

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

Administrative Order No. 2018-63-Gen

**ADMINISTRATIVE ORDER ESTABLISHING PROCEDURE FOR
APPOINTMENT OF COUNSEL IN CRIMINAL AND
CIVIL PROCEEDINGS AND ESTABLISHMENT OF
DUE PROCESS SERVICE PROVIDER RATES**

(a) Section 27.40, Florida Statutes, sets forth the duties and responsibilities of the Chief Judge in establishing a registry of attorneys, to be provided to the Clerk of the Court, for appointment of counsel as authorized by law. Such duties and responsibilities include the authority to restrict the number of attorneys on the registry.

(b) In accordance with the authority vested in the Chief Judge by Article V, section 2(d) of the Florida Constitution, sections 43.26 and 27.40, Florida Statutes, and Florida Rule of Judicial Administration 2.215, it is hereby **ORDERED**:

(1) APPOINTMENT TO REGISTRY. The selection, approval, and continuation of attorneys on the Registry is a privilege, not a right and is dependent upon qualifications, training, and other factors as determined solely by the Chief Judge. The number of appointments an attorney receives is subject to the number of cases filed, the number of cases for which the Office of Public Defender (Public Defender) or Office of Criminal Conflict and Civil Regional Counsel (Regional Counsel) cannot provide representation, and the number of attorneys on the Registry. Attorneys will be added to the Registry on a quarterly basis based on the State of Florida's fiscal year, which is July 1 to June 30. Applications to be added to the Registry must be submitted no later than the first of the month preceding the start of each quarter (i.e., June 1, September 1, December 1, and March 1). Applications received after this date will not be considered until the following quarter. Applications can be located on the following webpage of the Seventeenth Judicial Circuit: www.17th.flcourts.org/court-appointed-attorneys/. Each attorney approved to be added to the Registry is responsible for entering into any and all Agreements required by the Justice Administrative Commission (JAC). The Chief Judge will advise the JAC and Clerk of the Court (Clerk) of the names of the

attorneys approved to be on the Registry. Attorneys' names will not be sent to the Clerk for addition to the Registry until the Chief Judge is notified by the JAC that the attorney has executed any and all required agreements with the JAC.

(2) NOTICES.

(A) Unless otherwise noted herein, any notice required to be provided under this Administrative Order shall be sent in writing to the designated email addresses below:

- (i) Notice to the Chief Judge shall be sent to isc@17th.flcourts.org.
- (ii) Notice to the Clerk shall be sent to CACS@browardclerk.org.
- (iii) Notice to the JAC shall be in the manner required by the JAC.
- (iv) Notice to the Administrative Judge of the Probate Division shall be sent to isc@17th.flcourts.org.

(B) Notices between the Chief Judge and Clerk shall be in an electronic format.

(C) The e-mail addresses of judges, general magistrates, and court administration employees are exempt from public access and shall not be disclosed by the Clerk to any individual who is not employed by the Clerk.

(3) GENERAL REQUIREMENTS.

(A) The attorney must be a member of The Florida Bar in good standing.

(B) The attorney must have either a principle office in Broward County, Florida or a permanent physical office location in Broward County, Florida to meet with clients.

(C) The attorney must have either a telephone number with an area code for Broward County, Florida, or a toll-free number for the receipt of telephone calls from clients.

(D) The attorney must provide notice to the Chief Judge, Clerk, and JAC of any change in address, telephone number or e-mail address, and must also provide notice to the Clerk if the attorney is unavailable to accept appointments for any

period of time. If the attorney is appointed to a case which is confidential or exempt from public access pursuant to rule of court or statute, the attorney shall advise the JAC in writing that the name of the client, pleadings/papers, or progress docket is confidential or exempt from public access and must be redacted prior to any public dissemination.

(E) The attorney must notify the Chief Judge if he or she is under investigation by The Florida Bar, under a criminal investigation, or has pending criminal charges. Upon delivery of the notice, the attorney will be immediately suspended from the Registry for all future appointments pending the outcome of The Florida Bar investigation, criminal investigation or criminal charges, and subsequent review by the Chief Judge of the outcome. The Chief Judge is the sole decision-maker if the attorney is to be reinstated to or removed from the Registry. The Chief Judge has the authority to suspend or remove an attorney from the Registry even if the attorney fails to provide notice.

(F) The attorney must notify the Chief Judge if he or she is held in contempt by a court of competent jurisdiction. Upon delivery of the notice, the attorney will be immediately suspended from the Registry for all future appointments pending review by the Chief Judge of the circumstances surrounding the contempt. The Chief Judge is the sole decision-maker if the attorney is to be reinstated to or removed from the Registry. The Chief Judge has the authority to suspend and/or remove an attorney from the Registry even if the attorney fails to provide notice.

(G) An attorney approved to be added to the Registry may not reassign or subcontract a case on which the attorney has been appointed to another attorney or allow another attorney to appear at a critical stage of the case to which the attorney has been appointed.

(4) ADDITIONAL PROBATE DIVISION REQUIREMENTS. In addition to the general requirements set forth in Paragraph (2) above, attorneys approved for Probate Division categories must comply with the following requirements.

(A) All private attorneys on any Probate Division Registry category are required to maintain in full force and effect malpractice insurance with a liability limit of at least \$300,000.00 during any period of time the attorney is on the Registry. The attorney must submit proof of legal malpractice insurance being in full force and effect within ten (10) days of the expiration of any policy during the fiscal year to

the Chief Judge. Failure to provide proof within ten (10) days of the expiration of any policy will result in an immediate suspension from the Registry until proof of insurance is provided. If the attorney fails to provide proof within thirty (30) days of the policy expiration, the attorney will be removed from the Registry and required to reapply if he or she seeks reinstatement to the Registry.

(B) The initial Continuing Legal Education (CLE) for private attorneys seeking appointments for Adult Protective Services, Developmentally Disabled Adults, Emergency Temporary Guardianships, and Incapacity is ten (10) hours of guardianship, mental health, or elder law topics in the twelve (12) months preceding application and appointment to the Registry. Acceptable CLE courses shall include advance directives, legislative updates, mental health, capacity, any and all aspects of elder law, and courses of other similar nature but shall not include estate planning, mediation training, family law matters, or arbitration training.

