

Hearing Guidelines for Division 38
Judge Michael S. Orfinger
Delinquency, Dependency and Unified Family Division
(Effective March 21, 2022)

Judge Orfinger will begin conducting many court proceedings in Division 38 in person effective March 21, 2022. This applies to dependency, delinquency, and family law cases. In person proceedings will be held in either Courtroom 1 or 2 of the Volusia County Courthouse Annex, 125 East Orange Avenue, Daytona Beach, Florida.

I. DEPENDENCY CASES

A The following proceedings will be conducted **in person** effective **March 21, 2022**. Attorneys, parents, case managers, investigators, guardians ad litem, and any person who is anticipated to give testimony must appear personally:

1. Arraignments.
2. Dependency adjudicatory hearings.
3. Dependency disposition hearings.
4. Termination of Parental Rights advisory hearings.
5. Termination of Parental Rights adjudicatory and disposition hearings.
6. Petitions to Re-Open dependency cases.
7. All other evidentiary hearings. However, in the event of an emergency evidentiary hearing, the Court will permit those who cannot personally appear to appear by Zoom.

B. If it is necessary for children or caregivers to participate in any of the above hearings **for the purpose of giving testimony**, they shall appear in person unless specifically ordered otherwise by the Court. Testimony by children is further subject to the procedures and protections afforded by Fla. R. Juv. P. 8.255.

- C. The following proceedings will continue to be conducted via Zoom videoconference until further notice from the Court:
1. Shelter hearings and shelter reviews.¹
 2. Judicial Review Hearings.
 3. Permanency Hearings.
 4. Pre-Adjudicatory Hearings.
 5. Status Hearings, unless the Court orders to the contrary.
 6. Hearings of a non-evidentiary nature, unless the Court orders to the contrary.

II. ADOPTIONS

- A. Effective **March 21, 2022**, final adoption hearings may be conducted in person at the request of the adopting parents.
- B. Evidentiary hearings concerning adoptions other than final adoption hearings will be conducted in person. A party who wishes to present a witness by Zoom or other electronic means must timely file an appropriate motion, which must state the position of the other party(ies).
- C. Non-evidentiary hearings concerning adoptions will continue to be heard via Zoom until further notice from the Court.

III. JUVENILE DELINQUENCY CASES

- A. The following proceedings will be conducted **in person** effective **March 21, 2022** for **juveniles who are not in custody**. These matters will be heard in **Courtroom 1** of the Volusia County Courthouse Annex, 125 East Orange Avenue, Daytona Beach, Florida. Attorneys, clients, and a parent or guardian for each juvenile **must** attend in person. If the proceeding is evidentiary in nature, witnesses must

¹ Please note that the Court may resume conducting shelter hearings and shelter reviews in person in the near future.

appear in person. If the State or defense wishes to present a witness by Zoom or other electronic means, that party must timely file an appropriate motion, which must state the position of the other party.

1. Arraignments.
 2. All pre-adjudicatory hearings including motion hearings, whether or not testimony is taken or other evidence is received.
 3. Disposition hearings.
- B. If the juvenile is in the custody of the Department of Juvenile Justice (“DJJ”) at the time of any of the hearings in paragraphs A(1) or (2) above, the juvenile shall, and the parent(s)/guardian(s) may appear by Zoom, absent a court order to the contrary. Absent good cause, the Court will order the juvenile to be transported to appear in person upon motion by the defense or the State.
- C. Adjudicatory hearings and violation of probation final hearings will be held in person regardless of whether the juvenile is in custody, absent a court order to the contrary.
- D. The representative of DJJ who presents DJJ’s recommendation at a disposition hearing may continue to appear by Zoom.
- E. The following proceedings will be conducted via Zoom until further order of the Court:
1. Detention hearings, whether or not the juvenile is in DJJ custody.
 2. Secure detention review hearings.

