

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT OF THE
STATE OF FLORIDA

Administrative Order #A-2005-2-A
(Amended 7/2012)

**ADMINISTRATIVE ORDER ESTABLISHING PROCEDURE
FOR CONSIDERATION AND DISPOSITION OF REOUESTS
FOR DEFENDANTS TO BE DECLARED INDIGENT
FOR DUE PROCESS COSTS ONLY**

WHEREAS, there are certain circumstances wherein privately retained counsel
Request that the court declare their clients indigent for due process costs only; and

WHEREAS, it has been determined that under such circumstances counsel must
Provide sufficient written information for the court's consideration;

NOW, THEREFORE, pursuant to the authority vested in me as Chief Judge of
the Fifth Judicial Circuit of Florida, it is hereby ORDERED that the following procedures
are established for the court's consideration and declaration that their clients are indigent
for costs only:

1. Privately retained counsel must submit a written motion to be heard on calendar
(not ex-parte) that includes the following information:
 - a. Clarification as to whether the legal services are being provided pro-bono
or being paid for by the client or a third party (without disclosing the name
of the third party);
 - b. If the legal services are being paid for by the client or a third party, the
amount of attorney's fee;
 - c. The justification for such fee;
 - d. Specific due process services to be obtained;
 - e. The costs for such services;
 - f. The justification for the cost for these services;

g. An indigency affidavit utilizing the form approved by the Florida Supreme Court. (Attached hereto as Exhibit 1);

h. Certification that copies of the motion were provided to all attorneys of record, including State Attorney, Justice Administrative Commission and the Administrative Office of the Courts.

2. Upon hearing argument of counsel, the court's order must include:

- a. Whether or not the defendant is indigent for due process costs only;
- b. That the privately retained counsel is providing the legal services pro-bono or that the legal fees are being paid for by the defendant or a third party (without disclosing the name of the third party);
- c. Specific amount of due process costs approved;
- d. That counsel must abide by the limits established in the Fifth Judicial Circuit's Administrative Order A-2008-41 "Due Process Costs Established Rates for Services Provided on or after July 1, 2010" Counsel is not prohibited from monitoring the Court fees that exceed the established limits.
- e. Copies must be furnished to all attorneys of records, including State Attorney, Justice Administrative Commission, Administrative Office of the Court and court file.

DONE AND ORDERED in Chambers at Brooksville, Hernando County, Florida, this 13th day of July, 2012.



DANIEL B. MERRITT, SR.,
CHIEF JUDGE
FIFTH CIRCUIT

IN THE CIRCUIT/COUNTY COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

STATE OF FLORIDA vs. / IN THE INTEREST OF:

CASE NO. _____

Defendant / Minor Child(ren) / Respondent

AFFIDAVIT OF INDIGENT STATUS

Notice to Applicant: The provision of a public defender/court-appointed lawyer is not free. A judgment and lien may be imposed against all real or personal property you own to pay for legal and other services provided on your behalf (or on behalf of the person for whom you are making this application). If the \$40.00 application fee is not paid to the Clerk of the Court within 7 days, it will be added to any costs that may be assessed against you at the conclusion of this case. If you are a parent/guardian making this affidavit on behalf of a minor child or tax-dependent adult, the information contained in this affidavit must include your income and assets

1. I have _____ dependents. (Do not include children not living at home and do not include working spouses.)

2. I have take-home income of \$_____ paid () weekly () bi-weekly () semi-monthly () monthly
(Take-home income equals salary, wages, bonuses, commissions, allowances, overtime, tips and similar payments minus deductions required by law and other court-ordered payments.)

3. I have \$_____ in other annual income: (Circle "Yes" and fill in the amount if you have this kind of income or circle "No" if you do not have this kind of income)

Social Security benefits	Yes \$ _____	No
Unemployment compensation	Yes \$ _____	No
Union funds	Yes \$ _____	No
Workers' compensation	Yes \$ _____	No
Retirement/pensions	Yes \$ _____	No
Trusts or gifts	Yes \$ _____	No
Veterans' benefits	Yes \$ _____	No
Other regular support from family members/spouse	Yes \$ _____	No
Rental income	Yes \$ _____	No
Dividends or interest	Yes \$ _____	No
Other kinds of income not on the list	Yes \$ _____	No

4. I have \$_____ in other assets. (Circle "Yes" and fill in the value of the property or circle "No" if you do not have this kind of property.)

