

In Georgia, most arrest warrants are taken out by a law enforcement officer after investigating the incident. However, Georgia law allows individuals to apply for a warrant.

If a person believes that he or she is the victim of a crime and the wrongdoer was not arrested by the police, the person can file an application for an arrest warrant. The person filing the application is the Applicant and the person against whom the warrant is sought, is the Accused. **This pamphlet is for the person Accused of committing a crime.**

A warrant application hearing is a probable cause hearing. **Probable cause** means there is a reasonable basis for believing that a crime was committed by the accused.

If a Judge finds probable cause exists to believe a crime was committed, the Judge can issue an arrest warrant for the Applicant, the Accused, or witnesses regardless of whether they are present at the hearing. In rare instances, the judge may issue a warrant without a hearing, pursuant to O.C.G.A § 17-4-40(b)(6).

WHAT YOU NEED TO KNOW

If this pamphlet applies to you:

- You are being accused of committing a crime. This is a preliminary hearing, not a trial. *It is a criminal proceeding.*
- You have the right to seek the advice of a lawyer and be represented by one.
- You have the right to remain silent. Warrant application hearings are recorded. Anything you say may be used against you in later proceedings.
- If you do not show up at the hearing or choose to exercise your right to remain silent, the Judge will not hold it against you.

The employees of the Magistrate Court cannot give legal advice. If you have questions about your legal rights or what options are available, seek advice from an attorney.

Step 1: You Receive Notice of the Hearing

- Once the warrant application has been filed, you will receive notice that someone is accusing you of committing a crime.
- The Court will schedule a hearing as soon as possible. Hearings are generally scheduled within three weeks to allow notices to be mailed to the parties and witnesses.
- The notification will inform the parties of the date, time, and location of the hearing, as well as the specifics of crime charged.
- If a valid address is not included in the application, the case will not be set for a hearing.
- If the mailed notice is returned as undeliverable, the case will be dismissed. The applicant may file again with the correct address.

Step 2: Prepare for the Hearing

- Read the hearing notice to see what crime you're being accused of committing.
- Determine if you need witnesses.
- At the hearing the Judge will determine whether probable cause exists to believe that a crime was committed.
- Both the Applicant and the person Accused will have the opportunity to present evidence and witnesses.
- Each side is allowed to ask questions of the other and witnesses.
- The Judge may limit the presentation of evidence and may ask questions of the witnesses or parties.
- Unlike other proceedings, **hearsay** is allowed in warrant application hearings. This means you can

present evidence as to what other people said or did, including police reports. Witnesses may add credibility to your case.

- Probable cause is a low standard of proof. The Judge looks to see whether sufficient evidence exists to show that a crime was probably committed.
- As the person Accused, you do not have to be present at the hearing. However, if you are not present, the judge will base his/her decision solely on the Applicant's version of the story.
- If you do not show up or show up late, the judge will make a decision based on the information presented.
- If you choose to have a lawyer, it is your responsibility to seek one. **Your case will not be continued for failure to get 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. A subpoena is a court order requiring the witness to testify.

Step 3: Mediation is an Option

- Parties do not have to mediate. Mediation offers the parties the opportunity to come to 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 can speak with the Applicant directly or through a mediator to resolve the dispute.
- To request mediation, come to Court as scheduled and let the clerk know you are willing to mediate. The other party may not share the same willingness.
- If both parties choose not to mediate, your case will be heard as scheduled.

- If both parties decide to mediate, the court will be available for hearing if the parties are unable to reach an agreement.

Step 4: What to Expect at the Hearing

- Arrive early enough to find parking and the correct courtroom.
- Bring all necessary evidence, documents, and witnesses.
- Court begins with a brief opening statement by the Judge, followed by the clerk calling the names on the calendar. Make sure you are in the correct place.
- Calendar call allows the Court to see which parties are present. Let the court know whether you will mediate or have a hearing.
- If you qualify, the Public Defender may be available to represent you at this preliminary stage.
- When it is time to hear your case, you will be sworn in and placed under oath.
- The Applicant will present its case and evidence first. The Accused has the right to examine any evidence and ask the witness questions. The person Accused will then have the opportunity to present his or her case. The Applicant can ask questions **which you are not required to answer.**
- The Judge will review the evidence to decide if probable cause exists.
- The Judge will then deny or grant the warrant.
- In rare case, the Judge may “hold” (neither deny nor grant) the application for further review.

Step 5: After the Hearing

- If a warrant is issued against you, you may be arrested.

- Attempts to evade the arrest may lead to additional charges.
- You have the right to remain silent and seek an attorney to represent you.
- Being arrested or having a warrant issued does not mean that you are guilty of the crime. This is the beginning of the criminal process. The Court found probable cause and the case will be submitted to the appropriate prosecutor for trial.

HELPFUL RESOURCES

The Judges and staff of the Magistrate Court cannot provide legal advice. Instead try these resources for legal help and research:

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 ACCUSED PAMPHLET



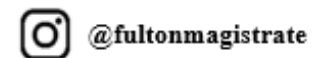
**Chief Magistrate
Judge Cassandra Kirk**

**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



***Inform, Engage, Empower
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 with an attorney specific questions about your case.