IV. FAMILY LAW CASES

- A. Effective **March 21, 2022**, the following family law matters will be heard in person. The parties, their attorneys, and witnesses must appear in **Courtroom 2** of the Volusia County Courthouse Annex, 125 East Orange Avenue, Daytona Beach, Florida:

1. All final hearings on injunctions for protection against domestic violence, repeat violence, dating violence, sexual violence or stalking.
 2. All trial and pre-trial evidentiary proceedings in dissolutions of marriage, child relocation proceedings, modification proceedings, paternity actions (including disestablishment), private termination of parental rights proceedings (whether under Chapter 39 or 63, Florida Statutes), and proceedings under Chapter 751, Florida Statutes.
 3. All other evidentiary hearings in any matter within the jurisdiction of this Court.
- B. Parties and counsel are cautioned to adhere strictly to Florida Rule of Family Law Procedure 12.407, which states: “No minor child shall be deposed or brought to a deposition, brought to court to appear as a witness or to attend a hearing, or subpoenaed to appear at a hearing without prior order of the court based on good cause shown unless in an emergency situation. This provision shall not apply to uncontested adoption proceedings.”

V. USING ZOOM

- A. You can join a virtual hearing on Zoom from a PC, Mac, iPad, iPhone or Android device. If you are using a smartphone or tablet to access Zoom, you must download the free app and follow the directions for joining the hearing. From a desktop or laptop computer, you can access Zoom at <https://www.zoom.us>.
- B. In order to join the hearing, you will need the meeting identification number. The meeting identification number for hearings in Division 38 is **386 257 6099**.

- C. Please familiarize yourself with the use of Zoom well in advance of your hearing. Test your speakers, microphone, and camera using the instructions within the application or on the Zoom website.
- D. The ordinary rules of court decorum and courtesy apply to all Zoom proceedings. At a bare minimum, this means:
1. Attorneys must be in courtroom attire.
 2. Parties, witnesses, parents, and juveniles must be appropriately dressed for court. Appearing in only pajamas or undergarments is not acceptable. Do not wear hats or sunglasses.
 3. No one may attend court from bed, unless that person is hospitalized or too injured, ill, or infirm to sit upright.
 4. No eating, drinking, smoking, or vaping during court.
 5. The Court will not tolerate profanity during court proceedings.
 6. Please be sure you are somewhere that has adequate internet signal for you to use Zoom.
 7. Please find a quiet place to sit or stand during court. Please avoid walking around, particularly outside. The motion on the camera is distracting, and walking around outside creates considerable wind noise.
- E. If you do not have access to a computer or smartphone, you will need a telephone number to call into the hearing. Please call Judge Orfinger's Judicial Assistant, Michelle MacDonald, at (386) 257-6099, and she can transfer you into the Zoom hearing.
1. Please note that if you attend a Zoom hearing by telephone, you cannot be seen by the others in attendance. If you intend to give testimony, you must be in the physical presence of a notary public or another person authorized to administer oaths. Otherwise, you will not be permitted to testify.
- F. Clients should always consult with their attorneys prior to court appearances.
1. **For Juvenile Dependency and Termination of Parental Rights Matters, prior to your scheduled hearing, please**

contact your attorney as listed below for specific information regarding your scheduled court appearance.

Office of Regional Counsel:	(386) 238-4959
B. R. Derfel:	(386) 290-4732
Jonathon Glugover:	(386) 226-9810
Sherry Cote-Jarvis:	(386) 428-1890
Justin D. Loach:	(800) 673-1609
Amanda Riyad:	(386) 316-6014 or Beacon Center, 24/7 hotline (386) 255-2102

You may also contact the Department of Children and Families at (386) 481-9358 or your Dependency Case Manager. However, only your attorney can give you legal advice.

2. **For Juvenile Delinquency Matters, prior to your scheduled hearing**, please contact your attorney, your juvenile probation officer or either of the following listed below for specific information regarding your scheduled court appearance. Only your attorney can give you legal advice.

Public Defender's Office:	(386) 239-7730
Dep't of Juvenile Justice:	(386) 226-0281
State Attorney's Office:	(386) 239-7710
Office of Regional Conflict Counsel	(386) 238-4959