

**THE ELEVENTH JUDICIAL CIRCUIT
MIAMI DADE COUNTY, FLORIDA**

**CASE NO. 22-1
(Court Administration)**

**ADMINISTRATIVE ORDER
NO. 22-06**

**IN RE: ASSIGNMENT OF CASES
INVOLVING CUSTODY OR
GUARDIANSHIP OF MINORS**

WHEREAS, pursuant to Article V, section 2(d) of the Florida Constitution and section 43.26, Florida Statutes, the Chief Judge of each judicial circuit is responsible for the administrative supervision of the circuit courts and is charged with the authority and the power to do everything necessary to promote the prompt and efficient administration of justice; and

WHEREAS, pursuant to Rule 2.215, Florida Rules of General Practice and Judicial Administration, the Chief Judge shall “ensure the efficient and proper administration of all courts within [this] Circuit”; and

WHEREAS, Florida law allows various methods for individuals to seek custody or guardianship of minors, and various Divisions of the Court have jurisdiction to determine types of custody and guardianship issues; and

WHEREAS, the Chief Judge finds it necessary to clarify in which Division of the Court particular types of matters should be heard; and

WHEREAS, when an action is filed in an improper Division, the appropriate remedy is to transfer it to the appropriate Division rather than dismissing the case (*see Urbach v. Guardianship of J.R.U.*, 321 So. 3d 390 (Fla. 3d DCA 2021); Fla. R. Civ. P. 1.060(a); Fla. Fam. L. R. P. 12.060; Fla. R. Juv. P. 8.205).

NOW, THEREFORE, pursuant to the authority vested in me as Chief Judge of the Eleventh Judicial Circuit of Florida, it is hereby **ORDERED** that:

1. *Allegations of Abuse, Abandonment or Neglect.* The following applies when there are allegations that a minor has been abused, abandoned, or neglected:
 - a. Suspected abuse, abandonment, or neglect must be reported in accordance with section 39.201, Florida Statutes. Such report may be made by any means allowed by law, including utilizing the 1-800-96-Abuse hotline (TEL: 1-800-962-2873, TTY: 711 or 1-800-955-8771) faxing 1-800-914-0004, or reporting online at <https://reportabuse.dcf.state.fl.us/>.

- b. If the Department of Children and Families files a petition seeking the adjudication of a child as a dependent child, or if the matter falls within the scope of Administrative Order No. 17-8, as it may be modified, amended, or replaced, the matter shall be filed in the Unified Children’s Court (UCC) Division. Such cases shall be initiated in accordance with section 39.501, Florida Statutes and Florida Rule of Juvenile Procedure 8.201.
 - c. If an extended family member of a minor (as defined in section 751.011(2), Florida Statutes) alleges that Guardianship of the Person of the Minor is required due to abuse, abandonment, or neglect, and there is no related dependency case in the UCC Division, then the matter shall be filed in the Family Division to be treated as a Petition for Temporary Custody by Extended Family. *See* § 751.03(9), Fla. Stat.; Local Rule R-1-7. However, when such a case is filed and there is a related dependency case in the UCC Division, then the matter should remain under the jurisdiction of the UCC.
2. *Consent of minor’s parents.* The following applies when a minor’s parent’s consent to another person obtaining guardianship or custody of the minor:
- a. If an extended family member of a minor (as defined in section 751.011(2), Florida Statutes) seeks Guardianship or Custody of the minor with the consent of the minor’s legal parents, and there is no related dependency case in the UCC division, then the matter shall be filed in the Family Division to be treated as a Petition for Temporary Custody by Extended Family. *See* § 751.02, Fla. Stat.; § 751.03(9), Fla. Stat.; Local Rule R-1-7.
 - b. If a person who does not qualify as an extended family member under 751.011(2), but qualifies as a “person interested in the welfare of a minor” under 744.3021(1), seeks Guardianship of the Person of the Minor with the consent of the minor’s legal parents and there are no allegations of abuse, abandonment or neglect, and there is no related dependency case in the UCC division, then the matter shall be filed in the Probate Division as a Petition for Guardianship of the Person of the Minor.
3. *Death of minor’s parents.* The following applies when a minor’s parents have deceased:
- a. If a family member of a minor with a relationship described in 744.3021(1) seeks Guardianship of the minor after the death of the minor’s parents, and there is no related dependency case in the UCC division, then the matter shall be heard in the Probate Division as a Petition for Guardianship of the Person of the Minor. *See* § 744.3021, Fla. Stat.; Fla. Prob. R. 5.555.
 - b. If another person interested in the welfare of a minor seeks Guardianship of the minor after the death of the minor’s parents, and there is no related dependency case in the UCC division, then the matter shall be heard in the Probate Division as a Petition for Guardianship of the Person of the Minor. *See* § 744.3021, Fla. Stat.; Fla. Prob. R. 5.555.

