

## **Magistrate Court of Cherokee County The Warrant Application Process**

### **Read this document!**

The issuance of a criminal arrest warrant is a serious matter. The court does not take lightly the arrest and incarceration of an individual. The Constitutions of both the United States and of Georgia require that probable cause for arrest be shown the Court before an arrest warrant can issue. Probable cause is a reasonable belief, based upon evidence presented in court, and by your complaint affidavit that the accused person is guilty of a crime.

Arrest warrants are not issued to “teach someone a lesson,” or to “keep someone away.” Arrest warrants are issued because someone has committed a criminal act, and for no other reason.

The appropriate law enforcement agency **must** be called to report a complaint and be allowed to complete its investigation **before** you file this application. If the police investigate the matter but decide it is not appropriate for them to arrest the accused, then the Applicant may apply to the Magistrate Court for the issuance of an arrest warrant. The Applicant **must** first obtain a copy of the police incident report showing that the police have concluded their investigation.

For child abandonment claims, an affidavit from Child Support Enforcement may be required. In some cases, the judge might ask for additional documentation before deciding whether to hear the case.

There is no application fee for a domestic violence case. In any other type of case, a nonrefundable application fee is charged when the application is submitted.

An Applicant for a child abandonment arrest warrant should not file an application unless the accused has totally abandoned the child for at least 30 days.

The alleged crime must have occurred in Cherokee County, Georgia in order for a hearing to be scheduled in the Cherokee County Magistrate Court.

The Applicant in an arrest warrant application hearing is the prosecutor and has the burden of presenting evidence sufficient to establish probable cause for arrest. The judge is a neutral party in these proceedings, and will make his decision based on the evidence presented.

If the judge issues an arrest warrant, the Applicant will have to sign the warrant as the prosecutor. By signing the warrant, the Applicant states that the information given to obtain

the warrant is true and correct. If that information turns out to be untrue or incorrect, the Applicant may be charged with the crime of false swearing or perjury.

The person against whom the warrant is sought will have the right to cross examine any witness who testifies against him, to examine evidence presented by the Applicant, to introduce testimony and evidence on his behalf and to remain silent if he so chooses.

**If the Applicant fails to appear for the hearing, declines to prosecute the matter, or agrees to dismiss the charges, the Applicant will be charged the court costs associated with the case** unless there is an agreement, approved by the Court, that share the costs. "Court costs" include the filing fee, certain additional costs provided by law, and the Sheriff's fees for book-in and daily maintenance if the accused is arrested prior to the dismissal of the case.

The Applicant may be held in contempt of court if he fails to pay assessed court costs. Contempt is punishable by a fine up to \$200 and/or incarceration for up to 10 days in jail, in addition to the assessed court costs.

Once the case has been "bound over" to the State or Superior Court for trial, additional matters in the case will be handled in the State or Superior Court of Cherokee County.

The Deputy Clerks and judges cannot give you legal advice or tell you how to present your case. You **must** ask your questions of an attorney. They cannot help you decide whether you have a good, bad or poor chance of success. The Deputy Clerks are permitted to answer basic questions about the hearing process or court procedure.

If the Applicant and the accused reach an agreement prior to the hearing date, it is the Applicant's responsibility to notify the Court and submit a written dismissal of the complaint.

**MAGISTRATE COURT OF CHEROKEE COUNTY**  
**APPLICATION FOR ISSUANCE OF CRIMINAL WARRANT**

In order to apply for a criminal warrant, you **must** report your problem to the appropriate law enforcement agency and allow that agency to complete its investigation. You **must** obtain an incident report before this application will be accepted for review. When you have completed this form, return form to the Magistrate Court and sign it under oath. A hearing on this application may be granted after the Judge evaluates and considers the application. If a warrant is issued and if you fail to prosecute the case, you will be charged court costs and applicable sheriff's fees, which may be substantial.

WARNING: False statements made on the application may subject you to criminal & civil liability.

Full Name	Daytime Phone Number
Street Address	Home Phone Number
City                      State                      Zip	Cell Number

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**I want a warrant for the arrest of the following person:**

Full Name	AKA (Alias)
Street Address	Home Phone Number
City                      State                      Zip	Employer                                      Phone
Description: Race _____ Sex _____ Age _____ Height _____ Date of Birth _____	
SSN _____ Drivers Lic _____ Vehicle _____ Model _____ Tag _____	

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Do you have any civil suits or legal actions of any kind pending with the person you want arrested?

Yes \_\_\_\_\_ No \_\_\_\_\_

Has any warrant or any civil suits or legal actions been taken out against you or a relative of yours involving this incident?

Yes \_\_\_\_\_ No \_\_\_\_\_

Have you taken out a warrant against this person before today?

Yes \_\_\_\_\_ No \_\_\_\_\_

What is your relationship with the person you want arrested?

\_\_\_\_\_

Are you related to the person you want arrested?

Yes \_\_\_\_\_ No \_\_\_\_\_

Does the person you want arrested live with you now or has he/she ever lived with you?

Yes \_\_\_\_\_ No \_\_\_\_\_

What crime do you believe the person you want arrested committed?

\_\_\_\_\_

\_\_\_\_\_

Address where incident occurred \_\_\_\_\_

\_\_\_\_\_

City	State	Zip
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When did it happen (date and time)? \_\_\_\_\_

Who witnessed the crime? Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

City	State	Zip
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\_\_\_\_\_

Phone

Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Phone

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**COMPLAINT AFFIDAVIT**

State briefly what happened, in your own words and why this person should be arrested.

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If property was taken, what was the value? \_\_\_\_\_ Was it returned? Yes \_\_\_\_\_ No \_\_\_\_\_

By signing below, I acknowledge that I have read the court procedure information sheet for issuance of warrants and understand that I am bound by the procedures set forth in said information sheet.

**WARNING:** False statements made on this application may subject you to criminal and civil penalty.

I do solemnly swear (or affirm) that all information contained in this application for a criminal arrest warrant is true and correct.

Applicant's Signature: \_\_\_\_\_

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Clerk/Chief Deputy Clerk/ Deputy Clerk