

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

Order Number 2010-45-Gen

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

(a) §27.40, Fla. Stat., sets forth the duties and responsibilities of the Chief Judge in establishing a registry of attorneys, to be provided to the Clerk of Courts, for appointment of counsel as authorized by law.

(b) In accordance with the authority vested in the Chief Judge by Florida Rule of Judicial Administration 2.215, it is ordered effective immediately as follows:

(1) **APPOINTMENT TO REGISTRY.** The selection, approval, and continuation of a private attorney 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 and shall be responsible for entering into any and all Agreements required by the Justice Administrative Commission (JAC). The Chief Judge will advise JAC and Clerk of Courts (Clerk) of the attorneys to be added to or removed from the Registry. Attorneys will not be added 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) **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 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 also if the attorney is unavailable to accept appointments for any period of time due to vacations, illness, or for any other reason. Notice to the Chief Judge shall be sent to isc@17th.flcourts.org. Notice to the Clerk shall be sent to CACS@browardclerk.org. Notice to the JAC shall be in the

manner required by the JAC. Attorneys eligible to receive probate appointments shall provide a copy of the notice to guardian@17th.flcourts.org.

(E) 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.

(3) **ADDITIONAL PROBATE DIVISION REQUIREMENTS.** In addition to the general requirements set forth in paragraph 2, the Probate Division Registry categories have additional requirements as set forth herein.

(A) All private attorneys on any Probate Division Registry category are required to:

(i) Maintain in full force and effect malpractice insurance 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 10 days of the expiration of any policy during the fiscal year to the Administrative Judge for the Probate Division. Failure to provide proof will result in an immediate suspension from the Registry until proof of insurance is provided. If the attorney fails to provide proof within 60 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.

(ii) Notify the Chief Judge and Administrative Judge for the Probate Division if the private attorney 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 Probate Division appointments pending the outcome of The Florida Bar investigation, criminal investigation or criminal charges and review by the Chief Judge of the outcome. The Chief Judge will be the sole decision maker if the attorney is reinstated to the Registry or is removed.

(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 10 hours of guardianship, mental health, or elder law topics in 12 months preceding application and appointment to the Registry. 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.

(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 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 15th 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 1st after notice of the CLE deficiency, 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 with regard to these areas. The attorney must provide proof within 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 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.

(4) REMOVAL FROM REGISTRY

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

(i) resigns. The attorney shall immediately send notice to JAC as required by the JAC. The notice shall state if the attorney is resigning from all categories to which the attorney is entitled to receive appointments or only some categories to which the attorney is entitled to receive appointments. 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, that the attorney will be removed 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 760, Broward County Courthouse, 201 S.E. Sixth Street, Fort Lauderdale, Florida 33301. If an attorney later decides that he or she wants to be reinstated to the Registry, the attorney must file a new application to be considered by the Chief Judge.

(ii) fails to comply with terms of contract with 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 JAC on or before the last weekday of August for each fiscal year the attorney is eligible for inclusion on the Registry. 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 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 JAC.

(ix) terminates his or her contract with JAC.

(x) reassigns or subcontracts a case to another attorney.

(xi) allows another attorney to appear at a critical stage of the case who is not on the Registry.

(B) If an attorney is disbarred, suspended, has surrendered his or her license, 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 does have the authority to remove an attorney from the Registry who is disbarred, suspended, surrendered his or her license, or 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 file a new application to be considered by the Chief Judge for reinstatement to the Registry.

(C) At any time an attorney is removed from the Registry 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.

(5) NOTICES.

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

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

(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.

(B) A private 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 shall also have an obligation to ensure that:
- (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 requirements 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 1 business day of entry of the order of appointment mail to the Public Defender, Regional Counsel, or private attorney the order. 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.

(7) **LIST OF ATTORNEYS ON REGISTRY.** The Clerk shall provide to the Chief Judge a copy of the Registry on the first 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 to September, October to December, January to March, and April to June.

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

(C) The Clerk shall select 4 names of private attorneys from the Registry who are approved for shelter hearings, assign a dummy case number for the purpose of selecting names from the Registry and otherwise schedule private attorneys to appear on weekdays which are not court holidays or 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, and Regional Counsel. If an attorney selected from the Registry

cannot appear at the time of the shelter hearing no other private attorney may be substituted for the non appearing attorney.

(D) If a private attorney is appointed for a parent, the Clerk shall update the Registry to reflect the attorney's appointment for a dependency case and place the attorney at the bottom of the Registry for dependency appointments.

(E) 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 to September, October to December, January to March, and April to June.

(B) The general magistrates for the probate division shall advise the Clerk at least 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 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 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 secretaries for the general magistrates for the probate division, and the private attorneys. The Clerk shall also post a copy of the schedule in his 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 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 a fee unless a case is filed with the Clerk which seeks a determination of incapacity and appointment of an emergency temporary guardian.

(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 and:

(i) file the original motion seeking excess fees with the Clerk which shall include the notice from JAC as to its approval or objections to the fees sought; and

(ii) provide a copy of the motion and notice from JAC as to its approval or objections to the fees sought to the Chief Judge with addressed stamped envelopes to the attorney and JAC.

