

KENNETH L. GILLESPIE, CIRCUIT JUDGE

DIVISION JN/31 (DEPENDENCY & FAMILY LAW) **COURTROOM GUIDELINES, PROCEDURES, AND BEST PRACTICES**

JUDGE KENNETH L. GILLESPIE:
(Shelter Petitions, Family & Chapter 39 Pleadings)

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I. DEPENDENCY AND FAMILY PLEADINGS, MOTIONS, AND ORDERS

Division JN/31 is not part of the On-Line Scheduling System. All hearings are scheduled by the Court, the Judicial Assistant,¹ or the Division's Clerk of Court. All motions shall be in writing and electronically filed via the E-Filing Portal.² The motion shall contain: (1) the title identifying the moving party; (2) the nature of the motion; (3) the rule of evidence, procedure, or statute relating to the motion; (4) the case specific facts and circumstance which support the motion; (5) the specific relief requested; (6) the amount of time requested for the hearing; (7) the position of each party regarding the motion, including any objections and the legal basis; and (7) a certification that a good faith effort has been made to resolve the matter.

Additionally, a **hard copy** of all motions shall be delivered to the Judicial Assistant. Upon receipt and review of the motion, you will be provided a hearing date and the amount of time allotted for the hearing.

II. REFERRAL TO THE GENERAL MAGISTRATE, REPORTS AND RECOMMENDATION

By Administrative Order, Dependency matters are selectively referred to the General Magistrate for hearings. As such, General Magistrate Vicki Plant is

¹ The Judicial Assistant, Taneshia Barbary, for Division JN/31, can be reached at (954) 831-7565 or via email at tbarbary@17th.flcourts.org.

² For more information regarding Florida Courts E-Filing Portal, please refer to www.myflcourtaccess.com.

assigned to Division JN/31. General Magistrate Vicki Plant can be reached at (954) 831-6575.

All proposed orders and reports and recommendations of the General Magistrate shall contain: (1) the title identifying the moving party, and whether the order grants or denies the relief sought; (2) state with particularity all considerations required by rule or statute; (3) detail the proposed specific findings of the Magistrate as to each consideration; (4) detail the specific relief ordered; (5) indicate whether the relief requested was granted or denied; and (6) not contain any language stating that the relief granted or denied was over any party's objection.

DCF shall be responsible for the preparation of all routine orders before the Judge and General Magistrate. The proponent of any non-routine motion shall prepare the proposed order relative to the motion and shall include all necessary statutory and rule references. The attorney preparing the order is certifying, as an officer of the Court, that the proposed Order/Report and Recommendation contain all specific details and important findings of the Court/Magistrate's ruling. The Order/Report and Recommendation shall contain no extraneous information not specifically addressed during the hearing. All Orders/Reports and Recommendations shall be provided to the Division's Clerk following the hearing.

A party objecting to a Referral to the General Magistrate, or filing an exception to the General Magistrate's Report and Recommendation shall be made timely pursuant to Fla. R. Juv. P. 8.257.

III. CONSULTATION WITH OTHER PARTIES AND REQUIREMENT FOR GOOD FAITH CONFERRAL

Prior to the filing of any motion, the proponent of the motion shall in good faith attempt to resolve the motion with opposing counsel. If the motion is not resolved, counsel for the moving party shall certify either: (1) that counsel for the movant has conferred with all parties or non-parties who may be affected by the relief sought in the motion in a good faith effort to resolve the issues raised in the motion and has been unable to do so; or (2) that counsel for the movant has made **reasonable efforts** to confer with all parties or non-parties who may be affected by the relief sought in the motion,³ but has been unable to reach the other parties or non-parties whose input is necessary. If certain issues have been resolved by agreement, the certification shall specify the issues so resolved and the issues remaining unresolved.

³ Such specificity shall include the method of contact with each individual whom you attempted to confer with as well as the date and time of the attempted contact(s).

IV. EMERGENCY HEARINGS⁴

If an emergency matter arises, any party may request an emergency hearing be set forthwith to address the emergency. The motion shall be styled as an “Emergency” and the body of the motion shall be comprised of a detailed summary of the circumstances constituting the emergency. The emergency motion shall be verified and include a certification by counsel or any party filing such motion that the motion is an “emergency” and that counsel or any party is acting in good faith in seeking such relief.⁵ A copy of the motion shall be delivered to the Judicial Assistant and after hours phone numbers for all counsel of record shall be provided to the Court. Should the Court deem the motion as an emergency, the Court will schedule the matter on the Division’s Docket or Shelter Docket.

V. ADOPTION PROCEEDINGS

Adoption petitions shall be given priority in the scheduling of hearings. Any party may request the finalization of an adoption proving that all documents have been E-Filed. The Judicial Assistant shall be notified of your request for an immediate hearing along with a courtesy copy of the petition. You will be notified of a hearing date and time within 48 hours.

VI. COMMUNICATION

The Code of Judicial Conduct preclude Judicial Assistants and other courtroom staff from speaking to parties about substantive matters in any case. Furthermore, the Judicial Assistant and other court personnel are not legally qualified to provide legal advice to anyone.

In addition, the Code of Judicial Conduct prohibits judges from considering ex-parte (or one-sided) communications. As a result, any issue to be considered by the Court should be in the form of a Motion filed with the Clerk of Court and copies provided to all parties of record. Notably, the mere filing of a motion with the Clerk’s Office does not place the matter before the Judge. A courtesy copy of the motion shall be provided to the Judge.

Self-represented or pro se litigants, who have questions after reviewing these procedures, may seek assistance in order to receive additional procedural information by contacting the Division’s Case Manager at (954) 831-6109.

⁴ See Administrative Order Establishing Procedures for Unified Family Division Emergency Matters, Order No. 2015-10-UFC dated March 16, 2015, Subsection (1).

⁵ See Administrative Order Establishing Procedures for Unified Family Division Emergency Matters, Order No. 2015-10-UFC, dated March 16, 2015, Subsection (5).

VII. ORDERS OF APPOINTMENT

Appointment of counsel is made after a determination of indigency by the Clerk of Court on a rotating “wheel” system. If counsel wishes to decline an Order of Appointment, a Notice of Declination must be filed with the Clerk of Court via the E-filing Portal with courtesy copies provided to all parties and a **hard copy** provided to the Court.

VIII. TELEPHONIC APPEARANCES

If a conflict or other sufficient reason exists (i.e. – a parent, guardian, or witness resides out-of-state), the Judge **may** allow a **TELEPHONIC** appearance for an attorney, a party, or witness if good cause exists.

If the Court grants the motion to appear telephonically, the telephone number for the party or the attorney must be available to the Court at the beginning of the hearing. Please note that all calls will be made from the bench and on the record.

IX. INTERPRETERS

Counsel, or any party, shall be responsible for notifying the Clerk of the need for an interpreter at least 48 hours prior to the scheduled proceeding.

X. TRANSPORT ORDERS

It is the responsibility of counsel who require the appearance of their client who is incarcerated to prepare and submit a transport order to the Court. The order must be provided to the Court at least fifteen (15) days prior to the scheduled hearing if the incarcerated client is located out of county. If the incarcerated client is located within Broward County, the order must be provided to the Court at least five (5) days prior to the scheduled hearing. Please note that if the incarcerated client is located in a Federal facility, then additional procedures may apply in order to secure transport of the incarcerated client.

XI. AMENDMENT TO THESE PROCEDURES

This Court may, from time to time, on its own initiative, amend these procedures. Counsel and all parties are encourage to visit www.17th.flcourts.org for updates relating to the Division’s procedures.