent/s

You **must attend** the hearing on the Court date on page 1. If you do not attend:

- a warrant may issue for your arrest; **or**
- the hearing may proceed; **and**
- an order may be made in your absence.

You should seek legal advice about this application.

FOR AN APPLICATION ALLEGING CONTRAVENTION OF AN ORDER AFFECTING CHILDREN

Depending on whether the contravention or a reasonable excuse for the contravention is established, and whether the contravention is more serious or less serious, the Court may:

- vary the primary order;
- order you to attend a post-separation parenting program;
- compensate for time lost with the child as a result of the breach;
- require you to enter into a bond;
- order that you pay all or some of the legal costs of the other parties;
- order that you pay compensation for reasonable expenses lost as a result of the contravention (eg airfares);
- require you to participate in community service;
- order you to pay a fine;
- order that you be imprisoned.

FOR AN APPLICATION ALLEGING CONTRAVENTION OF AN ORDER **NOT AFFECTING CHILDREN**

If the allegations are proved and you do not provide a reasonable excuse, the Court may:

- require you to enter into a bond;
- fine you;
- imprison you.

FOR AN APPLICATION ALLEGING THE CONTRAVENTION OF A COMMUNITY SERVICE ORDER OR A BOND

If the allegations are proved and you do not provide a reasonable excuse, you may be liable to punishments set out in Section 70NFF and Section 112AH(8) and (9) of the *Family Law Act* or the equivalent sections of the *Family Court Act*.

FOR AN APPLICATION ALLEGING CONTRAVENTION OF SECTION 67X(2) OF THE *FAMILY LAW ACT*

If the offence is proved and you do not provide a reasonable excuse you may be liable for the penalties set out in Section 67X(3) of the *Family Law Act* or the equivalent section of the *Family Court Act*.

Important Notices to the Applicant

You may be ordered to pay all or some of the costs of the respondent/s in some circumstances, for example, if the court makes no order in relation to the contravention/s you allege in this application. The court must consider ordering you to pay the costs of the respondent/s if:

- a) you previously brought a contravention application against the respondent/s; and
- b) the last time you did so, either:
 - (i) you failed to establish the contravention; or
 - (ii) the court did not make an order in relation to the contravention and did not vary the order contravened.

You should seek legal advice about this contravention.