

IN THE CIRCUIT COURT OF THE
SEVENTEENTH JUDICIAL CIRCUIT IN
AND FOR BROWARD COUNTY, FLORIDA

ADMINISTRATIVE ORDER NO. II-01-H-4A

IN RE:

DOMESTIC VIOLENCE COURT
_____ /

WHEREAS, The Supreme Court of Florida approved Administrative Order II-94-H-1 entitled In Re: Establishment Domestic Violence Court which established a Domestic Violence Court for the Seventeenth Judicial Circuit in and for Broward County, Florida;

NOW, THEREFORE, it is ordered as follows:

A. CREATION OF DOMESTIC VIOLENCE COURT:

1. Effective immediately, there shall be created an autonomous Domestic Violence Court subdivision, under the jurisdiction of the Family Division of the Circuit and County Courts.

2. "Domestic Violence" means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking or any criminal offense resulting in physical injury or death of one family or household member by another who is or was residing in the same single dwelling unit.

"Family or household member" means spouse, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who have a child in common regardless of whether they have been married or have resided together at any time.

3. The Domestic Violence Court shall have the jurisdiction to hear all cases involving domestic violence or repeat violence, both criminal and civil, with certain limited exceptions.

a. The civil component of Domestic Violence Court shall receive, handle, enforce and dispose of petitions for temporary injunctions and for permanent injunctions for protection against domestic or repeat violence as defined by F.S. Chapter 741 (Domestic Violence) and F.S. Chapter 784 (Repeat Violence).

All emergency petitions for temporary injunctions against domestic or repeat violence occurring after normal business hours (after 5 p.m., weekends, and holidays) shall be handled by the "Civil/Family Duty Judge" [as provided for in the Revised Family Plan dated October, 1993, Local Rule 1A dated May 10, 1994], and Administrative Order No. II-00-F-2.

b. All prosecutions for misdemeanors including prosecutions for violations of F.S. 741.31 and felonies involving domestic violence shall be in the criminal division of Domestic Violence Court except the following:

- i) murder in the first degree;
- ii) child abuse;
- iii) juvenile matters; and
- iv) sex offenses unless between spouses, former

spouses, persons living together as if a couple, persons who have a child in common, or persons who previously lived together as a couple regardless of marital status.

c. In those circumstances wherein the Domestic Violence Court does not assume jurisdiction of a domestic violence case as outlined above, the court which does assume jurisdiction (Circuit Criminal, Family or Juvenile Division) shall cooperate with the Domestic Violence Court, and shall have available and at its disposal the resources of the Domestic Violence Court (i.e., case managers, victim advocates, treatment facilities, etc.)

B. ASSIGNMENT OF CASES:

1. The Clerk of the Court shall be responsible for the assignment of cases to the Domestic Violence Court which shall include all petitions for injunctions against domestic or repeat violence (Chapter 741 & 784), and all cases within the criminal jurisdiction of the Domestic Violence Court as outlined in Paragraph A2 and A3 above.

a. If for any reason a domestic violence case should have been but has not been assigned to the criminal division of Domestic Violence Court, said case shall be transferred to the Domestic Violence Court by order of transfer.

b. The judges assigned to the Domestic Violence Court are alternates of each other.

2. The judges of the Domestic Violence Court or those temporarily assigned by the Chief Judge shall entertain all ex parte petitions for injunctions against domestic or repeat violence except as set forth below. The clerk shall determine

whether there are any prior actions between the named parties and shall provide all files to the judge reviewing the ex parte matter. If the file is unavailable, the clerk shall provide the judge with the prior case number. A counterpetition for domestic or repeat violence filed prior to the first hearing date or any extension thereof on the original petition, shall be filed in the original case, but shall be delivered to the ex parte judge assigned for that week. If a counterpetition is filed after the hearing on the original petition, it shall be treated as an original petition.

3. Petitions for injunctions against domestic violence filed simultaneously with a petition for dissolution of marriage or a petition for determination of paternity, a petition for alimony or child support, (except actions originally commenced by the Department of Revenue,) or subsequent thereto but prior to final judgment, or during the pendency of any post-judgment matter, shall be heard by the judge presiding in the dissolution proceeding, the paternity proceeding, the alimony or child support proceedings, or the post-judgment matter. The domestic violence action shall be filed as a separate case, assigned to Division 58 and assigned to the judge presiding in the family action.

