

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

Administrative Order M2017-13

MARION COUNTY ADMINISTRATIVE ORDER CONCERNING EX PARTE
TEMPORARY INJUNCTIONS AND INCLUDING AFTER HOURS
INJUNCTIVE RELIEF

WHEREAS the Florida Supreme Court has mandated the implementation of the principles of Unified Family Court throughout the State which require that, absent exigency, cases involving one family must not only be assigned to but be heard and considered by one judge; and,

WHEREAS it is fundamental to the processes of Unified Family Court and one-family-one-judge that the Court and the Clerk have an opportunity to examine court records to determine what other cases may have been filed concerning the family and what other cases may currently be pending; and,

WHEREAS consistency among court orders in different cases is essential to families in areas including time sharing with minor children and access to housing; and,

WHEREAS victim and family safety may require access to certain records in making a review of a petition seeking protection from violence, and petitioners and respondents have a reasonable expectation that the Court is aware of prior and related filings in making a decision concerning the issuance of a temporary injunction; and,

WHEREAS it is important to families that hearings be scheduled whenever possible at times certain for the convenience of parties, attorneys, and witnesses; and,

WHEREAS parties seeking protection from violence are often in the best position to assess their own safety and risk and are entitled to respect concerning their autonomous decision-making whenever possible,

NOW THEREFORE the Court enters this administrative order concerning ex parte temporary injunctions and including afterhours injunctive relief in Marion County.

Effective July 1, 2017, the following procedures will be followed in all cases in which a party seeks an injunction for protection against domestic violence, dating violence, repeat violence, stalking, or sexual violence. As of the effective date, this order supersedes and amends any contrary provision in any preceding administrative order.

REQUESTS FOR INJUNCTION FOR PROTECTION AGAINST VIOLENCE FILED DURING NORMAL BUSINESS HOURS

As used herein, the term “business days” means Monday through Friday except on specific holidays. Both the Clerk’s office and the courthouse are normally open from 8:00 a.m. to 5:00 p.m. on business days. However, as noted below, the domestic violence division of the Clerk’s office is open for filing only from 8:00 a.m. to 3:00 p.m. Accordingly, as used herein the term “normal business hours” in reference to filing petitions for domestic, dating, sexual, stalking, or repeat violence injunction means 8:00 a.m. to 3:00 p.m. Monday through Friday except holidays when either the courthouse or the Clerk of Court, or both, are closed.

Persons seeking to obtain a domestic, dating, sexual, stalking, or repeat violence injunction during normal business hours may complete and file a petition and all necessary supporting documents in the Clerk’s office in the manner prescribed by law and in accordance with the procedures and time constraints set forth below. In addition to other duties in connection with intake and filing of petitions as set forth in Florida Statutes and Administrative Order M2015-16, the Clerk will offer all petitioners an instructional sheet concerning waiver of hearings and a blank waiver form which the petitioner may choose to sign and return or not. Forms for that purpose are attached to this order as Addendum 1. The waiver of hearing form is intended to provide protection, anonymity, and privacy for a petitioner who seeks a temporary injunction which is not granted, but an order setting hearing would otherwise be entered. Rather than receiving an order setting hearing, if the petitioner elects to file the waiver, the petition is dismissed without prejudice.

As provided in M2015-16 and the order governing judicial assignments which is issued annually, once the case is filed, the Clerk will notify the judge to

whom the case is assigned that a petition has been filed and is available for review on the judicial viewer or other location. The judge to whom the case is assigned will review the petition promptly and enter an order in accordance with the statutes. The Court may enter a temporary injunction, an order setting hearing with no injunction, or an order denying and dismissing the petition. If the petitioner has executed a waiver of hearing, the Clerk should so advise the judge, and, if a temporary injunction is not entered, the Court should enter an order denying and dismissing the petition.

In all cases, the ex parte petition shall be reviewed within 24 hours of filing, and whenever possible should be reviewed within an hour of the judge being notified by the Clerk that the matter is ready for review. If the judge to whom the case is assigned is not available to review the petition personally, he or she will take responsibility to have one of the other judges from the family law division review his or her petitions. Only if no family law judge is available, then the Clerk shall contact the duty judge to review a petition.