(C) Private attorneys receiving appointments on a fiscal year basis, which is defined as July 1 to June 30, for Adult Protective Services, Developmentally Disabled Adults, Emergency Temporary Guardianships, and Incapacity are required to complete six (6) hours of CLE in the areas of elder law, guardianship, or mental health. Acceptable CLE courses shall include advance directives, legislative updates, mental health, capacity and courses of other similar nature but shall not include estate planning, mediation training, family law matters, or arbitration training. The private attorney must provide proof no later than June 15 of each year that the attorney remains on the Registry that he or she has met the annual CLE requirement to the Administrative Judge of the Probate Division. Failure to provide proof will result in an immediate suspension from the Registry until proof of CLE is provided. If the attorney fails to provide proof by September 1, the attorney will be removed from the Registry and required to reapply if he or she seeks reinstatement to the Registry.

(D) Private attorneys receiving appointments for Baker Act, Marchman Act, or Admission of Inmate to Mental Health Facility cases are required to attend any course presented by the Department of Children and Families or Department of Corrections, as applicable and available, with regard to these areas. The attorney must provide proof within ninety (90) days of the course that he or she did attend. Failure to provide proof will result in an immediate suspension from the Registry until proof of attendance is provided. If the attorney fails to provide proof within

six (6) months after notice of the deficiency the attorney will be removed from the Registry and required to reapply if he or she seeks reinstatement to the Registry.

(5) REMOVAL FROM THE REGISTRY.

(A) An attorney may be removed from the Registry if he or she:

(i) Resigns. The attorney shall immediately send notice to the JAC as required by the JAC. The notice shall specifically state those categories from which the attorney is resigning. A copy of the notice shall be provided by the attorney to the Chief Judge and Clerk and shall be relied upon, at the time of receipt, for the removal of the attorney from the Registry as set forth in the notice. A copy of the notice shall be delivered to the Chief Judge by e-mail to isc@17th.flcourts.org. The copy to the Clerk should be delivered to CACS, Room 18130, Broward County Courthouse, 201 S.E. Sixth Street, Fort Lauderdale, Florida 33301 and via email to CACS@browardclerk.org. If an attorney later decides he or she wants to be reinstated to the Registry, the attorney must submit a new application to be considered by the Chief Judge.

(ii) Fails to comply with terms of contract with the JAC. The Chief Judge may provide notice to an attorney of any failure to comply with the terms of the contract with the JAC and provide the attorney with an opportunity to respond prior to removal from the Registry.

(iii) Fails to notify the Chief Judge, Clerk, and JAC of any change in status. The removal may be temporary until such time as the attorney notifies the Chief Judge, Clerk, and JAC or may be permanent, in the discretion of the Chief Judge, based upon the nature of the change of status. The Chief Judge shall advise the Clerk if any attorney is removed from the Registry.

(iv) Fails to attend hearings, except for good cause as determined by the presiding judge or general magistrate. The Chief Judge shall advise the Clerk if any attorney is removed from the Registry.

(v) Fails to maintain a valid e-mail address for communication with the Chief Judge, Clerk and JAC. The Chief Judge shall advise the Clerk if any attorney is removed from the Registry.

(vi) Fails to enter into any and all agreement(s) and addendums to agreement(s) as required by the JAC on or before the last weekday of August for each fiscal year the attorney is eligible for inclusion on the Registry. Entering into any and all agreements and addendums to agreements as required by the JAC is solely the responsibility of the attorney. The Chief Judge shall advise the Clerk if any attorney is removed from the Registry.

(vii) Fails to enter into any and all other agreement(s) and addendums to agreement(s) as required by JAC within thirty (30) days of a request by the JAC. The Chief Judge shall advise the Clerk if any attorney is removed from the Registry.

(viii) Has his or her contract terminated by the JAC.

(ix) Terminates his or her contract with the JAC.

(x) Reassigns or subcontracts a case to another attorney, or allows another attorney to appear at a critical stage of the case to which the attorney has been appointed.

(xi) Fails to comply with any provision of this Administrative Order.

(B) If an attorney is disbarred or suspended, has surrendered his or her license to practice law in this State, or is not a member in good standing with The Florida Bar, the attorney must promptly notify the Chief Judge in writing. The Chief Judge has the authority to remove an attorney from the Registry who (1) is disbarred or suspended, (2) has surrendered his or her license to practice law in this State, or (3) is not in good standing with The Florida Bar, even if the attorney fails to provide notice. An attorney removed for any reason set forth in this paragraph, upon reinstatement to The Florida Bar, will be required to submit a new application to be considered by the Chief Judge for reinstatement to the Registry.

(C) At any time an attorney is removed from and later reinstated to the Registry, the attorney will be placed at the bottom of the list for rotation for the category for which the attorney is eligible to receive appointments.

(6) SELECTION OF ATTORNEY FROM REGISTRY.

(A) The judge or general magistrate shall advise the Clerk that a name of an attorney from the Registry is required on a case when Regional Counsel is not authorized by law to provide representation or an order is entered granting his withdrawal. The judge or general magistrate shall provide the Clerk with the name of the individual for whom counsel is being appointed, the case number, and type of case. Upon such notification, the Clerk shall provide the judge with the name of a Registry attorney.

(B) An attorney from the Registry shall be selected for the respondent in all Chapter 744 proceedings unless the judge advises the Clerk the respondent is indigent.

(C) The attorney appointed to a case has an obligation to ensure:

- (i) the Public Defender cannot accept the case pursuant to law; or
- (ii) the Public Defender has filed a motion to withdraw and an order of withdrawal has been entered by the presiding judge; **and**
- (iii) Regional Counsel cannot accept the case pursuant to law; or
- (iv) Regional Counsel has filed a motion to withdraw and an order of withdrawal has been entered by the presiding judge.

If the attorney cannot ascertain the above information, the attorney shall set the matter for a status conference before the presiding judge with notice to the Public Defender and/or Regional Counsel, as applicable.

