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IN THE CIRCUIT COURT OF THE 16TH
JUDICIAL CIRCUIT OF THE STATE OF
FLORIDA, IN AND FOR MONROE COUNTY

ADMINISTRATIVE ORDER 5.002
AMENDED 05/06

IN RE:

INJUNCTIONS FOR PROTECTION
AGAINST DOMESTIC VIOLENCE

WHEREAS, Florida Statute 26.20 requires that at least one judge be available on Saturdays, Sundays, holidays, and after hours on weekdays to hear motions for temporary injunction ex parte in domestic violence cases; and

WHEREAS, Florida Statute 741.28 defines “domestic violence” as “any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member”.

WHEREAS, Florida Statute 741.28 defines “Family or household member” as “spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit”.

WHEREAS, Florida Statute Section 741.2902 states that the intent of the Legislature regarding injunctions for protection against domestic violence was to ensure that the Court recognize that the safety of the petitioner may require immediate removal of the respondent from the shared residence, and that there may be inherent danger in permitting the respondent partial or periodic access to the residence; and

WHEREAS, Florida Statute Section 784.046(2) creates the cause of action for injunctions for protection against repeat, dating and sexual violence, and sets forth the powers and duties of the Court and the Clerk of Court in handling these matters which do not present issues of shared residence or affect family or household members; and

WHEREAS, the safety of domestic violence victims, and their children, has been a long-standing concern of the judges of the 16th Judicial Circuit; and

WHEREAS, the judges of the 16th Judicial Circuit wish to ensure that the rights of all citizens who may be in need of injunctive relief be protected, their access to the Court be maintained; and the procedures to follow are clear and consistent, it is therefore

ORDERED, that the following procedures are hereby instituted:

1. All individuals seeking an injunction for protection against domestic violence after normal business hours and on weekends and holidays pursuant to Section 26 and 741, Florida Statutes, shall be directed to contact the Monroe County Sheriff's Department prior to filing a petition for injunction through the Clerk of the Court at:

296-2424 Lower Keys, then press one
289-2430 Middle Keys, then press one
853-3211 Upper keys, then press one

The law-enforcement based victim advocates can be reached at the above numbers on a twenty-four hour basis, seven days a week.

2. All law enforcement officers responding or appearing on-the-scene of an alleged domestic disturbance shall through the exercise of the officer's discretion and investigation, verify the existence of any potential violation(s) of F.S. 741.30(2)(e), 784.046(3)(b) and F.S. Chapter 26.10 prohibiting acts of domestic violence.
3. Any law enforcement officer who investigates an incident of domestic violence as prohibited by Florida Law shall provide the victim notice of their right to obtain a Temporary Injunction against Domestic Violence only after having:
 - a. Determined if there is evidence of domestic violence as defined by Florida Statutes, or if in the officer's discretion violence is imminent and;
 - b. Determined in those cases where the respondent is present and the investigating officer has probable cause to believe a violation of a criminal offense has occurred, the officer should arrest the respondent pursuant to F.S. 901.15(6), and;
 - c. Made inquiry as to the ability of the respondent to post bond and return to the scene where an arrest has been effectuated, thereby necessitating the potential need of a Temporary Injunction Order and;
 - d. Verified the existence of a pre-existing and served temporary injunction for protection through the Monroe County sheriff's Office Communications Department, the officer appearing on the scene of the alleged domestic disturbance, shall then enforce the same.
 - e. Assist those individuals seeking a domestic violence injunction by contacting the law-enforcement based victim advocate to respond to the scene or to meet the victim at the nearest Monroe County Sheriff's Substation.

4. If, after conversation with the victim, the law-enforcement based victim advocate determines that the petitioner should seek an injunction, the victim advocate will contact the duty clerk. The Clerk of Court shall provide the law-enforcement-based victim advocates and/or sheriff's dispatch office with a list of duty clerks.
5. The duty clerk will make arrangements to meet with the petitioner at the nearest Monroe County Sheriff's Substation for execution of the appropriate affidavit and supporting documents.
6. The duty clerk shall insure that all documentation is completed and in compliance with applicable Florida Statutes, and that said sworn petition states an immediate and urgent need for injunctive relief, and that the petitioner feels that said injunction is required for his/her protection immediately and cannot wait until regular business hours when a judge may be available, or when the courthouse is again open for regular business.
7. Upon proper execution, the documents will be faxed to the duty judge directly or faxed to the nearest substation and from there taken by the Sheriff's Office to the duty judge for consideration.
8. The duty judge shall be provided with a cellular telephone to provide a method of contact by the Sheriff of Monroe County. The cellular telephone number of the duty judge shall be disclosed only to the Sheriff's dispatch office. Each judge shall be responsible for insuring the operation of the cellular telephone during his/her duty period.
9. The duty judge shall take action immediately and issue an appropriate injunction, if required. The Sheriff's Office shall return the signed injunction to the duty clerk for appropriate distribution.
10. This order shall apply to initial incidents of domestic violence as defined in Florida Statute 741.28. All other incidents, including repeat, dating and sexual violence shall be handled during the regular business hours of Court operations.
11. Notwithstanding any provisions in this order, all petitions for injunctions for protection against repeat, dating and sexual violence will be reviewed by a judge within seventy-two hours of the filing of the petition.

DONE AND ORDERED at Key West, Monroe County, Florida, this 11 day of May, 2006.

The Honorable Richard G. Payne
Chief Judge