

COMPARISON OF CRIMINAL AND CIVIL CONTEMPT

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CRIMINAL CONTEMPT	CIVIL CONTEMPT
Purpose is punishment	Purpose is to obtain compliance with order
Must be based on violation of GS 5A-11(a)	Used only for failure to comply with court order
May be direct or indirect	Does not matter whether direct or indirect, all treated the same
Proceeding may be summary or plenary depending on whether contempt is direct or indirect	Proceeding always is plenary
Indigent has right to counsel	Indigent has right to counsel
Defendant has right against self incrimination	Failure to testify may be used against defendant
Contempt must be willful	Contempt must be willful
Contempt must be proved beyond a reasonable doubt	Contempt must be proved by a preponderance of the evidence
Burden of proof always is on State	Burden of proof may shift
Issue whether the defendant could have complied at the time the violation occurred	Issue is whether the defendant has the present ability to comply
Punishment is imprisonment for up to 30 days and/or a fine of up to \$500	The only sanction is imprisonment until the person complies
There is set punishment for conduct that has already occurred	The defendant may purge the contempt at any time by complying with the court order
Appeal from a magistrate or district judge is to superior court for a trial <i>de novo</i> ; appeal from superior court is to Court of Appeals	Appeals from district and superior court are to Court of Appeals