(D) It shall be the responsibility of the judge to determine if an attorney is eligible for appointments in a Registry category prior to notifying the Clerk of an order of appointment not in rotating order. By way of example, it shall be the responsibility of the judge to determine if the attorney representing the parent in the dependency proceedings is eligible to represent the parent in termination of parental rights proceedings.

(E) The Clerk shall, within one (1) business day of entry of the order of appointment mail a copy of the order to the Public Defender, Regional Counsel, or private attorney. If time is of the essence it shall be the responsibility of the judge to notify the attorney of his or her appointment to represent a defendant, parent, or respondent.

(F) Attorneys shall be selected in strict rotation of the Registry, unless the presiding judge makes a finding of good cause on the record for appointing an attorney not in strict rotation.

(G) The following shall be considered good cause for selecting an attorney not in strict rotation of the Registry, including but not limited to:

(i) The attorney was previously appointed to represent the client in another case. This shall include cases which are simultaneously pending or filed after the initial representation and the Public Defender and Regional Counsel cannot provide representation.

(ii) Florida Statutes or Florida rules of court require an immediate hearing and the attorney next in rotation fails to respond to telephone calls. The judicial assistant for the judge making the appointment shall allow a minimum of one (1) hour to contact the attorney as provided by the Clerk. If the attorney does not return the telephone call within one (1) hour or declines the case, the judicial assistant shall contact the Clerk and request the name of the attorney next on the Registry for that category of cases. This procedure shall continue until such time as an attorney accepts the appointment. **This provision only applies to Emergency Temporary Guardianship proceedings and Parental Notification Waiver proceedings.**

(iii) Florida Statutes or Florida rules of court require the appointment of the previously appointed attorney.

(H) If the Clerk is advised an attorney is appointed out of order, the Clerk shall update the Registry to ensure that the attorney is placed at the bottom of the Registry category in which the case was assigned.

(7) LIST OF ATTORNEYS ON REGISTRY. The Clerk shall provide to the Chief Judge a copy of the Registry on the first business day of each month in an electronic format(s) as determined by the Chief Judge.

(8) SCHEDULING OF ATTORNEYS FOR DEPENDENCY SHELTER HEARINGS.

(A) The Clerk shall schedule attorneys on a quarterly basis to attend the scheduled hearings for dependency shelter hearings. The quarters are based on the State of Florida's fiscal year, which is July 1 to June 30, and the quarters are as follows: July to September (first quarter); October to December (second quarter); January to March (third quarter); and April to June (fourth quarter).

(B) The Administrative Judge for Unified Family Court or his or her designee will notify the Clerk as to the dates, times, and locations of the shelter hearings at least thirty (30) days prior to the start of each quarter.

(C) The Clerk shall select two (2) names of private attorneys from the Dependency Registry, assign a dummy case number for the purpose of selecting names from the Dependency Registry and otherwise schedule private attorneys to appear on weekdays which are not court holidays or days on which the court is otherwise closed. The Clerk shall provide an electronic copy of the schedule to the judges presiding at the shelter hearings, the judicial assistants for the judges presiding at the shelter hearings, the private attorneys on the Dependency Registry, and Regional Counsel no later than the third (3rd) business day of the month preceding the start of each quarter.

(D) Appointments of private attorneys from the Dependency Registry shall not be on a first come, first serve basis. The Clerk's Shelter list shall designate one attorney as the first attorney, and the other attorney as the second attorney. The first attorney on this list shall be given the first appointment for which a Dependency Registry attorney is needed, the second attorney shall be given the second appointment, the first attorney the third appointment, and so on. The attorneys shall be rotated between the first position and second position for each successive scheduled date to assure an equitable distribution of appointments of private attorneys from the Dependency Registry.

(E) If an attorney scheduled to appear at the Shelter hearings cannot appear at the time of the Shelter hearing, the scheduled attorney may trade their designated date with another attorney from the Dependency Registry, who the scheduled attorney shall designate to appear in their place. There shall be no substitutions for a non-appearing attorney as Dependency Registry attorneys are only permitted to trade scheduled dates. The attorneys must provide advance notice to the Clerk of the trade. Notice shall include the names of the attorneys and the dates which have been traded.

(F) When an attorney from the Dependency Registry is appointed for a parent at a Shelter hearing, the Clerk shall update the Dependency Registry to reflect the attorney's appointment for a dependency case and place the attorney at the bottom of the Dependency Registry for dependency appointments.

(G) The procedures as outlined for Shelter hearings is to provide parents and children with an expedited process to determine if a child should remain out of his or her home.

(9) SCHEDULING OF ATTORNEYS FOR EMERGENCY TEMPORARY GUARDIANSHIP HEARINGS.

(A) The Clerk shall schedule private attorneys on a quarterly basis to attend the scheduled hearings for emergency temporary guardianship hearings. The quarters are based on the State of Florida's fiscal year, which is July 1 to June 30, and the quarters are as follows: July to September (first quarter); October to December (second quarter); January to March (third quarter); and April to June (fourth quarter).

(B) The general magistrates for the probate division shall advise the Clerk at least thirty (30) days prior to the commencement of each quarter the dates, times, and locations of the emergency temporary hearings.

(C) Upon securing the information as to the dates, times, and locations of the emergency temporary guardianship hearings, the Clerk shall schedule private attorneys to appear at the date, time, and location of the emergency temporary guardianship hearings. The Clerk shall select one (1) name of a private attorney from the Registry who is approved for emergency temporary guardianship hearings, assign a dummy case number for the purpose of selecting names from the

Registry and otherwise schedule private attorneys to appear at the emergency temporary guardianship hearings.

(D) The Clerk shall provide an electronic copy of the proposed schedule to the private attorneys who shall have five (5) business days to accept the date and time to appear for emergency temporary guardianship hearings. If the private attorney fails to accept the date and time, he or she shall not be scheduled for that date and the Clerk shall select another private attorney from the Registry.

(E) If an attorney, after accepting, is unable to appear at the scheduled date and time, the attorney shall notify the Clerk who shall select another attorney from the Registry.

(F) At the time of finalizing the emergency temporary guardianship hearing schedule, or upon changes to the schedule, the Clerk shall provide an electronic copy to the probate division judges, the judicial assistants for the probate division judges, the general magistrates for the probate division, the administrative assistants for the general magistrates for the probate division, and the private attorneys. The Clerk shall also post a copy of the schedule in his or her office for the probate division.