4. When an ex parte temporary injunction against domestic violence has been entered by a judge of the Domestic Violence Court and, prior to a full hearing, the parties cause to be filed a petition for dissolution of marriage, a petition for

determination of paternity, or a petition for alimony or child support, unless filed by the Department of Revenue, the judge presiding in the latter matter shall conduct the full hearing which shall determine whether a final judgment on injunction shall issue. The case will be transferred by the judge of the Domestic Violence Court to Division 58 and assigned to the judge presiding in the family action.

5. The Family Division judge who entered the injunction pursuant to paragraphs B (3) and (4) of this order or his/her successor in said division shall have jurisdiction to decide motions to rehear, vacate, enforce or modify said injunction, all motions for civil and criminal contempt, and other motions with respect to said injunction. This shall not be construed to include any other criminal actions which may be filed as a result of a violation of said injunction. Any criminal contempt proceeding arising out of a violation of an injunction may be heard either by a judge of the Domestic Violence Court or of the Family Division.

6. The judges of either the Domestic Violence Court or the Family Division shall have the authority to extend an ex parte temporary injunction against domestic or repeat violence up to 30 days should the Family Division judge be unable to schedule a final hearing in said matter prior to the expiration of the temporary injunction. The Domestic Violence judge may enter such further temporary orders as he/she deems necessary if service was perfected prior to a regularly scheduled hearing.

7. On a rotating basis one day a week, or as otherwise determined by the Chief Judge, the judges of the Family Division are assigned to conduct full hearings which determine whether final judgments on injunctions issue. The Family Division judge entering said injunction or his/her successor in said division shall have jurisdiction to decide motions to rehear, vacate, enforce or modify said injunctions, all motions for civil and criminal contempt, and other motions with respect to said injunctions. This shall not be construed to include any other criminal actions which may be filed as a result of violation of said injunction. Any criminal contempt proceeding arising out of a violation of an injunction may be heard either by a judge of the Domestic Violence court or of the Family Division.

The assigned rotating Family Judge (58) shall also handle and issue Temporary Ex Parte Injunctions against domestic or repeat violence when Division 59 and the Domestic Violence Judge(s) are unavailable or absent from the Courthouse.

C.(1) FAMILY COURT PROCEDURES:

(a) Any domestic violence case to be heard by a Family Division judge shall be filed in or transferred to Division 58. The clerk shall additionally designate which Family Judge is presiding over said action by name and division number. The case shall be cited as example: 00-0000(58)(39).

(b) The Clerk of the Court shall continue to file a certificate of compliance in the court file listing all related cases. When filing a domestic violence case, instead, however, of noting "Certificate of Compliance" on JASIN, the Clerk shall

instead list the dissolution of marriage or paternity case number and, if none, the prior most recent case number. If more than one case is located, the case number listed shall be followed by the pound sign (#). The pound sign (#) indicates that there are additional cases listed on the Certificate of Compliance filed in the court file.

(c) The Clerk shall continue to search for related case numbers when filing a dissolution of marriage, paternity or other family case. If a domestic violence case has been previously filed, the Clerk shall include the domestic violence case number together with the division number, to-wit: (57), (58) or (59) to identify the case as a domestic violence case. If any domestic violence case has been filed within the period of one year prior to the filing of the dissolution of marriage, paternity or other family case, the domestic violence case number shall be the case number listed on JASIN. If no domestic violence action has been filed within the preceding year, the most recent case number shall be listed. If more than one case has been filed, the number shall be followed by the pound sign (#). The pound sign (#) indicates that there are additional case numbers included on the Certificate of Compliance filed in the court file.

(d) The Clerk shall continue to provide time standard reports for Divisions 57, 58 and 59. The reports for Division 58 shall be further identified by each separate family division judge. The reports will include pending cases at the end of each month, cases closed each month, modification cases pending at the

end of each month and modifications cases closed each month All other existing reports shall continue to be provided.

C.(2) CRIMINAL COURT PROCEDURES DOMESTIC VIOLENCE COURT:

(a) The Sheriff's Pre-Trial Services Unit at booking, in conjunction with the Clerk of the Court, and the County Probation Assessment Unit, shall review and identify each domestic violence case. All essential court documents such as probable cause affidavits, victim statements, police records, and injunctions shall be clearly marked or stamped "Domestic Violence".

(b) All Defendants shall be booked and housed at the main jail. Within 24 hours of a Defendant's arrest and prior to the first appearance hearing, the County Probation Assessment Unit shall review all arrest records, conduct a criminal history check (NCIC/FCIC), cross check local police incident reports, cross check court documents, and review all other available pertinent information and prepare an initial preliminary report for the Court. The State Attorney's Victim Advocate Unit shall assemble a victim's statement.

