

*The following temporary procedures are in response to the Florida Supreme Court's Administrative Orders AOSC20-23, AOSC20-32, and the 17th Judicial Circuit's Administrative Orders 20232-Temp, 2020-44-Temp, which put restrictions in place for courthouse operations due to the COVID-19 virus.*

## **IN-CUSTODY HEARING DOCKET**

### **GENERAL PROCEDURES**

The following procedures update and expand upon the existing "Temporary Procedures for Bond Hearings; In Custody Change of Plea Hearings" which can be found here: <http://www.17th.flcourts.org/wp-content/uploads/2020/04/BondProcedures-Corona-Virus-Covid-19-Update.pdf>. (A new link for this In-Custody Hearing Docket will be provided)

- 1) As was done prior to the courthouse closure, counsel must contact the Division Judge's judicial assistant for a hearing date.
- 2) This docket is for matters for in-custody defendants whether requested by the State or defense, including, but not limited to: Motions for Release/Bond Hearings, Arthur Hearings, Violations of Probation, VFO Hearings, Motions for Downward Departure, Change of Pleas, Open Pleas to the Court, evidential matters requiring an in custody defendant's attendance, and matters previously heard on the special bond hearing docket.
- 3) All hearings will take place either telephonically or via videoconference, with the defendant appearing from jail.
- 4) Defense counsel must be available at the time of the hearing and provide a working phone number and email address, and exchange that information with the State.
- 5) Any document or matters a party wishes to present to the Court in advance of the hearing must be emailed to the Division Judge and opposing party no later than two (2) days before the hearing date. However, this shall not prohibit the State from accessing a defendant's criminal history during the hearing, nor shall it prevent the Judge from taking judicial notice of the court file.
- 6) It is the responsibility of counsel to provide any witnesses needed at the hearing, and such witnesses will be sworn-in remotely (see AOSC-2016).
- 7) At the present time no sidebars will be permitted during the hearing. Any issues counsel wishes to discuss with their client should be done prior to the hearing.
- 8) The In-Custody Hearing Docket is expected to run from 8:30am to 12:00pm, and 1:30 p.m. to 5:00 p.m., Monday through Friday, excluding Court holidays.

## IN-CUSTODY HEARING DOCKET DIVISION DATES AND TIMES:

	<u>8:30am - 12:00pm</u>	<u>1:30pm - 5:00pm</u>
FA:	June 24th	June 10th
FB:	June 22nd	June 11th
FC:	June 29th	June 12th
FD:	June 26th	June 15th
FE:	June 30th	June 16th
FF:	July 1st	June 17th
FG:	June 11th	June 18th
FH:	June 12th	June 19th
FI:	June 10th	June 24th
FJ:	June 15th	June 22nd
FK:	June 16th	June 23rd
FN/FR:	June 23rd	
FO:	June 17th	June 24th
FP:	June 18th	June 25th
FZ:	June 8th and June 17th	
FT/FX:	June 19th	June 26th
FV:	June 25th	June 8th and June 29th
FY:	June 23rd	June 9th and June 30th
Misc:	June 9th	

## BOND HEARINGS

- 1) Motions shall state with specificity the facts related to the defendant as per Fla. Stat. § 903.046 (no “boilerplate” motions);
- 2) 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 the 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. However, if defense counsel affirmatively represents they have been unable to speak with the State, defense counsel must certify they have attempted to contact the State at least three (3) times, and also sent a follow up email to the State asserting they attempted to contact them.
- 6) If defense counsel spoke with the State and the State objects, this must be clearly indicated in defense counsel’s motion.
- 7) A copy of the motion must be e-filed with the Clerk’s office and sent by email to the opposing party and the Division Judge. 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.

### **CHANGE OF PLEAS FOR IN-CUSTODY DEFENDANTS**

If defense counsel and the State have agreed upon a plea for an in-custody defendant, the plea may be set on the Division Judge’s 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, and the Division Judge. The change of plea will be heard by the Division Judge unless unavailable. If an interpreter other than Spanish or Creole is needed arrangements must be made in advance to assure attendance of the interpreters.

### **BOND ISSUES & 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 a 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.

## **HEARINGS RELATED TO OUT OF CUSTODY DEFENDANTS**

### **CHANGE OF PLEAS FOR OUT OF CUSTODY DEFENDANTS**

#### **General Procedures:**

- 1) Matters related to negotiated pleas for out of custody defendants will be done by appointment only. Please see the posted procedures for more specific information: <http://www.17th.flcourts.org/division-fb/>.
- 2) Hearings will be conducted five (5) days a week from 9:00am to 5:00pm using the videoconferencing platform Zoom.
- 3) To make an appointment, counsel for the defendant shall call Judge Coleman’s judicial assistant, Tyrone Kintchen, at (954) 831-5835 (tkintchen@17th.flcourts.org).

Appointments are anticipated to be set in approximately 30-minute increments throughout the day. Upon receiving a hearing date and time, counsel shall also notice the COP by filing such notice with the Clerk's office, with service on the opposing party, and a courtesy copy emailed to the Division Judge. The Court will notify the parties of the hearing date and time by email.

4) Counsel for each party shall have current contact information, including a working email address and telephone number, filed with the Clerk, and shall share such information with the other party.

5) Defense counsel shall clearly indicate the terms and conditions of the agreed-upon plea.

### **Location and Procedures**

1) The location of the hearing room is at the Broward County Judicial Complex, Room 3144, West Tower, 201 S.E. 6th St., Ft. Lauderdale, FL 33301.

2) Defendants shall arrive at least ten minutes before the start time of their hearing. Defendants shall proceed to the front entrance of the courthouse and will be advised when he/she may proceed inside the courthouse and into the hearing room. The defendant is required to bring valid photo identification. If present, defense counsel may accompany his/her client to the hearing room. No other persons, including family members, will be permitted to attend the hearing in person, unless otherwise stated by the Court.

3) Defendants will follow all screening procedures the courthouse has in place for admittance, including but not limited to the use of masks or facial coverings.

4) A representative from the Broward County Sheriff's Office will be present at the hearing to take fingerprints of the defendant, if necessary.

### **NO OPEN PLEAS FOR OUT OF CUSTODY DEFENDANTS**

If there is no agreed negotiation, and the defendant is out of custody, the defendant must wait until the Courthouse reopens to the public to enter an open plea and resolve the matter.

### **HEARINGS WHERE DEFENDANT'S PRESENCE HAS BEEN WAIVED OR IS NOT REQUIRED**

Any hearing may be held where the 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. If an interpreter is needed arrangements must be made in advance to assure attendance of the interpreters.

Please continue to check the 17th Judicial Circuit Court's website for new Administrative Orders that may modify these procedures:

<http://www.17th.flcourts.org/coronavirus-covid-19-updates>.