(F) The Chief Judge upon receipt of the copy of the motion for excess fees shall enter an order setting the date and time of the hearing or enter an order designating a judge to hear the matter. It shall be in the sole discretion of the Chief Judge if he or she shall hold the hearing or designate another judge to hear the motion.

(G) 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 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 request for fees from JAC; and

(ii) both attorneys can file a motion before the presiding judge for an allocation of the flat fee.

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

(I) 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) **GOOD CAUSE**

(A) The following shall be considered good cause for selecting an attorney not in strict rotation of the Registry to represent a client:

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

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

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

(12) APPOINTMENT OF NON REGISTRY ATTORNEY

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

(i) no attorneys are 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 (12)(A).

(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 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 of the private attorney.

(13) COMPLAINTS. An interested person may advise the presiding judge, in writing of any matter set forth in §27.40(9), Fla. Stat. Upon receipt of the written

document with regard to any matter set forth in §27.40(9), Fla. Stat., 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 wrote 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 document 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.

(14) **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 not by the judge and an indication why, 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 in the 12 months preceding the date of application and appointment to the Registry

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 in the 12 months preceding the date of application and appointment to the Registry

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 in the 12 months preceding the date of application and appointment to the Registry

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: 10 hours of CLE in defense of capital cases in the 24 months preceding the date of application and appointment to the Registry

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 in the 12 months preceding the date of application and appointment to the Registry

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 not 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 at the Family Court Conference or 3 hours of dependency CLE in the 12 months preceding the date of application and appointment to the Registry

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: 2.5 hours of Judicial Bypass of Parental Notice of Abortion Act CLE in the 12 months preceding the date of application and appointment to the Registry

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 at the Family Court Conference or 3 hours of dependency CLE in the 12 months preceding the date of application and appointment to the Registry

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 not 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 in the 12 months preceding the date of application and appointment to the Registry

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 in the 12 months preceding the date of application and appointment to the Registry

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 in the 12 months preceding the date of application and appointment to the Registry

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)

(15) **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); sections 3.850 and 3.800, F.S.¹ (Appropriations Category: Post conviction - Sections 3.850 and 3.800, F.S.)

(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 in the 12 months preceding the date of application and appointment to Registry

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 in the 12 months preceding the date of application and appointment to the Registry

¹ This is a reference to the General Appropriations Act, however it is believed the correct reference is to Criminal Rule of Procedure proceedings pursuant to Rule 3.800 and Rule 3.850.

- 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 in the 12 months preceding the date of application and appointment to the Registry
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 in the 12 months preceding the date of application and appointment to the Registry
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 in the 12 months preceding the date of application and appointment to the Registry
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 in the 12 months preceding the date of application and appointment to the Registry
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 in the 12 months preceding the date of application and appointment to the Registry

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

CLE Requirement: 12 hours CLE specifically devoted to defense of capital cases in the 24 months preceding the date of application and appointment to the Registry

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

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

CLE Requirement: 10 hours CLE specifically devoted to defense of capital cases in the 24 months preceding the date of application and appointment to the Registry

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

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 in the 12 months preceding the date of application and appointment to the Registry

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%

(16) **DEPENDENCY DIVISION REGISTRY REQUIREMENTS**

(A) *Dependency*

Registry Category: Dependency; Dependency-Shelter Hearing

Appropriations Category: Dependency

Dependency-Shelter Hearing 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 at the Family Court Conference or 3 hours of dependency CLE in the 12 months preceding the date of application and appointment to the Registry

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 at the Family Court Conference or 3 hours of dependency CLE in the 12 months preceding the date of application and appointment to the Registry

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: 5 years

CLE Requirement: 2.5 hours of Judicial Bypass of Parental Notice of Abortion Act CLE in the 12 months preceding the date of application and appointment to the Registry

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 at the Family Court Conference or 3 hours of dependency CLE in the 12 months preceding the date of application and appointment to the Registry

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 CLE at the Family Court Conference or 3 hours of dependency CLE in the 12 months preceding the date of application and appointment to the Registry

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

(17) **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 in the 12 months preceding the date of application and appointment to the Registry

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 in the 12 months preceding the date of application and appointment to the Registry

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 in the 12 months preceding the date of application and appointment to the Registry

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 in the 12 months preceding the date of application and appointment to the Registry

Criminal Practice Percentage: 50%

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

(18) **PROBATE DIVISION REGISTRY REQUIREMENTS**

(A) *Adult Protective Services*

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

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

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.

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.

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.

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

(19) **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 \$8.75 for each quarter hour thereafter
French	\$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***²

(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 and 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

² If the Seventeenth Judicial Circuit is obligated by contract or law to pay a court reporter, these fees shall remain in effect until June 30, 2012.

<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.

- (20) **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.
- (21) This Administrative Order vacates and supersedes Administrative Order 2009-84-Gen.

DONE AND ORDERED in chambers in Fort Lauderdale, Broward County, Florida on July 2, 2010 nunc pro tunc July 1, 2010.

s/Victor Tobin
Victor Tobin, Chief Judge