Hearings will be scheduled at times certain within the time periods specified by statute, and may be continued as permitted by statute within the judge's discretion. Related cases may be coordinated for purposes of hearing cases with closely related facts at the same time within the judge's discretion.

Persons seeking to obtain a dating, sexual, stalking, or repeat violence injunction may do so only by filing in the Clerk's office on business days between 8:00 a.m. and 3:00 p.m.

Notwithstanding the foregoing, filing may be completed using the E-portal in the manner and to the extent permitted by law. If the petition is e-filed on a day other than a business day or after normal business hours, it will be processed the following business day.

Because the Clerk's office and the Sheriff's Civil Division close for the day at 5:00 p.m. and it takes approximately two hours to complete and process an injunction, injunction petitions will not be accepted for filing in the Clerk's office after 3:00 p.m. or before 8:00 a.m. A petitioner who comes to the Clerk's office after 3:00 p.m. on a business day and wishes to file an injunction for protection against domestic violence, certifying that the situation is an "emergency" as defined herein, will be referred by the Clerk's office to the Marion County Jail as provided in the next section.

If a hearing is scheduled following review by a judge of any petition for injunction for protection, and the hearing is scheduled before a judge other than the judge to whom the case is assigned, any motion filed before the hearing on the injunction will be reviewed by the judge before whom the hearing is scheduled, or, in the absence of that judge, by his or her designee. After the initial hearing is conducted or continued and an order is entered thereon, all decisions in the case, such as on motions to modify, vacate, or enforce, will be referred to the judge to whom the case is assigned, or, in the absence of that judge, by his or her designee. In considering motions filed by petitioners in injunction for protection cases, appropriate deference will be given to the wishes of the petitioner as the alleged victim, consistent with a purpose of this administrative order to protect and empower victims and families.

Service of injunctions and orders setting hearing will be accomplished promptly upon receipt in the manner set forth in Section 741.30, Florida Statutes, and may also include service of emailed injunctions or orders as provided below in this order. To facilitate prompt service on Respondents who are believed to be located in or near municipalities within the county that have municipal law enforcement agencies, the Sheriff is authorized to forward injunctions and orders to such municipal law enforcement agency. A municipal law enforcement agency within Marion County serving injunctions pursuant to this section shall use service and verification procedures consistent with those of the sheriff as provided in Section 741.30 and this order.

EMERGENCY AFTER-HOURS, WEEKEND, AND HOLIDAY PETITIONS FOR INJUNCTION FOR PROTECTION AGAINST DOMESTIC VIOLENCE

Herein are established procedures which apply in EMERGENCY situations in which a domestic violence injunction is being sought between the hours of 3:00 p.m. and 8:00 a.m. Monday through Friday, or on a Saturday, Sunday, or holiday or other day when the courthouse, the Clerk's office, or both are closed. This process is established in keeping with the requirements of Section 26.20, Florida Statutes, which only applies to DOMESTIC VIOLENCE injunctions and not to dating, repeat, or sexual violence, or stalking injunctions.

As used in this order, the term "emergency" means a matter of extreme urgency, involving clear and present danger, life and death, or instances of irreparable harm. Absent unusual and compelling circumstances, it does not include circumstances in which:

- The respondent or alleged perpetrator of domestic violence has been arrested and is incarcerated with no bond; or,
- The respondent or alleged perpetrator of domestic violence has been arrested and is released on bond with a pretrial release bond conditions order which requires no contact with the petitioner; or,
- The petitioner has a safe place to stay until a petition can be filed in the Clerk's office which can be properly reviewed by the judge to whom the case is assigned and an appropriate order can be entered; or,
- The petitioner and respondent are not currently residing together.

When an emergency as defined herein exists necessitating a person to seek an after-hours, weekend, or holiday injunction for protection against domestic violence, the person may complete and file a petition for injunction against domestic violence and supporting documents at the Marion County Jail (MCJ) through one or more staff who have been appropriately designated by the Clerk of Court to act as deputy clerks.

The MCJ staff person acting as a deputy clerk will talk to the petitioner about the domestic violence event(s) or circumstances which the petitioner believes constitute an emergency of domestic violence, as the term is defined above. The MCJ staff person acting as a deputy clerk may provide referrals and information about community services as discussed in the following section, and will advise the petitioner about both the regular hours injunction process and the emergency after-hours injunction process, including the process concerning waiver of hearings discussed above. If the petitioner wishes to proceed immediately with the after-hours domestic violence injunction process, the MCJ staff person acting as a deputy clerk will provide forms and assistance as required by the applicable statute and this order.

