

**IN THE SECOND JUDICIAL CIRCUIT
OF FLORIDA**

OFFICE OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER 2018-10

IN RE: RISK PROTECTION ORDER ASSIGNMENTS AND PROCEDURES

WHEREAS, on March 9, 2018, Governor Risk Scott signed into law the “Marjory Stoneman Douglas High School Public Safety Act,” which, among other things, created section 790.401, Florida Statutes.

WHEREAS, section 790.401, Florida Statutes, creates a new judicial proceeding where law enforcement can petition the circuit court for a Risk Protection Order to prevent persons who are at high risk of harming themselves or others from possessing or purchasing firearms or ammunition, gives the circuit courts of the state jurisdiction over such risk protection proceedings, and creates specific duties for the Court, it is therefore

ORDERED that in accordance with section 790.401, Florida Statutes, the Second Judicial Circuit hereby establishes, effective upon the signing of this administrative order, the following procedures for all cases in which a party seeks issuance, enforcement, vacation, or extension of a temporary or final Risk Protection Order. Petitions for Risk Protection Orders, Temporary Ex Parte Risk Protection Orders, and compliance hearings, pursuant to section 790.401(7)(f), that come before the Second Judicial Circuit, will be heard as follows:

I. LEON COUNTY ASSIGNMENTS.

- A. Requests for Temporary Ex Parte Risk Protection Orders will be heard by the rotating Leon County First Appearance Judge, as assigned by the current administrative order In Re: Circuit and County Judge Assignments.
- B. Petitions for Risk Protection Orders will be heard by Leon County Judge Augustus D. Aikens, Jr. in the Probate Division, and will be assigned an “MH” designation by the Clerk.
- C. All compliance hearings held pursuant to section 790.401(7)(f), Florida Statutes, will be heard by the rotating Leon County First Appearance Judge, as assigned by the current administrative order In Re: Circuit and County Judge Assignments.

**II. FRANKLIN COUNTY, GADSDEN COUNTY, JEFFERSON COUNTY,
LIBERTY COUNTY, AND WAKULLA COUNTY ASSIGNMENTS.**

- A. All cases in which a party seeks issuance, enforcement, vacation, or extension of a temporary or final Risk Protection Order will be heard by the circuit judge



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assigned to the Probate Division, pursuant to the current administrative order In Re: Circuit and County Judge Assignments.

- B. Circuit judges assigned to Franklin, Gadsden, Jefferson, Liberty, and Wakulla Counties shall communicate with the county judge in each county to ensure effective coverage of Risk Protection Order proceedings, in the event that they are unavailable.

III. CIRCUIT-WIDE PROCEDURES. Upon receipt of a petition for a Risk Protection Order, which may be accompanied by a request for a Temporary Ex Parte Risk Protection Order, the Second Judicial Circuit will utilize the following procedures:

A. Temporary Ex Parte Risk Protection Orders.

1. Upon filing of a request for a Temporary Ex Parte Risk Protection Order, a hearing will be heard the day the petition is filed or on the next business day. The hearing may be conducted by telephone. The Court must receive assurances of the identity of the petitioner before conducting a telephonic hearing.
2. Upon finding that there is reasonable cause to believe that the respondent poses a significant danger of causing personal injury to himself or herself or others in the near future by having in his or her custody or control, or by purchasing, possessing, or receiving, a firearm or ammunition, the Court must issue a Temporary Ex Parte Risk Protection Order.
3. A Temporary Ex Parte Risk Protection Order terminates upon the hearing on the Risk Protection Order.
4. If it should become necessary to seek a warrant under section 790.401(7)(d), Florida Statutes, the current procedures for warrants in criminal cases shall be followed.

B. Risk Protection Orders.

1. Upon receipt of a petition, the Court must order a hearing to be held no later than 14 days after receipt of the petition and must issue a notice of hearing to the respondent. The hearing may be conducted by telephone. The Court must receive assurances of the identity of the petitioner before conducting a telephonic hearing.
2. The Clerk of Court shall cause a copy of the notice of hearing and petition to be forwarded on or before the next business day to the appropriate law enforcement agency for service upon the respondent.



3. Upon notice and a hearing, if the Court finds by clear and convincing evidence that the respondent poses a significant danger of causing personal injury to himself or herself or others by having in his or her custody or control, or by purchasing, possessing, or receiving, a firearm or any ammunition, the Court must issue a Risk Protection Order for a period that it deems appropriate, up to and including but not exceeding 12 months.
4. If the Court issues a Risk Protection Order, the Court must inform the respondent that he or she is entitled to request a hearing to vacate the order in the manner provided by section 790.401(6), Florida Statutes. The Court shall provide the respondent with a form to request a hearing to vacate.
5. Upon receipt of the request for a hearing to vacate a Risk Protection Order, the Court shall set a date for a hearing. The hearing must occur no sooner than 14 days and no later than 30 days after the date of service of the request upon the petitioner.

C. Compliance Hearings Pursuant to section 790.401(7)(f), Florida Statutes.

1. Upon the issuance of a Risk Protection Order, including a Temporary Ex Parte Risk Protection Order, the Court shall set a hearing date and require the respondent to appear no later than three business days after the issuance of the order. The Court shall require proof that the respondent has surrendered any firearms or ammunition owned by the respondent in the respondent's custody, control, or possession.
2. The Court may cancel the hearing upon a satisfactory showing that the respondent is in compliance with the order.

D. Miscellaneous Matters.

1. The Clerk of Court shall provide the Sheriff with a copy of any pleading or order required to be served under section 790.401, Florida Statutes.
2. When requested by a law enforcement agency authorized to effect service under section 790.401, Florida Statutes, the Clerk of Court may transmit via email, facsimile, or other electronic transmission permitted under the Florida Rules of Judicial Administration.
3. In order to effectuate service of process under section 790.401, Florida Statutes, a juvenile respondent shall be identified by full name. The Clerk of Court shall independently determine what portions of any pleadings and any documents filed in support of the petition shall be available for public viewing. The Court will strive to balance a juvenile's right to privacy against public safety.



4. The Second Judicial Circuit will require and use the standard petition and order forms prepared by the Office of the State Courts Administrator pursuant to section 790.401(14), Florida Statutes. These forms will be made available on the Clerk of Court website.

DONE and ORDERED in chambers in Tallahassee, Leon County, Florida, this 14th day of June, 2018.



JONATHAN SJOSTROM
Chief Judge

Copies furnished to:
All Circuit and County Judges, Second Judicial Circuit
All Clerks of the Court, Second Judicial Circuit
State Attorney, Second Judicial Circuit
Public Defender, Second Judicial Circuit
Office of Court Administration, Second Judicial Circuit