(G) Upon the filing of the emergency petition and incapacity petition, the Clerk shall update the Registry to reflect the attorney's appointment and drop the attorney to the bottom of the Registry categories for emergency temporary guardianship proceedings and incapacity proceedings.

(10) FEES.

(A) Fees for private attorneys shall be those as established by statute or the General Appropriations Act, whichever shall apply at the time of appointment.

(B) It is the responsibility of the attorney to maintain any and all records required by the JAC to receive compensation at the conclusion of the case to which the attorney is appointed.

(C) The private attorneys scheduled for or appearing at dependency shelter hearings are not entitled to receive fees unless an order of appointment is entered

by the judge appointing the attorney to the dependency case at the time of the shelter hearings.

(D) The private attorneys scheduled for emergency temporary guardianship hearings are not entitled to receive fees unless a case is filed with the Clerk wherein a determination of incapacity and appointment of an emergency temporary guardian is sought.

(E) If an attorney seeks fees in excess of those established by statute or the General Appropriations Act, whichever shall apply at the time of appointment, the attorney shall comply with all statutory requirements.

(F) If an attorney withdraws from the case and intends to seek a portion of the flat fee for representation of the defendant, parent, or respondent, the attorney shall file a motion in the case with service upon the JAC and the subsequently appointed attorney. The attorney subsequently appointed shall, at the conclusion of the case, provide notice to the prior attorney that the case is concluded so that:

- (i) both attorneys can file any and all appropriate requests for fees with the JAC; and
- (ii) both attorneys can file a motion before the presiding judge for an allocation of the flat fee.

(G) It shall be the responsibility of the withdrawn attorney to set the motion for hearing before the presiding judge with notice to the JAC and the subsequently appointed attorney.

(H) If the respondent in a Chapter 744 proceeding is not determined indigent by the Clerk, then the attorney appointed from the Registry shall be entitled to fees and costs pursuant to Chapter 744 and is not required to file a motion for extraordinary fees.

(11) APPOINTMENT OF A NON-REGISTRY ATTORNEY.

(A) A non-Registry attorney may be appointed if:

- (i) There are no attorneys on the Registry for a category of cases requiring appointment of counsel; or

- (ii) All attorneys on the Registry for a category of cases have withdrawn or declined the appointment of the case; or
- (iii) All attorneys on the Registry for a category are precluded by statute or rule of court from accepting any additional appointments.

(B) The presiding judge shall set forth in the order of appointment that the Public Defender and Regional Counsel are unable to represent the individual and one of the reasons from paragraph (11)(A) of this Administrative Order.

(C) The attorney appointed shall be ordered to execute any and all Agreements required by the JAC to be compensated and for payment of due process expenses.

(D) The Clerk shall, within one (1) business day of entry of the order of appointment, send a copy to the private attorney. If expedited notice of the appointment is required, the judicial assistant or general magistrate shall provide verbal notice to the private attorney.

(12) COMPLAINTS.

(A) Any interested person may advise the presiding judge, in writing, of any matter set forth in section 27.40(9), Florida Statutes. Upon receipt of the written document with regard to any matter set forth in section 27.40(9), Florida Statutes, the presiding judge shall set the matter for hearing with notice to the attorney, individual for whom the attorney was appointed to represent, the individual who notified the court, and any other attorney who has made an appearance in the case. At the conclusion of the hearing, the presiding judge shall enter an order which includes a recitation of facts as well as whether the attorney should be suspended or removed from the Registry for a specific period of time. A copy of the written complaint and order shall be provided to the Chief Judge at the conclusion of the hearing. The Chief Judge shall make the final decision as to whether a private attorney is temporarily or permanently removed from the Registry.

(B) Any judge presiding over a matter in which an attorney has been appointed to represent a party may advise the Chief Judge, in writing, of any matter concerning the adequacy of the attorney's representation, including any violation of this Administrative Order, and the Chief Judge or his or her designee shall promptly inquire into the circumstances. Upon receipt of the information and subsequent

inquiry, the Chief Judge shall be the sole decision-maker as to whether the attorney is suspended from the Registry for a period of time or removed from the Registry.

(13) APPELLATE CASE REGISTRY REQUIREMENTS.

(A) *Criminal Division.* The Clerk and judge shall confer to determine if the private attorney selected has the qualifications as set forth herein to represent the defendant on appeal. The judge can require the private attorney selected by the Clerk to provide proof of meeting the requirements as set forth herein prior to entering the order of appointment. If the determination is made the private attorney does not meet the requirements as set forth herein to represent the defendant on appeal, the private attorney should not be appointed with the reason noted by the judge, so that the attorney remains at the top of the Registry category for the next appointment. The necessity of the judge and Clerk conferring as to the appointment of a private attorney is required as the Appropriation categories, Registry categories, and qualifications may differ, and it is the responsibility of the judge to ensure that a qualified private attorney is appointed.

(i) *Misdemeanor*

Registry Category: Appellate

Appropriations Category: Misdemeanor Appeals

Length of Bar Membership: 2 years

CLE Requirement: 10 hours of CLE in appellate law **OR** 5 hours of CLE in appellate law and 5 hours of CLE in criminal law for the last reporting cycle or current reporting cycle

Experience: 3 criminal appeals **OR** 5 criminal trials

(ii) *Second and Third Degree Felony*

Registry Category: Appellate

Appropriations Category: Felony Appeals

Length of Bar Membership: 2 years

CLE Requirement: 10 hours of CLE in appellate law **OR** 5 hours of CLE in appellate law and 5 hours of CLE in criminal law for the last reporting cycle or current reporting cycle

Experience: 3 criminal appeals **OR** 5 criminal trials

(iii) *Non-Capital Appeals*

Registry Category: Appellate

Appropriations Category: Felony Appeals

Length of Bar Membership: 3 years

CLE Requirement: 10 hours of CLE in appellate law for the last reporting cycle or current reporting cycle

Experience: 5 criminal appeals **OR** 10 criminal trials (The 10 criminal trials shall be defined as at least 5 felony trials and 3 criminal appeals.)