The petition for injunction for protection against domestic violence will be prepared in accordance with the Clerk's office normal procedures, and will include all necessary supporting documents, as well as the optional waiver of hearing. In order to confirm the emergency nature of the petitioner's situation, the petitioner will be required to complete the questionnaire, which is attached as Addendum 2. The MCJ staff person acting as a deputy clerk will certify that he or she has taken reasonable action under the circumstances to confirm the accuracy of the petitioner's answers to questions concerning the respondent's incarceration and bail status. If the questionnaire, signed under oath by the petitioner and certified,

reflects that there is a statutorily qualifying domestic relationship between the petitioner and the respondent, and that an emergency, as defined herein, exists, then the MCJ staff person acting as a deputy clerk may proceed to contact the duty judge as provided below.

In such an emergency domestic violence injunction case, the MCJ staff person acting as deputy clerk will proceed to scan and email the petition and supporting documents, including the questionnaire which has been signed and sworn to by the petitioner and certified by the MCJ staff person acting as deputy clerk, and the waiver of hearing if any, to the duty judge at the duty judge iPad address. Only after completing the process of emailing, the MCJ staff person acting as deputy clerk will call the duty judge at the duty phone number provided. The duty judge will then proceed to review the petition and other documents on the duty iPad, and approve, deny, or set for a hearing, and email back to the MCJ staff person acting as a deputy clerk, as well as to the Clerk's office. The resulting order or injunction will be processed and served (if applicable) by the MCJ according to the usual procedure, and provided to the Clerk's office on the following business day.

The Marion County Sheriff's Office is authorized and empowered to accept and serve, or to forward for service to another agency as provided in the preceding section, a domestic violence injunction by email with an electronic signature sent by the duty judge's duty iPad email address.

Notwithstanding the preceding, if a petitioner wishes to proceed immediately with the after-hours domestic violence injunction process, and it appears that the petitioner has an emergency as defined herein but for the fact that the respondent has been incarcerated and is being held without bond in the Marion County jail until the following day which is a Saturday, Sunday, or holiday, the following procedure may be followed: The MCJ staff person acting as a deputy clerk will provide forms and assistance as required by the applicable statute and this order. The petition for injunction for protection against domestic violence will be prepared in accordance with the Clerk's office normal procedures, and will include all necessary supporting documents, as well as the optional waiver of hearing. In order to confirm the emergency nature of the petitioner's situation, the petitioner will be required to complete the questionnaire, which is attached as Addendum 2, and sign it under oath verifying that there is a statutorily qualifying domestic relationship between the petitioner and the respondent, and that an emergency, as defined herein, exists. The MCJ staff person acting as a deputy clerk will certify that he or she has taken reasonable action under the circumstances to

confirm the accuracy of the petitioner's answers to questions concerning the respondent's incarceration and bail status. The petition and supporting documents, including the questionnaire which has been signed and sworn to by the petitioner and certified, and the waiver of hearing if any, will then be provided to the judge presiding at first appearance the following morning, along with the documents relating to the first appearance hearing itself. The first appearance judge will then proceed to review the petition and other documents, and take appropriate action. The resulting order or injunction will be processed and served (if applicable) by the MCJ, making every effort to complete service before the respondent posts bond and is released, and provided to the Clerk's office on the following business day.

