

In Georgia, most arrest warrants are taken out by a law enforcement officer after investigating the incident. However, Georgia law also allows individuals to apply for a warrant. At a warrant application hearing the Judge will hear both sides and determine whether it is reasonable to believe that a crime has been committed.

If you believe you are the victim of a crime and the police have not taken an arrest warrant against the person who wronged you, you may file an application requesting a warrant be issued to arrest that person. **The person filing the application is the Applicant. The person against whom the warrant is sought is the Accused. This pamphlet is for the Applicant, the person seeking the warrant.**

A Judge will issue an arrest warrant if probable cause exists to believe a crime has been committed. This may include arrest warrants for the Applicant, the Accused, any witness or any person regardless of whether they are present at the hearing. It is rare, but, the Judge may also issue a warrant without a hearing pursuant to O.C.G.A. § 17-4-40(b)(6).

WHAT YOU NEED TO KNOW

- As the Applicant, you may dismiss the application at or before the hearing.
- You are responsible for moving the case forward including filing the application and presenting evidence.
- The Accused does not need to show up at the hearing and can exercise his or her right to remain silent, which will not be held against him or her.

Step 1: File the Application

Before you file an application for an arrest warrant in Fulton County, you must meet certain conditions:

1. The incident must have occurred in Fulton County.
2. The matter must be criminal in nature. Civil cases cannot be pursued in this manner.
3. You will need complete identifying information for the person you are seeking a warrant. This includes the complete legal name, height, race, eye color and address where they can be served and found.

4. You should be able to present evidence to the court. If the case is complex, a potential felony, or involves allegations of a sexual offense, contact your local police department or prosecutor to assist in investigation of the matter.

As the Applicant, you must provide:

- Photo identification, issued by a government authority.
- Full descriptions of the crime, indicating who, what, when, where and how.
- A \$20 filing fee for each Accused. Individual applications must be completed for each person.
- If the crime involves an act of domestic violence or is of a sexual offense, there is no fee to file the warrant application. Contact the appropriate prosecutor to assist you with evidence and investigation.
- **Warrant Applications are filed in the Clerk's Office. Payment is made at the accounting office. Bring proof of payment** from the accounting office to the Clerk's Office to receive a court date.

Step 2: Schedule a Hearing

- A hearing will be scheduled as soon as possible; generally within three weeks from the date of filing. The Court must notify the parties and allow them to gather witnesses and evidence.
- Hearings proceed best when both parties are aware of the application.
- A hearing will only be conducted after the person accused receives notice.

Step 3: Give the Accused Notice

- The accused person will be notified by personal service or first-class mail at the last known address you provide.
- The Notice must tell the accused person the date, time and location of the hearing.

- The case cannot be set for a hearing until a valid address is provided for the person accused. If the case is set for a hearing and the mail notice is returned as undeliverable, the case will be dismissed. If this happens, you can re-file the case when you have better information to locate the accused person.

Step 4: Prepare for the Hearing

- At the hearing, the Judge will determine whether probable cause exists to believe that a crime was committed.
- Both sides will have the opportunity to present their case.
- Research the offense you are filing for the warrant on and determine what evidence you need to present to the Judge.
- Unlike other proceedings, **hearsay** is allowed in a warrant application hearing. This means you can present evidence as to what other people said, including police reports. Witnesses may add credibility to your case.
- Probable cause is a low standard of proof. The Judge is not determining guilt or innocence nor is the Judge finding proof beyond a reasonable doubt.
- If you want a lawyer, you must provide one. Obtain a lawyer in enough time to avoid any delay in your case. The case will not be continued for failure to obtain a lawyer.
- If you believe that a witness is necessary for your case and that witness is unwilling to testify, you can subpoena the witness. Forms are available on magistratefulton.org.
- The employees of the Magistrate Court, including the Judge, cannot give legal advice. If you have questions about your legal rights or what options are available, consult an attorney.

Step 5: Mediation is an Option

- Parties do not have to mediate, but are encouraged to attempt it. Mediation offers the parties the opportunity to come up with a solution that fits them.
- The Court offers certified mediators for free at each calendar to help interested parties reach a solution before the hearing. You may speak with the person accused directly or through a mediator.

- To request mediation, come to court at the scheduled time and let the clerk know you are willing to mediate.
- If both parties choose to mediate, the court will give you time that day to do so. If only one party desires to mediate, your case will be heard by the Judge that day.

Step 6: Attend the Hearing

- Arrive early enough to find parking and the correct courtroom. If you do not show up or show up late, the judge may dismiss your application.
- Bring necessary evidence and witnesses to the hearing. All witnesses may not be heard.
- Court begins with a brief opening statement by the Judge. Make sure you are in the correct calendar.
- The clerk will call the names on the calendar to see which cases are ready. Cases are ready when both parties are present.
- At the calendar call, you may announce: a) **dismissal**: to dismiss the application, b) **hearing**: to go forward with the hearing or c) **mediation**: to participate in mediation.
- If the accused is not present and received notice, the Judge will hear your case and make a decision based on what is presented.
- When it is time to hear your case, you will be sworn in and placed under oath. You will present your evidence. The accused person has the right to examine any evidence and ask your witness questions. The accused person will then have the option to present his or her case. You can ask questions. The accused has the right to remain silent. The Judge may limit the presentation of evidence and witnesses and ask questions to understand the case.
- Once the Judge hears the evidence, the Judge will deny or grant the warrant.
- In some rare cases, the Judge may “hold” the application (neither deny nor grant) for further review.

Step 7: After the Hearing

- If a warrant is issued, that person may be arrested if he or she is present at the courthouse.
- If a warrant is issued against you, do not attempt to evade arrest. This can lead to additional charges. You have the right to remain silent and seek an attorney to represent you.
- If your arrest warrant application is denied or if you dismiss the application, you cannot file again on the same set of facts.
- Being arrested or having a warrant issued does not mean that the accused is guilty of the crime. The matter will move to the appropriate prosecutor for trial.

HELPFUL RESOURCES

The Judges and staff cannot provide legal advice; instead, try these resources:

Self-help Center (Suite TG-300): provides information and support services.

Law Library (7th floor of the Justice Center Tower): offers a place to conduct legal research and find information to assist with your case.

The Uniform Magistrate Court Rules: can be found in the law library or accessed through the court’s website – www.magistratefulton.org

Office of the Solicitor General (misdemeanor prosecutor) 160 Pryor St SW, Suite J301, Atlanta, GA 30303 (404) 612-4800

Office of the District Attorney (felony prosecutor) 136 Pryor St SW, Atlanta, GA 30303 (404) 612-4981

Office of the Public Defender, 100 Peachtree St, Atlanta, GA 30303 (404) 612-5200

MAGISTRATE COURT FULTON COUNTY

WARRANT APPLICATION APPLICANT PAMPHLET



**Chief Magistrate
Judge Cassandra Kirk**

**Justice Center Tower
185 Central Avenue S.W.
Atlanta, Ga 30303**

**HOURS OF OPERATION
Monday – Friday
8:30 am - 5:00 pm**

CONTACT

Telephone: 404-613-5360

www.magistratefulton.org



@fultonmagistrate

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Our Community***

DISCLAIMER: The information in this pamphlet is not legal advice. It is intended to give a general overview of the procedures of the Magistrate Court. Consult an attorney with specific questions about your case.