(iv) ***Death Penalty Appeals***

Registry Category: Appellate - Capital

Appropriations Category: Capital Appeals

Length of Bar Membership: 5 years

CLE Requirement: 12 hours of CLE in defense of capital cases at least every 24 months

Appellate or Criminal Practice Percentage: 33%

Experience:

A. 5 years of experience in criminal law **AND** prepared a brief for an appeal for at least 1 case which had a sentence of death imposed **AND** experience as lead counsel in the appeal of at least 3 felony convictions, in federal or state court, of which at least 1 was an appeal of a murder conviction; **OR**

B. Lead counsel in the appeal of at least 6 felony convictions in federal or state court, of which at least 2 were appeals of a murder conviction

(v) ***Involuntary Commitment of Sexually Violent Predators and Complex Appeals***

Registry Category: Appellate

Appropriations Category: Civil Appeal

Length of Bar Membership: 4 years

CLE Requirement: 10 hours of CLE in appellate criminal law for the last reporting cycle or current reporting cycle

Appellate Experience: 5 criminal appeals, at least 3 of which are non-capital appeals

Appellate or Criminal Practice Percentage: 33%

(B) ***Dependency Division.*** The Clerk and judge shall confer to determine if the private attorney selected has the qualifications as set forth herein to represent the

party appealing. The judge can require the private attorney selected by the Clerk to provide proof of meeting the requirements as set forth herein prior to entering the order of appointment. If the determination is made the private attorney does not meet the requirements as set forth herein to represent the party appealing, the private attorney should not be appointed with the reason noted by the judge and an indication why, so that the private attorney remains at the top of the Registry category for the next appointment. The necessity of the judge and Clerk conferring as to the appointment of a private attorney is required as the Appropriation categories, Registry categories, and qualifications may differ, and it is the responsibility of the judge to ensure that a qualified private attorney is appointed.

(i) ***Dependency and Termination of Parental Rights***

Registry Category: Appellate-Dependency

Appropriations Category: Dependency Appeals; TPR Appeals

The Appropriations category used will depend on the type of appeal.

Length of Bar Membership: 2 years

CLE Requirement: 3 hours of dependency CLE for the last reporting cycle or current reporting cycle

Appellate, Dependency or Family Practice Percentage: 25%

Appellate Experience:

A. 3 years of experience in dependency or appellate law **AND** lead counsel in at least 3 contested dependency trials **AND** 3 contested termination of parental rights trials; **OR**

B. Demonstrate knowledge through the practice of family law

(ii) ***Parental Notification Waiver***

Registry Category: Appellate-Dependency

Appropriations Category: Civil Appeal

Length of Bar Membership: 5 years

CLE Requirement: review of the ACLU materials with a statement of same on the application

Experience: A minimum of 5 constitutional law appeals. In addition, attorneys shall be familiar with the youth, privacy and constitutional issues relating to reproductive rights.

(iii) ***Children/Families in Need of Services***

Registry Category: Appellate-Dependency

Appropriations Category: Civil Appeal

Length of Bar Membership: 2 years

CLE Requirement: 3 hours of dependency CLE for the last reporting cycle or current reporting cycle

Appellate, Dependency or Family Practice Percentage: 25%

Appellate Experience:

A. 3 years of experience in dependency or appellate law **AND** lead counsel in at least 3 contested dependency trials **AND** 3 contested termination of parental rights trials; **OR**

B. Demonstrate knowledge through the practice of family law

(C) *Juvenile Delinquency Appeals.* The Clerk and judge shall confer to determine if the private attorney selected has the qualifications as set forth herein to represent the minor child on appeal. The judge can require the private attorney selected by the Clerk to provide proof of meeting the requirements as set forth herein prior to entering the order of appointment. If the determination is made the private attorney does not meet the requirements as set forth herein to represent the minor on appeal, the attorney should not be appointed with the reason noted by the judge and an indication why, so that the private attorney remains at the top of the registry category for the next appointment. The necessity of the judge and Clerk conferring as to the appointment of a private attorney is required as the Appropriation categories, Registry categories, and qualifications may differ, and it is the responsibility of the judge to ensure that a qualified private attorney is appointed.

(i) *Misdemeanor*

Registry Category: Appellate

Appropriations Category: Juvenile Delinquency Appeals

Length of Bar Membership: 2 years

CLE Requirement: 10 hours of CLE in appellate law **OR** 5 hours of CLE in appellate law and 5 hours of CLE in criminal law for the last reporting cycle or current reporting cycle

Experience: 3 criminal appeals **OR** 5 criminal trials

(ii) *Second and Third Degree Felony*

Registry Category: Appellate

Appropriations Category: Juvenile Delinquency Appeals

Length of Bar Membership: 2 years

CLE Requirement: 10 hours of CLE in appellate law **OR** 5 hours of CLE in appellate law and 5 hours of CLE in criminal law for the last reporting cycle or current reporting cycle
Experience: 3 criminal appeals **OR** 5 criminal trials

(iii) ***First Degree and Life Felony Appeals***

Registry Category: Appellate

Appropriations Category: Juvenile Delinquency Appeals

Length of Bar Membership: 3 years

CLE Requirement: 10 hours of CLE in appellate law for the last reporting cycle or current reporting cycle

Experience: 5 criminal appeals **OR** 10 criminal trials (The 10 criminal trials shall be defined as at least 5 felony trials and 3 criminal appeals)

(14) CRIMINAL DIVISION REGISTRY REQUIREMENTS. Each of the following Criminal Division Registry categories shall also be used for the appointment of counsel, based upon the charge for which the appointment is required: Violation of probation and/or violation of community control (Appropriations Category: Violation of Probation-Misdemeanor (includes VOCC); contempt proceedings (Appropriations Category: Contempt Proceedings); extradition (Appropriations Category: Extradition); 3.850 and 3.800. (Appropriations Category: Post conviction - 3.850 and 3.800).