(c) The Defendant shall be brought before a Special Magistrate Judge, excluding holidays and weekends, who shall be one of the judges assigned to the Domestic Violence Court. Personnel of the Probation Assessment Unit as well as the State Attorney's Victim Advocate Unit shall attend said hearing with all pertinent information, reports, assessments, etc.

(d) The victim may attend the proceedings and address the Court.

(e) The Defendant shall be present and may agree to participate in the Domestic Violence Court's Pre-Trial Release Program.

(f) The Court shall magistrate the Defendant as mandated by Rule 3.130 of the Florida Rules of Criminal Procedure. In determining whether to release a Defendant on bail or other conditions, and what the bail or those conditions may be, the Court may consider the Defendant's agreement to participate in the Domestic Violence Court's Pre-Trial Release Program, which may include specific release conditions, including domestic violence batterers' intervention counseling.

(g) In misdemeanor cases, the Office of the State Attorney shall expedite case filings and the Defendant shall be arraigned within ten (10) days of his arrest. Case filing and arraignment in felony cases shall be in accordance with the applicable rules of criminal procedure.

(h) Arraignments shall be conducted according to law.

(i) Should the Defendant desire to dispose of his/her case by entry of a plea at arraignment, the County Probation Assessment Unit shall present to the Court its completed assessment.

(ii) Should the Defendant enter a plea of not guilty, the case shall be set for trial.

(A) No statements or admissions made by the Defendant in the course of his/her treatment program may be used

against the Defendant at time of trial except as rebuttal evidence, if the Defendant testifies at trial.

(i) County Probation in misdemeanor cases, and the Department of Probation/Corrections in felony cases shall apprise every defendant of the exact terms of participation in a domestic violence batterers' intervention program, the conditions of probation and pre-trial release.

D. OPERATION OF THE COURT

1. The Domestic Violence Court will work closely with the Family Court, Juvenile Court, Drug Court and Criminal Courts.

2. The Judges of the Domestic Violence Court may from time to time schedule review hearings with Defendants, take actions necessary to enforce its Orders, take actions necessary to further the rehabilitation of defendants and to protect victims of domestic violence, and other actions it deems necessary, fit and proper.

E. DOMESTIC VIOLENCE COURT'S PRE-TRIAL RELEASE PROGRAM:

1. To be eligible to be released from custody on non-monetary conditions or on a reduced bond and to be placed in custody of and under the supervision of the Assessment Unit of County Probation, the Defendant must:

a. be charged with a misdemeanor in which the complaining witness has not suffered serious bodily injury;

b. never have been arrested for or convicted of any violent criminal offense, domestic or otherwise, felony or misdemeanor;

c. never have been found to have violated the terms of an injunction against domestic or repeat violence;

d. not have been previously convicted of a felony except that a conviction for grand theft, worthless check, forgery, uttering a forged instrument, third degree drug charges or unauthorized use of a driver's license, shall not disqualify one from eligibility to participate in the program. A finding of guilt in a juvenile matter occurring within three (3) years of the Defendant's arrest for domestic violence shall count as a conviction for purposes eligibility;

e. agree to be interviewed by county probation personnel and provide all requested information in an assessment interview;

f. follow all instructions and directives of county probation personnel while in the pre-trial release program;

g. at his/her own expense, enroll in and successfully complete a domestic violence batterers' intervention program.

2. The Court upon its own motion, or upon the motion of any interested party or person, (i.e., county probation assessment unit, court case worker, State Attorney, Public Defender, Defendant's attorney, any treatment counselor, county or state probation officer, the victim or victim advocate, etc.) may terminate a defendant's participation in the Domestic Violence Court's Pre-Trial Release Program.

a. The Court shall hear motions to terminate participation in said program within ten (10) days of the filing and its receipt of said motions.

b. A defendant who is arrested for or charged with a

domestic or repeat violence offense or any other criminal offense after his/her admission into the Domestic Violence Court's Pre-Trial Release Program shall be subject to termination from the program.

c. Any Defendant terminated from the Domestic Violence Court's Pre-Trial Release Program shall not be eligible for re-admission and shall be prosecuted in the normal course.

3. The Court may withhold adjudication of guilt upon a Defendant's successful completion of the Domestic Violence Court's Pre-Trial Release Program.

4. This Administrative Order replaces Administrative Order II-01-H-4.

5. All provisions of Administrative Order II-88-A-1 not inconsistent herewith remain in effect.

6. This administrative order is effective immediately.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida on this 8th day of May, 2001.

/s/DALE ROSS
DALE ROSS, Chief Judge