OTHER ASSISTANCE FOR PERSONS WHO MAY BE SEEKING INJUNCTIONS FOR PROTECTION AGAINST VIOLENCE

When a law enforcement officer (LEO) arrives at a scene in circumstances which may support the issuance of an injunction for protection against violence, the LEO is encouraged to refer the person (petitioner) to relevant community resources which may be appropriate to the petitioner's circumstances. These may include without limitation referring the petitioner to a certified domestic violence center which has the power to access multiple services, assisting the petitioner to a place of safety until the following day, contacting the victim advocate available through the LEO's agency or domestic violence shelter, referring the petitioner for shelter or emergency temporary housing assistance, referring the petitioner to legal services through legal aid or the domestic violence shelter, and other emergency services. Information may be provided by LEOs about procedures for filing for an injunction for protection against violence at the Clerk's office. If the petitioner is in a domestic relationship with the respondent, and if the circumstances constitute an emergency as defined herein above, then the LEO may direct the petitioner to the Sheriff's office to file an emergency after-hours, weekend, or holiday petition for injunction for protection against domestic violence. LEOs should be assisted through training by their agencies to understand what constitutes "domestic violence," "repeat violence," and other concepts, and not to refer petitioners to the Marion County Jail or to the Clerk's office for relief which is not legally available to the petitioner and which creates frustration and may increase hostility and danger, nor to refer petitioners automatically for injunctions when other available services may be more appropriate in the circumstances.

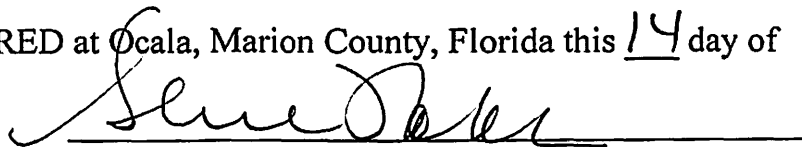
When a Department of Children and Families investigator ("investigator") or community based care provider ("caseworker") arrive at a scene in circumstances which may support the issuance of an injunction for protection against violence,

the investigator or caseworker is encouraged to offer services and/or to refer the person (petitioner) to relevant community resources which may be appropriate to the petitioner's circumstances. These may include without limitation (and will include when required by law) developing a safety plan for the petitioner and family, seeking a Chapter 39 injunction for protection, referring the petitioner to a certified domestic violence center which has the power to access multiple services, assisting the petitioner to a place of safety until the following business day, contacting the victim advocate available through the applicable law enforcement agency or domestic violence shelter, referring the petitioner for shelter or emergency temporary housing assistance, referring the petitioner to legal services through the dependency court system, legal aid, or the domestic violence shelter, and referring to or offering other emergency services. Information may be provided by the investigator or caseworker about procedures for filing for an injunction for protection against violence at the Clerk's office. If the petitioner is in a domestic relationship with the respondent, and if the circumstances constitute an emergency as defined herein above, then the investigator or caseworker may direct the petitioner to the Sheriff's office to file an emergency after-hours, weekend, or holiday petition for injunction for protection against domestic violence. Investigators and caseworkers should be assisted through training by their agencies to understand what constitutes "domestic violence," "repeat violence," and other concepts, and not to refer petitioners to the Marion County Jail or to the Clerk's office for relief which is not legally available to the petitioner and which creates frustration and may increase hostility and danger, nor to refer petitioners automatically for injunctions when other available services may be more appropriate in the circumstances.

In no event should a petitioner be coerced into seeking an injunction to avoid removal of petitioner's children from his or her custody.

This order supersedes any and all provisions in any other administrative orders which may have provisions which are inconsistent with the provisions hereof. Other orders may also be amended to incorporate these changes and to harmonize existing administrative orders.

DONE AND ORDERED at Ocala, Marion County, Florida this 14 day of June, 2017.



S. Sue Robbins, as Marion County Administrative Judge and Family Law Administrative Judge for the Fifth Judicial Circuit

ADDENDUM 1

INSTRUCTIONS FOR PETITIONER'S WAIVER OR NON-WAIVER OF RETURN HEARING

When should this form be used?

This form should be used by the Petitioner when filing a petition seeking to obtain a domestic, dating, sexual violence, stalking, or repeat violence injunction.

This form should be typed or printed in black ink. After completing this form, you should sign the form before a notary public or deputy clerk. You should file this document with the clerk of the circuit court and keep a copy for your records.

What should I do next?

After the Judge reviews your Petition for Injunction, the Judge will make a determination as to whether an *ex parte* temporary injunction (without notice to the other party) should be entered. If the Judge does not enter an *ex parte* temporary injunction, then the Judge will determine whether a hearing should be scheduled on the Petition without a temporary injunction being entered or if, based on the Petition, the case should be dismissed. Depending on your decision on how you completed this form, the Court may or may not enter an Order Setting Hearing on the Petition.

If the Petition is dismissed by the Judge, this does not prevent you from filing a new Petition with facts that were not listed in the earlier Petition.