(A) ***Misdemeanor and Criminal Traffic***

Registry Category: Misdemeanor

Appropriations Category: Misdemeanor; Criminal Traffic

Length of Bar Membership: 1 year

CLE Requirement: 10 hours of criminal law CLE for the last each reporting cycle or current reporting cycle

Trial Experience: 3 state or federal jury or nonjury trials

(B) ***Third Degree Felony***

Registry Category: Third Degree Felony

Appropriations Category: Felony - 3rd Degree

Length of Bar Membership: 2 years

CLE Requirement: 10 hours of criminal law CLE for the last reporting cycle or current reporting cycle and demonstrated compliance with Fla. R. Crim. P. 3.113.

Trial Experience: Minimum of 5 criminal jury trials

(C) ***Second Degree Felony***

Registry Category: Second Degree Felony

Appropriations Category: Felony - 2nd Degree

Length of Bar Membership: 2 years

CLE Requirement: 10 hours of criminal law CLE for the last reporting cycle or current reporting cycle and demonstrated compliance with Fla. R. Crim. P. 3.113.

Trial Experience: Minimum of 7 criminal jury trials, 2 of which must be felony trials

(D) ***First Degree Felony***

Registry Category: First Degree/Life Felony

Appropriations Category: Felony - 1st Degree

Length of Bar Membership: 5 years

CLE Requirement: 10 hours of criminal law CLE for the last each reporting cycle or current reporting cycle and demonstrated compliance with Fla. R. Crim. P. 3.113.

Trial Experience: 15 Criminal trials, 10 of which shall be jury trials and at least 5 of the jury trials in felony cases

Criminal Practice Percentage: 50%

(E) ***Life Felony***

Registry Category: First Degree/Life Felony

Appropriations Category: Felony - Life; Felony - PBL

Length of Bar Membership: 5 years

CLE Requirement: 10 hours of criminal law CLE for the last reporting cycle or current reporting cycle and demonstrated compliance with Fla. R. Crim. P. 3.113.

Trial Experience: 15 Criminal trials, 10 of which shall be jury trials and at least 5 of the jury trials in felony cases

Criminal Practice Percentage: 50%

(F) ***Capital Sexual Battery***

Registry Category: Capital Sexual Battery

Appropriations Category: Capital Sexual Battery

Length of Bar Membership: 5 years

CLE Requirement: 10 hours of criminal law CLE for the last reporting cycle or current reporting cycle and demonstrated compliance with Fla. R. Crim. P. 3.113.

Trial Experience: 15 Criminal trials, 10 of which shall be jury trials and at least 5 of the jury trials in felony cases

Criminal Practice Percentage: 50%

(G) ***First Degree Murder (Death Penalty waived at time of appointment)***

Registry Category: First Degree/Life Felony

Appropriations Category: Felony - Life

Length of Bar Membership: 5 years

CLE Requirement: 10 hours of criminal law CLE for the last reporting cycle or current reporting cycle and demonstrated compliance with Fla. R. Crim. P. 3.113.

Trial Experience: 15 Criminal trials, 10 of which shall be jury trials and at least 5 of the jury trials in felony cases

Criminal Practice Percentage: 50%

(H) ***Capital (Death Penalty not waived at the time of appointment)***

(i) **Lead Counsel**

Registry Category: Capital

Appropriations Category: Capital - 1st Degree Murder (Lead Counsel)

Length of Bar Membership: 5 years

Additional Requirements: Fla. R. Crim. P. 3.112; Fla. R. Crim. P. 3.113.

Trial Experience: Lead trial counsel in no fewer than 9 state or federal jury trials of serious and complex cases which were tried to completion, as well as prior experience as lead defense counsel or co-counsel in at least 2 state or federal cases tried to completion in which the death penalty was sought. In addition, of the 9 jury trials which were tried to completion, the attorney should have been lead counsel in at least 3 cases in which the charge was murder; or

alternatively, of the 9 jury trials, at least 1 was a murder trial and an additional 5 were felony jury trials.

Criminal Practice Percentage: 50%

(ii) **Co-Counsel**

Registry Category: Capital Co-Counsel

Appropriations Category: Capital – 1st Degree Murder (Co-Counsel)

Length of Bar Membership: 3 years

Additional Requirements: Fla. R. Crim. P. 3.112; Fla. R. Crim. P. 3.113.

Trial Experience: Lead counsel or co-counsel in no fewer than 3 state or federal jury trials of serious and complex cases which were tried to completion, at least 2 of which were trials in which the charge was murder; or alternatively, of the 3 jury trials, at least 1 was a murder trial and 1 was a felony jury trial

Criminal Practice Percentage: 50%

(I) ***Involuntary Civil Commitment of Sexually Violent Predator Cases (Chapter 394, Part V)***

Registry Category: Jimmy Ryce

Appropriations Category: Baker Act/Mental Health-Ch. 394, F.S.

Length of Bar Membership: 5 years

CLE Requirement: 10 hours of criminal law CLE for the last reporting cycle or current reporting cycle

Trial Experience: 15 Criminal trials, 10 of which shall be jury trials and at least 5 of the jury trials in felony cases

Criminal Practice Percentage: 50%

(15) DEPENDENCY DIVISION REGISTRY REQUIREMENTS

(A) ***Dependency***

Registry Category: Dependency;

Appropriations Category: Dependency

The Dependency Registry category shall be used by the Clerk when scheduling attorneys to appear at Shelter Hearings.

Length of Bar Membership: 1 year

CLE Requirement: 3 hours of dependency CLE for the last reporting cycle or current reporting cycle

Family or Dependency Practice Percentage: 25%

Trial Experience: 30 hours of hearing time representing a parent or child. The hearing hours shall consist of at least 6 shelter hearings, 3 dependency hearings, and 1 termination of parental rights hearing

(B) ***Termination of Parental Rights Cases (Chapter 39 and 63 Proceedings)***

Registry Category: Termination of Parental Rights

Appropriations Category: Termination of Parental Rights - Ch. 39, F.S.; Termination of Parental Rights – Ch. 63, F.S. The selection of an appropriations category is dependent on the chapter under which the action is filed.

