

West's Florida Statutes Annotated
West's Florida Local Rules and Administrative Orders
Eighteenth Judicial Circuit (Brevard and Seminole Counties)
Administrative Orders

Eighteenth Judicial Circuit Administrative Order No. 19-19

19-19. MENTAL HEALTH--RISK PROTECTION ORDERS

Currentness

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

ADMINISTRATIVE ORDER NO: 19-19 SUPERSEDES 18-23 AMENDED

IN RE: MENTAL HEALTH--RISK PROTECTION ORDERS

WHEREAS, it is the intent of the legislature as expressed in [Section 790.401 Florida Statutes](#) (“The Risk Protection Order Act”) to temporarily prevent individuals who are at high risk of harming themselves or others from accessing firearms or ammunition, and

WHEREAS, a judicial procedure has been created under The Risk Protection Order Act that allows law enforcement officers or agencies to obtain a court order temporarily restricting a person's access to firearms and ammunition in situations where that person poses a significant danger of harming himself or herself or others by possessing a firearm or ammunition, and

WHEREAS, it is critical to adopt local procedures that will respect and protect the constitutional rights of respondents and due process of law; and

WHEREAS, it is necessary in the 18th Circuit for the efficient administration of justice to adopt policies and procedures for the handling of petitions filed under The Risk Protection Order Act, including filing requirements, service on court personnel, and the manner and procedure for scheduling the various hearings provided under The Risk Protection Order Act; and

WHEREAS, pursuant to [Rule 2.215, Florida Rules of Judicial Administration](#), the Chief Judge is charged with ensuring the efficient and proper administration of all courts with the circuit;

NOW THEREFORE, it is ORDERED as follows:

1. A Petition for Risk Protection Order may be filed by a law enforcement officer or law enforcement agency in the county where the Petitioner's law enforcement office is located or the county where the respondent resides. The petition shall be in compliance with [Section 790.401\(e\)-\(g\)](#).
2. A Petitioner may include in the Petition for Risk Protection Order a request for a Temporary Risk Protection Order pursuant to [section 790.401\(4\) Florida Statutes](#). Any such request shall be in compliance with [section 790.401\(4\)\(a\)](#).
3. Petitions for Risk Protection Order shall be assigned to the Mental Health Division in both Brevard County and Seminole County, and shall be assigned an MH case number.

4. The Brevard County Sheriff's Office and the Seminole County Sheriff's Office are authorized to file petitions for Risk Protection Order on behalf of any law enforcement agencies within their respective jurisdictions and with whom a Risk Protection Order filing agreement has been entered. The entry of such an agreement does not preclude any law enforcement officer or agency from filing a Petition for Risk Protection Order on its own behalf.

5. IN BREVARD COUNTY ONLY: All petitions for Risk Protection Order shall be filed electronically via the statewide e filing portal. Approved forms for use in Brevard County can be found at <http://flcourts18.org/rpo>. A petition for Risk Protection Order filed in Brevard County shall include BrevardRPO@flcourts18.org and digitalcourtreporters@flcourts18.org in the service list. Upon filing, the following shall occur:

a. A petition for Risk Protection Order that includes a request for a Temporary Risk Protection Order shall be presented to the presiding judge as soon as possible when filed. The presiding judge shall review the petition and pursuant to [Section 790.401\(4\)\(d\)](#), hold a temporary ex parte Risk Protection Order hearing on the day of filing or within one business day after filing. The temporary ex parte Risk Protection Order hearing shall be conducted by telephone or other electronic means, unless the presiding judge has specifically directed an in-person hearing. The temporary hearing need not be recorded.

b. The presiding judge shall be assigned on a rotating basis from among the judges assigned to handle Mental Health cases; the administrative judge for the Mental Health division shall maintain the rotation schedule and notify the clerk of the scheduled rotation.

6. IN SEMINOLE COUNTY ONLY: All petitions for Risk Protection Order shall be filed electronically via the statewide e filing portal. Approved forms for use in Seminole County can be found at <http://flcourts18.org/rpo>. Petitions for Risk Protection Order filed in Seminole County shall include SeminoleRPO@flcourts18.org and Seminoledigitalcourtreporters@flcourts18.org in the service list. Upon filing, the following shall occur:

a. Should a petition for Risk Protection Order filed in Seminole County on a weekday, include a request for a Temporary Risk Protection Order, it shall be presented to the business duty judge either on the day the petition is filed or the following day. The business duty judge shall review the petition and pursuant to [Section 790.401\(4\)\(d\)](#), and hold a temporary ex parte Risk Protection Order hearing. If impossible or impractical to have the temporary ex parte hearing before the business duty judge, the petitioner may seek review and an ex parte hearing before the after-hours duty Judge, Chief Judge or any other judge.

b. Should a petition for Risk Protection Order filed in Seminole County after close of business day on Friday and before opening of business day on Monday, include a request for a Temporary Risk Protection Order, it shall be presented to the afterhours duty judge. The after-hours duty judge shall review the petition and pursuant to [Section 790.401\(4\)\(d\)](#), and hold a temporary ex parte Risk Protection Order hearing. If impossible or impractical for the temporary ex parte hearing before the after-hours duty judge, the petitioner may seek review and an ex parte hearing before the Chief Judge or any other judge. The temporary ex parte Risk Protection Order hearing may be in person or by telephone, at the discretion of the judge holding the hearing, and need not be recorded.

7. All other hearings under [Section 790.401](#), including compliance hearings, final hearings, hearings on a request to vacate or to extend a Risk Protection Order, shall be heard in the Mental Health division and shall be recorded.

8. Nothing in this Administrative Order shall be deemed to conflict with or otherwise modify the rights, responsibilities and obligations of Petitioners, Respondents, the Clerk of Court, Sheriff or the Courts as provided in the Risk Protection Order Act.

DONE AND ORDERED this 28th day of February, 2019.

TONYA RAINWATER
CHIEF JUDGE

Eighteenth Judicial Circuit Administrative Order No. 19-19, FL ST 18 J CIR 19-19
Current with amendments received through May 1, 2019.

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