Where can I look for more information?

Before proceeding, you should read "General Information for Pro Se Litigants" found at the beginning of the Florida Family Law forms. The words that are in "bold underline" in these instructions are defined there. For further information, see chapter 741, Florida Statutes.

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

_____,
Petitioner,

and

Case No. _____

_____,
Respondent.

PETITIONER'S WAIVER OR NON-WAIVER OF RETURN HEARING

I, _____, the Petitioner herein, have filed a Petition for Injunction for Protection Against Domestic Violence Dating Violence Repeat Violence Sexual Violence or Stalking Violence. I understand that, after reviewing the Petition, the court may;

- a) Issue a temporary injunction and set the case for hearing with notice to the Respondent, or
- b) Not issue a temporary injunction and set the case for hearing with notice to the Respondent, or
- c) Deny the temporary injunction and not set the case for hearing

Petitioner, initial either Paragraph A or B below:

___ A. If the court does **not** issue a temporary injunction for protection, I do not object to a hearing being set. *I understand that a notice of hearing AND copy of the Petition for Injunction will be provided to the Respondent.*

OR

___ B. If the court does **not** issue a temporary injunction for protection, I request that a hearing **NOT** be set. I do **NOT** want the Respondent to be served with a notice of hearing or a copy of the Petition for Injunction without a temporary injunction for protection in place. I waive my right under F. S. 741.30 (5) (b) to have this case set for hearing. I **GIVE UP MY RIGHT TO A FINAL HEARING AND REQUEST THAT THE CASE BE DISMISSED AT THIS TIME.**

I understand that nothing in this form affects my right to file a new petition.

I have signed this waiver or non-waiver freely and voluntarily.

(Signature of Petitioner)

Printed Name: _____ Date: _____

ADDENDUM 2

QUESTIONNAIRE AND CERTIFICATION

PLEASE COMPLETE EACH SECTION FULLY AND TRUTHFULLY

Please circle yes or no or fill in the blanks

1. Are you married to the Respondent (the other party) now, or were you married to the Respondent (the other party) in the past? Yes or No
 2. Please answer the following if you have NEVER been married to the Respondent (other party):
 - A. Is the Respondent (the other party) the father or mother of your child or of at least one of your children? Yes or No
 - B. If the Respondent (the other party) is not the father or mother of your child, or of at least one of your children, do you currently live together as a family or did you live together as a family in the past? Yes or No
 - C. If the Respondent (the other party) is not the father or mother of your child, or of at least one of your children, and you do not live together as a family, are you related to the Respondent by blood or marriage -AND- did you live together as a family in the past? Yes or No
 3. Was the Respondent (the other person) arrested? Yes or No (If Yes, please answer A and B below)
 - A. If the other party was arrested, is he/she still in jail and being held with "no bond?" Yes or No
 - B. If the other party was arrested and he/she was released from jail, does the other party have "pre-trial bond conditions" (an order from the Judge) that tells him/her to keep away from you? Yes or No
 4. Are you staying at a safe place or can you go to a safe place (e.g. domestic violence shelter or friend's home) until 8:00 am the next business day? Yes or No
 5. Are you currently a Petitioner or a Respondent with an active Injunction in place against you or the other party – OR – have you filed for an injunction (whether it was granted or not) within the last seven (7) days? Yes or No
 6. Please describe the nature of the situation (extreme emergency, life or death, etc.) that you believe requires an injunction be entered after regular business hours?
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I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this affidavit and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Dated: _____

Signature of Party
Printed Name: _____

STATE OF FLORIDA
COUNTY OF MARION

Sworn to or affirmed and signed before me on _____ by _____.

NOTARY PUBLIC or DEPUTY CLERK

[Print, type, or stamp commissioned name of notary or deputy clerk.]

____ Personally known
____ Produced identification

Type of identification produced _____

**CERTIFICATION (TO BE COMPLETED BY MARION COUNTY JAIL STAFF PERSON
ACTING AS DEPUTY CLERK)**

I CERTIFY that I have taken reasonable action under the circumstances to confirm the accuracy of the Petitioner's answers to Question 3, above.

Signature of Marion County Jail Staff Person
Acting as Deputy Clerk
Printed Name: _____