Length of Bar Membership: 2 years

CLE Requirement: 3 hours of dependency CLE for the last reporting cycle or current reporting cycle

Family or Dependency Practice Percentage: 25%

Trial Experience: 10 dependency trials **OR** 1 year of dependency experience

(C) ***Parental Notification Waiver Cases***

Registry Category: Judicial Waiver

Appropriations Category: Parental Notification of Abortion Act

Length of Bar Membership: 2 years

CLE Requirement: review of the ACLU materials with a statement of same on the application

Trial Experience: Minimum of 5 criminal or civil trials **OR** 5 adjudicatory/evidentiary hearings. In addition, attorneys shall be familiar with the youth, privacy and constitutional issues relating to reproductive rights. The attorney should also have an interest in working with teens.

(D) ***Children/Families in Need of Services Cases***

Registry Category: Dependency

Appropriations Category: CINS/FINS - Ch. 984, F.S.

Length of Bar Membership: 1 year

CLE Requirement: 3 hours of dependency CLE for the last reporting cycle or current reporting cycle

Family or Dependency Practice Percentage: 25%

Trial Experience: 30 hours of hearing time representing a parent or child. The hearing hours shall consist of at least 6 shelter hearings, 3 dependency hearings, and 1 termination of parental rights hearing

(E) ***Emancipation***

Registry Category: Dependency

Appropriations Category: Emancipation

Length of Bar Membership: 1 year

CLE Requirement: 3 hours of dependency for the last reporting cycle or current reporting cycle

Family or Dependency Practice Percentage: 25%

Trial Experience: 30 hours of hearing time representing a parent or child. The hearing hours shall consist of at least 6 shelter hearings, 3 dependency hearings, and 1 termination of parental rights hearing

(F) ***Children with Special Needs***

Registry Category: Children with Special Needs

Appropriations Category: Guardian Ad Litem

Length of Bar Membership: 2 years

CLE Requirement: 3 hours of dependency CLE for the last reporting cycle or current reporting cycle

Family or Dependency Practice Percentage: 25%

Trial Experience: 10 dependency trials **OR** 1 year of dependency experience

(16) JUVENILE DELINQUENCY REGISTRY REQUIREMENTS. Each of the following Juvenile Delinquency Division Registry categories shall also be used for the appointment of counsel, based upon the charge for which the appointment is required: violation of probation and/or violation of community control (Appropriations Category: Violation of Probation [VOCC] Juvenile Delinquency).

(A) ***Misdemeanor***

Registry Category: Juvenile-Misdemeanors

Appropriations Category: Juvenile Delinquency - Misdemeanor

Length of Bar Membership: 1 year

CLE Requirement: 10 hours of criminal law CLE for the last reporting cycle or current reporting cycle

Trial Experience: 5 adjudicatory hearings **OR** 3 criminal jury trials one of which is a second degree felony or higher

(B) ***Third Degree Felony***

Registry Category: Juvenile-Third Degree Felony

Appropriations Category: Juvenile Delinquency - 3d Degree

Length of Bar Membership: 3 years

CLE Requirement: 10 hours of criminal law CLE for the last reporting cycle or current reporting cycle

Trial Experience: 5 adjudicatory hearings **OR** 3 criminal jury trials with at least 1 a second degree felony or higher

(C) ***Second Degree Felony***

Registry Category: Juvenile-Second Degree Felony

Appropriations Category: Juvenile Delinquency - 2nd Degree

Length of Bar Membership: 3 years

CLE Requirement: 10 hours of criminal law CLE for the last reporting cycle or current reporting cycle

Trial Experience: 5 adjudicatory hearings **OR** 3 criminal jury trials with at least 1 a second degree felony or higher

(D) ***First Degree or Life Felony***

Registry Category: Juvenile-First Degree and Life Felony

Appropriations Category: Juvenile Delinquency - 1st Degree

Felony; Juvenile Delinquency - Felony Life

The selection of an appropriations category is determined by the charge for which the minor is tried or pleads.

Length of Bar Membership: 3 years

CLE Requirement: 10 hours of criminal law CLE for the last reporting cycle or current reporting cycle

Criminal Practice Percentage: 50%

Trial Experience: 5 adjudicatory hearings **OR** 3 criminal jury trials with at least 1 a second degree felony or higher

(17) **PROBATE DIVISION REGISTRY REQUIREMENTS.**

(A) ***Adult Protective Services***

Registry Category: Probate-Adult Protective Services

Appropriations Category: Adult Protective Services- Ch. 415, F.S.

CLE Requirement: 10 hours of CLE for topics including guardianship, mental health, or elder law for the last reporting cycle or current reporting cycle

Trial Experience: Minimum of 10 cases representing a respondent in APS proceedings and/or developmentally disabled adult proceedings and/or incapacity proceedings

(B) ***Developmentally Disabled Adults***

Registry Category: Probate-Developmentally Disabled Adults

Appropriations Category: Developmentally Disabled Adult

CLE Requirement: 10 hours of CLE for topics including guardianship, mental health, or elder law for the last reporting cycle or current reporting cycle

Trial Experience: 10 cases representing a respondent in APS proceedings and/or developmentally disabled adult proceedings and/or incapacity proceedings

(C) ***Emergency Temporary Guardianships***

Registry Category: Probate - Emergency Temporary Guardianship

Appropriations Category: Guardianship-Emergency-Ch. 744, F.S.

Probate - Emergency Temporary Guardianship Registry category shall be used by the Clerk when scheduling attorneys to appear at emergency hearings before the general magistrates or if there is a Petition for Emergency Temporary Guardianship to be heard at a time other than established for emergency temporary guardianship hearings.

CLE Requirement: 10 hours of guardianship CLE for the last reporting cycle or current reporting cycle

Trial Experience: Minimum of 10 cases representing a respondent in APS proceedings and/or developmentally disabled adult proceedings and/or incapacity and/or emergency temporary guardianship proceedings (may also include 10 cases representing a guardian or proposed guardian in developmentally disabled adult proceedings or Chapter 744 proceedings)

(D) ***Guardianship Incapacity, Extraordinary Proceedings, and Restoration***

Registry Category: Incapacity

Appropriations Category: Guardianship - Ch. 744, F.S.