Cash	Yes \$ _____	No
Savings	Yes \$ _____	No
Bank account(s)	Yes \$ _____	No
Stocks and bonds	Yes \$ _____	No
Certificates of deposit or money market accounts	Yes \$ _____	No
Real estate (your ownership interest)	Yes \$ _____	No
Boat(s) or aircraft (your ownership interest)	Yes \$ _____	No
Motor vehicle(s) (your ownership interest)	Yes \$ _____	No
Life Insurance (cash value)	Yes \$ _____	No
Other valuable tangible property (like jewelry, coin collections, etc.)	Yes \$ _____	No

5. I receive: (Circle "Yes" or "No")

Temp. Assistance for Needy Families-Cash Assistance	Yes	No
Poverty-related veterans' benefits	Yes	No
Supplemental Security Income (SSI)	Yes	No

6. I have been released on bail in the amount of \$5,000 or more in this case Yes No

7. I have a private lawyer in this case Yes No

8. I expect to get or receive something of value at a later date (Like a tax refund, payments from lawsuits, accrued vacation leave, a bonus, or inheritance) Yes \$ _____ No

*** (Elect and complete either the notarized oath or the written declaration below pursuant to section 92.525, Florida Statutes)*

NOTARIZED OATH

I, _____ (full legal name), being first duly sworn, state under oath and under penalty of perjury that the facts stated in the foregoing affidavit are true.

Signature of Applicant for Indigent Status Date Signed

PRINT Full Legal Name _____

Address _____

Driver's License # or ID # _____

Date of Birth _____

Telephone _____

WRITTEN DECLARATION

Under penalties of perjury, I declare that the facts stated in the foregoing affidavit are true.

Signature of Applicant for Indigent Status Date Signed

PRINT Full Legal Name _____

Address _____

Driver's License # or ID # _____

Date of Birth _____

Telephone _____

*** (If a clerk or deputy clerk helped you fill out this form, he or she must fill out the blank below.)*

This form was completed with the assistance of _____, Clerk/Deputy Clerk.

DETERMINATION OF INDIGENT STATUS

Based on the information in this Affidavit, I have determined that the applicant is () Indigent () Not Indigent pursuant to section 27.52, F.S.

Clerk of the Circuit and County Courts

Deputy Clerk

IN THE CIRCUIT/COUNTY COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

STATE OF FLORIDA vs. / IN THE INTEREST OF:

CASE NUMBER: _____

Defendant / Minor Child(ren).

ORDER DECLARING DEFENDANT INDIGENT FOR DUE PROCESS COSTS

This matter comes before the Court pursuant to Administrative Order A-2005-2 on the written motion of the defendant to be declared indigent for due process costs, and the Court having heard argument of counsel and being otherwise advised in the premises, FINDS that:

- a. Counsel for the defendant is _____, and is privately retained.
 Counsel is providing the legal services *pro bono*, A third party is paying for the legal services.
 Defendant is paying for the legal services.
- b. The defendant filed did not file the approved Affidavit of Indigent Status.
- c. Counsel provided did not provide a copy of the motion to the State Attorney, Justice Administrative Commission, Administrative Office of the Courts, and the co-defendant(s), if any.
- e. The defendant justified did not justify the fee for said legal services.
- f. The defendant requested due process costs for: court reporter deposition(s)
 subpoena(s) investigator(s) expert(s) appeal other _____.
- g. The defendant requested due process costs in the amount of \$ _____.
- h. The defendant justified due process costs in the amount of \$ _____.
- i. The defendant is is not indigent for due process costs.
- j. The defendant's motion complies does not comply with Administrative Order A-2005-2.

Therefore, it is ORDERED that:

Defendant's motion is GRANTED DENIED.

The due process costs and amounts approved are: court reporter \$ _____, deposition(s) \$ _____,
 subpoena(s) \$ _____, investigator(s) \$ _____, appeal \$ _____,
 expert(s) \$ _____, other \$ _____. The due process costs shall not exceed \$ _____.

Counsel shall utilize due process providers approved by the Fifth Judicial Circuit's Article V Indigent Services Committee and at the approved rates of compensation

DONE AND ORDERED in _____ County, Florida this _____ day of _____, 20_____.

Circuit/ County Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been furnished to the following on
the _____ day of _____, 200__, by U.S. Mail / Hand Delivery:
