

## JUDICIAL/PERMANENCY REVIEW HEARING PROCEDURES

### I. Virtual Appearances

The Magistrate shall expand access to judicial reviews and permanency hearings to litigants and witnesses by affording the opportunity to appear virtually, with little exception.

The following parties may appear virtually **without** the need for a *Motion for Virtual Appearance* and *Order*:

1. Minor children who are parties to the proceeding;
2. Caregivers;
3. Family;
4. The Pro Bono GAL;
5. Out-of-state, out-of-country parties;
6. Service providers;
7. Witnesses; and
8. Incarcerated parents; and
9. Anyone who is ill, recovering from injury, surgical procedure, and caregivers of those recovering from injury, illness, or surgery.

No email to the Magistrate's Assistant is necessary to notify the Magistrate of the virtual appearance.

The following may appear virtually but **only** upon entry of the *Order on a Motion for Virtual Appearance*.

1. Department Counsel;
2. Dependency Case Manager;
3. Parents' Counsel;
4. Parents;
5. Guardian Ad Litem Program Attorney; and
6. Attorney Ad Litem.

Of note, a parent who is at work may appear virtually, if they cannot be excused from work.

**Virtual appearance of the parents is preferred over no appearance.**

The moving party may file their Motion and submit the proposed Order to the Magistrate's assistant.

Link to [Magistrate Bird's WebEx Virtual Meeting Room](#) (Meeting Number: 2355 738 7891).

If you appear by phone, please download the Webex app.

Please test your device prior to the hearing so that audio and video are functional at the hearing.

Virtual appearance at a hearing is the same as in-person appearance. The party appearing virtually shall be dressed appropriately and appearing in a room, alone, away from noise or other people.

The party is on notice that any technical issues with Webex may jeopardize their ability to testify, appear, or otherwise provide information to the Court if appearing virtually.

Finally, virtual appearance is a **privilege**. The Magistrate may revoke the party's opportunity to appear virtually should there be abuse of the privilege.

## **II. Transport of Incarcerated Parents**

A *Motion to Transport the Incarcerated Parent* is **only** necessary for parents incarcerated **outside** of Orange County, Florida. The Deputies shall transport parents incarcerated in Orange County without a Motion. The incarcerated parent may decline transport.

**However**, it is the Department's responsibility to submit a request to transport a parent located in Orange County who is not otherwise listed on the docket and not otherwise subject to attendance.

The incarcerated parent may appear virtually.

## **III. Ore Tenus Motions and Goal Changes at the Judicial Review**

The Magistrate shall consider the possibility of a goal change, per §39.701, Fla. Stat., **at every Judicial Review**. No Motion is necessary. **The parties are on notice**.

The Magistrate may hear Motions and conduct evidentiary hearings on those Motions at the Judicial Review, per the Order of Referral to the Magistrate.

As to **stipulated ore tenus** Motions: the Court **shall hear and grant ore tenus** Motions **if the parties stipulate** to the content of the Motion. **The Magistrate urges the parties to meet and confer prior to the Judicial Review**.

As to **contested ore tenus** Motions: the Magistrate **shall not** hear argument on the Motion.

The parties shall be required to file a Motion and set an evidentiary hearing on all issues, **except for a goal change**. This is to include:

1. Modifications of the Post-Disposition Order, (i.e., placement, case plan amendments, visitation, etc.)

2. Motions for Reunification
3. Any other related issues that can be heard by the Magistrate

The Court will **not** hear *ore tenus Motions to Terminate Protective Supervision and Jurisdiction*.

The moving party may file their Motion and advise the Magistrate's assistant that they wish to have the Motion heard at the upcoming Judicial Review or at a special set date. Alternatively, the party may submit Agreed Orders to the Judge or set hearings on the Motions in front of the Judge.

#### **IV. Setting and Cancelling Hearings**

The Department shall email the Magistrate's Assistant of cancellations of Judicial Reviews (i.e, subject to Orders Terminating Protective Supervision and Jurisdiction) prior to the pertinent hearing date so that the Judicial Review may be removed from the docket. The Department shall copy all parties.

As to setting hearings on Motions, the moving party must confer with other parties prior to submitting a request to the Magistrate Assistant for a hearing date/time. Should the matter cancel, the moving party shall file a Notice of Cancellation and forward the Notice to the Magistrate's Assistant so that the hearing may be removed from the docket.

#### **V. Judicial Review and Social Study Report**

The Department **shall** file their JRSSR Report 72 hours in advance of the Judicial Review hearing.

Failure to file same may subject the Department to a finding of a lack of reasonable efforts, per §39.701, Fla. Stat., either *sua sponte* or upon motion of another party.

Delayed receipt of the Report, change of case workers, or change of assigned attorneys is not good cause for failing to file the JRSSR.

#### **VI. Waiver of Exceptions After Review of the Report and Recommendation**

A party may email the Magistrate's assistant to advise of waiver of exceptions of the filed Report prior to the expiration of the 10-day waiting period. The Magistrate's assistant may submit the proposed Order prior to the 10-day waiting period upon receipt of a waiver of exceptions from all parties.