CLE Requirement: 10 hours of guardianship CLE for the last reporting cycle or current reporting cycle

Trial Experience: 10 cases representing a respondent in APS proceedings and/or developmentally disabled adult proceedings and/or incapacity and/or emergency temporary guardianship proceedings (may also include 10 cases representing a guardian or proposed guardian in developmentally disabled adult proceedings or Chapter 744 proceedings)

(E) ***Medical Procedures***

Registry Category: Probate-Baker Act

Appropriations Category: Medical Procedures-Section 394.459(3), F.S.

Experience: Education or training with regard to mental health issues

(F) ***Mental Health***

Registry Category: Probate-Baker Act

Appropriations Category: Baker Act/Mental Health-Ch. 394, F.S.

CLE Requirement: online course at

<http://mhlp.fmhi.usf.edu/training/tdetail.cfm?id=47>

with a copy of the certificate of completion

Experience: Education or training with regard to mental health issues

(G) ***Substance Abuse***

Registry Category: Probate - Marchman Act

Appropriations Category: Marchman Act/Substance Abuse - Ch. 397, F.S.

Experience: Education or training with regard to substance abuse issues

(H) ***Tuberculosis***

Registry Category: Probate-Tuberculosis

Appropriations Category: Tuberculosis - Ch. 392, F.S.

Experience: Education or training with regard to tuberculosis

(I) ***Admission of Inmate to Mental Health Facility***

Registry Category: Department of Corrections Mental Health

Appropriations Category: Admission of Inmate to Mental Health Facility

Experience: Education or training with regard to mental health issues

(18) DUE PROCESS PROVIDER RATES.

(A) The due process provider rates for costs incurred on or after July 1, 2010 shall comply with the due process provider rates as established by the Legislature. The private attorney shall also comply with all requirements of the JAC for approval of costs and payment of costs.

(B) The due process provider rates for the period of time October 1, 2007 to June 30, 2010 were:

(i) ***Expert Witness Fees***

<u>Category</u>	<u>Fee Rate</u>
Downward Departure Examination	\$400.00 per examination and report
Expert Witness	\$150.00 per hour
Expert Witness – Out of Court	\$110.00 per hour

<u>Category</u>	<u>Fee Rate</u>
Expert Witness – Waiting to Testify at Court Proceeding or Deposition	\$70.00 per hour
Expert Witness – Travel	\$60.00 per hour
Expert Witness	\$1,580.00 per case
Insanity Evaluations	\$150.00 per hour
Investigators	\$38.00 per hour
Investigators	\$840.00 per case
Medical Doctors – Deposition and In Court	\$150.00 per hour
Medical Doctors – Out of Court	\$130.00 per hour
Other Pre-Trial Expert – In Court	\$100.00 per hour
Other Pre-Trial Expert – Out of Court	\$77.00 per hour
Psychological (Competency) Examination	\$250.00 per examination
Psychologist – In Court	\$140.00 per hour
Psychologist – Out of Court	\$130.00 per hour
Psychologist – Waiting to Testify at Court Proceeding or Deposition	\$85.00 per hour

(ii) ***Interpreters***

Creole \$35.00 per hour, one (1) hour minimum and

French	\$8.75 for each quarter hour thereafter \$50.00 per hour, one (1) hour minimum and \$12.50 for each quarter hour thereafter.
Portuguese	\$50.00 per hour, one (1) hour minimum and \$12.50 for each quarter hour thereafter.
Sign	\$50.00 to 75.00 per hour, two (2) hour minimum and travel expenses, and \$18.75 for each quarter hour thereafter
Spanish	\$35.00 per hour, one (1) hour minimum and \$8.75 for each quarter hour thereafter
Other	\$50.00 per hour, two (2) hour minimum and \$12.50 for each quarter hour thereafter

(iii) ***Court Reporters***

(a) Appearance Fees

<u>Time Period</u>	<u>Fee</u>
Transcription of recorded investigative statements, discovery, or reports	1 to 5 recorded items \$25.00 Each additional recorded item \$5.00
8:30 a.m. until noon	\$100.00
1:30 p.m. until 5:00 p.m.	\$100.00
Not scheduled for 8:30 a.m. to noon or 1:30 p.m. until 5:00 p.m.	\$30.00 per hour with a 2 hour minimum
Real time from 8:30 a.m. until noon	\$150.00
Real time from 1:30 p.m. until 5:00 p.m.	\$150.00
Real time not scheduled for 8:30 a.m. to noon or 1:30 p.m. until 5:00 p.m.	\$45.00 per hour with a 2 hour minimum

(b) Transcripts and ASCII Disk of Transcript

<u>Delivery Time</u>	<u>Number</u>	<u>Cost per page</u>
24 hours (overnight)	Original and 2	\$ 7.50
	Each additional copy	\$ 1.10
3 business days	Original and 2	\$ 6.50
	Each additional copy	\$ 1.10
6 business days	Original and 2	\$ 5.50
	Each additional copy	\$ 1.10
10 business days	Original and 2	\$ 5.00
	Each additional copy	\$ 1.10

Appeals	Original and 2 disks	\$5.00
Non certified (a transcript prepared by an individual other than the court reporter taking the proceeding)	Original and 2	\$4.00
Recorded investigative statements, discovery, or reports - same day	Original and 1	\$7.85
Recorded investigative statements, discovery, or reports - 24 hours (overnight)	Original and 1	\$5.10

<u>Delivery Time</u>	<u>Number</u>	<u>Cost per page</u>
Recorded investigative statements, discovery, or reports - 10 business days	Original and 1	\$2.75
Recorded investigative statements, discovery, or reports - 3 business days	Original and 1	\$4.15
	Each additional copy	\$1.00

(C) The due process provider rates for the period of time July 1, 2004 to September 30, 2007 were those as established by the Indigent Services Committee.

(19) REFERENCES. Any and all references to the Chief Judge, Clerk, Administrative Judge, judge, general magistrate, Public Defender, or Regional Counsel shall include his or her designee.

(20) This Administrative Order vacates and supersedes Administrative Order 2018-40-Gen.

DONE AND ORDERED in chambers in Fort Lauderdale, Broward County, Florida on this 18th day of July, 2018.

/s/ Jack Tuter
 Jack Tuter, Chief Judge