

Temporary Procedures for Bond Hearings; In Custody Change of Plea Hearings; and other Hearings

The following temporary procedures are in response to the Florida Supreme Court's Administrative Order AOSC20-23, and the 17th Judicial Circuit of Florida's Administrative Order 20232-Temp; both of which put restrictions in place for Court Operations due to the COVID-19 virus.

Special Bond Hearings (Emergency COVID-19) Docket In Custody Defendant

These temporary procedures are specifically for bond hearings that would ordinarily be heard in front of the Division Judge for in-custody Defendants. This docket does not include:

- 1) Motions for rehearing;
- 2) Any issue, related to bond or otherwise, that was previously heard before the Division Judge;
- 3) Violent Felony Offenders of Special Concern (VFOS), which includes VFO Defendants, as the statutory requirement for a "Danger Hearing" must be met before a bond hearing can be held, pursuant to Fl. St. § 948.06(8)(e).

Only the following charges are allowed in this docket:

- 1) Non-violent offenses and offenses not meeting the definition of "dangerous crime" as set forth in section 907.041(4), Florida Statutes.
- 2) Misdemeanors.

Procedure and contents of motion:

- 1) The motion shall state with specificity the facts related to Defendant as per Fla. Stat. § 903.046 (do not use a "boilerplate" motion);
- 2) A motions shall be filed for each individual case number, including the case number for the new law charge and VOP (if applicable);
- 3) Each motion shall list all the Defendant's cases, the charges associated with each case and the legal reason why the Defendant is in custody;
- 4) A statement that Defendant did not have his or her bond or the issue presented by the motion previously heard before the Division Judge;
- 5) A certification that defense counsel spoke with the State and made a good-faith attempt to resolve the issue. If defense counsel affirmatively represents they have been unable to speak with the State, defense counsel must certify that they have attempted to contact the State at least three (3) times, and sent a follow up email to the State asserting they have tried to contact them. If defense counsel spoke with the State and the State objects, this must be clearly indicated in defense counsel's motion.

A copy of the motion must be e-filed with the Clerk's office and sent by email to: the opposing party, the Division Judge, Division FK Judicial Assistant, and Division FK. Pursuant to FL CONST Art. 1 §16, "Marsy's Law," the State is responsible for notifying the victim so the victim is afforded the opportunity to be heard at the hearing.

All motions will be heard either telephonically or via video conference with Defendant appearing from jail. Defense counsel will be notified of the date of the hearing via email.

Counsel for Defendant must be available at the time of the hearing and provide a valid phone number and email address. Any documents a party wishes to present to the Court in advance of the hearing must be disclosed to and agreed to by the opposing party and emailed to both the Division Judge, Division FK Judicial Assistant, and Division FK. This shall not prohibit the State from accessing a Defendant's criminal history during the hearing. The Special Bond docket is expected to run from 1:30pm to 6:00pm, Monday through Friday, excluding Court holidays.

Bond Issues and Pleas Relating to Defendants in other Jurisdictions

In AOSC20-23, the Florida Supreme Court directed the courts to limit transportation of Defendants from one jurisdiction to another, as a precaution against the spread of COVID 19.

For example, if a Defendant has violation of supervision arising from a case originating in the 17th Circuit, and is being held in another jurisdiction on a warrant issued by a 17th Circuit Judge, the Defendant's counsel shall notify the State Attorney's Office of Broward County and the State Attorney of Broward County must contact and confer with the State Attorney's Office of the other jurisdiction. If the State Attorneys agree, the Defendant's bond hearing shall be heard in the other jurisdiction. The other jurisdiction does not take control of the entire case, just the bond issue.

Conversely, if a Defendant is being held in the 17th Circuit for a warrant related to a case originating out of another jurisdiction, this Court may hear the bond issue, but will not take control of the case in its entirety. The Judges of each circuit will share any relevant information regarding setting a bond or the conditions of pre-trial release. The outcome of the bond hearing will be shared with the other jurisdiction and become part of its court file.

Change of Plea on Special Hearing docket for In Custody Defendants

If Defense counsel and State have agreed on a plea for an in-custody Defendant the plea may be set on the Special Hearing docket. Defense counsel shall file the notice of change of plea. Defense counsel shall clearly indicate the terms of the plea. The notice shall be e-filed with the Clerk's office and sent by email to the opposing party, the Division Judge, and Division FK. All plea hearings will be done telephonically or via video conference.

Division Hearings

Hearings where Defendant's Presence has been Waived, or is Not Required

Any hearing may be held where Defendant has a waiver of appearance on file in the Court record; or the matter does not require the Defendant's presence. Such hearings will be scheduled before the Division Judge.

The State Attorneys Office of Broward County and Defense counsel may continue to file motion(s) and contact the Division Judge to schedule hearings, which will be conducted telephonically or via video conference. The hearings will be recorded. Counsel must provide in advance a valid phone number and email address. Pursuant to AOSC-2016, witnesses may be sworn in by a notary with a valid license to practice in the State of Florida, or other persons qualified to administer an oath.