- c. The Administrative Judge of the Probate Division is authorized to create a protocol for these cases, which may include referrals to Family Court Services for home studies, psychological evaluations of proposed guardians, etc.
4. *Guardianships of Person and Property of Minors.* The following applies when someone is petitioning to become the Guardian of the Person and the Property of a Minor:
 - a. If a person described in 744.3021(1) is petitioning to become the Guardian of the Person and the Property of a Minor, and there are no allegations of abuse, abandonment or neglect, and there is no related dependency case in the UCC division, then such hybrid case will remain in the Probate Division.
 - b. The Administrative Judge of the Probate Division is authorized to create a protocol for these cases, including a protocol for when the petitioner is not a family member who can prove consanguinity.
5. Guardianship of a Minor's property and Minor Settlements pursuant to section 744.387, Florida Statutes are properly heard in the Probate Division where action has not been filed in the Civil Division. *See* Local Rule R-1-9; Administrative Order No. 08-18, "In Re: Re-Establishment of Standards and Procedures for The Protection of Minors in The Settlement of Personal Injury, Wrongful Death and Medical Malpractice Lawsuits and Claims," as it may be modified, amended, or replaced.
6. If a case subject to this order is filed in the wrong division of the court, it shall be transferred to the proper division. A form order of transfer is attached hereto, which may be used when a case resides in the improper Division.
7. This Administrative Order shall become effective immediately upon execution and shall remain in effect until further order of the Court.

DONE AND ORDERED in Chambers at Miami-Dade, Florida, this 29th day of April 2022.

**NUSHIN G. SAYFIE, CHIEF JUDGE
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA**

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

PROBATE DIVISION

CASE NO.

Petitioner(s),

v.

Respondent(s).

_____/

ORDER TRANSFERRING CAUSE TO APPROPRIATE DIVISION OF THE CIRCUIT COURT

THIS CAUSE came before the Court upon its own motion, and the Court, being fully advised in the premises, hereby makes the following findings of fact and determinations of law:

1. This cause was filed in the _____ Division. However, based upon Administrative Order 21-XX, and relevant authorities, the subject of this case is appropriately heard in the _____ Division.
2. When an action is filed in an improper Division, the appropriate remedy is to transfer it to the appropriate Division. *See Urbach v. Guardianship of J.R.U.*, 321 So. 3d 390 (Fla. 3d DCA 2021); *see also* Fla. R. Civ. P. 1.060(a) (“If it should appear at any time that an action is pending in the wrong court of any county, it may be transferred to the proper court within said county by the same method as provided in rule 1.170(j).”); Fla. Fam. L. R. P. 12.060; Fla. R. Juv. P. 8.205.

Based upon the above findings of fact and conclusions of law, it is hereby

ORDERED and **ADJUDGED** as follows:

Upon the payment of the appropriate filing fee, this cause is transferred to the _____ Division of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida.

DONE and **ORDERED** in Chambers at Miami-Dade County, Florida, this _____ day of _____, _____.

CIRCUIT COURT JUDGE