

Family Law Procedural Information for Self-Represented Litigants

Overview

A ***petition*** is a formal written request, with supporting facts and citations of law, for action to be taken by the court in a family law case. A ***trial*** is the scheduled time when the court hears evidence so that a decision can be made on a petition. A ***motion*** is a request for the court to make a decision directing that a person do a specific thing in a pending family law case. A ***hearing*** is the scheduled time when the court hears evidence or legal argument or a combination of evidence and legal argument so that the court can make a decision on how to rule on the motion. Sometimes petitions and motions are ruled on immediately after the trials and hearings but other times the decision-maker may wait to rule (also referred to as “taking the matter under advisement”). The person making the decision will either be a judge, a general magistrate, or a child support enforcement hearing officer (referred to here as “the court”).

Hearings and Trials

A hearing is any court session in which legal argument or evidence or a combination of legal argument and evidence is presented to determine some issue of law or fact or issues of both law and fact. A hearing is usually a brief session involving a specific motion filed at some time prior to the trial. Hearings on motions are usually shorter and less formal than a trial. However, at least one type of family law motion is more like a mini-trial. A motion for contempt requires a party to present evidence to prove that someone has not complied with a judgment or court order. A trial is a court session in which primarily evidence is presented to the court so the court can make an ultimate decision in the case. Legal argument may also be made at a trial if there is enough time and the court allows for it.

Judges, General Magistrates & Child Support Enforcement Hearing Officers

Judges, general magistrates and child support enforcement hearing officers all administer oaths, conduct hearings and make decisions. During the hearings evidence may be taken, including testimony from one party or both parties. General magistrates and child support enforcement hearing officers are appointed by the chief judge to help manage the caseloads of the circuit judges. They are Florida attorneys in good standing with The Florida Bar who have the necessary experience in Florida family law. General magistrates and child support enforcement hearing officers hear matters and then make decisions in the form of reports. The reports include findings of fact, conclusions of law, and recommended actions for the judge. Child support enforcement hearing officers only hear matters dealing with child support cases. General magistrates hear cases dealing with family law issues other than child support. The same person

can be appointed as a general magistrate and a child support enforcement hearing officer and whether the person is acting as a magistrate or a hearing officer will depend on the matter being heard and whether specific language is used in a referral order.

JUDGES: Under the Florida Constitution and Florida Statutes, circuit court judges are authorized to hear family law cases and issue orders and final judgments. In the performance of their duties, circuit judges in the Family Law Division are ably assisted by general magistrates and child support enforcement hearing officers.

GENERAL MAGISTRATES: When a case is referred to a general magistrate, an order of referral will be signed by the judge and issued to the parties. A referral to the general magistrate requires the consent of all parties. A party is entitled to have a matter heard by a judge instead of a general magistrate, although it is likely that the matter can be decided quicker if it is heard by the general magistrate. If a party does not want to have a matter heard by the general magistrate, the party must file and serve on the other party a timely written objection to the referral. If no timely objection is filed, then the general magistrate will hear the matter and afterwards issue a written report containing findings of fact, conclusions of law, and recommended actions for the judge. The general magistrate's report will be sent to the parties. After the report is sent by the general magistrate to the parties, the parties have a small time period to determine whether they wish to file "exceptions" to the report. Filing exceptions to a general magistrate's report is similar to appealing the decision to the presiding judge. If no exceptions are timely filed, the report and recommended order is sent to the judge for signature and it becomes a court order.

CHILD SUPPORT ENFORCEMENT HEARING OFFICERS: If the matter concerns child support only, such as trying to establish, enforce, or change child support, the matter is heard by a child support enforcement hearing officer. There is no need for the court to enter an order referring solely a child support matter to a child support enforcement hearing officer because parties do not have the opportunity to object to a child support enforcement hearing officer hearing their child support matter. After a hearing is conducted by the child support enforcement hearing officer, the hearing officer will issue a report and recommended order that is immediately sent to the judge. The judge then reviews the recommended order and promptly signs it unless there is a good reason for the judge to change the order or send it back to the hearing officer for further action. Once the judge signs a recommended order, it becomes a court order. To challenge an order arising from a child support enforcement hearing officer's report, a party must timely file a motion to vacate the order. Filing a motion to vacate an order based on a child support enforcement

hearing officer's report is similar to appealing the decision to the presiding judge.

Evidence

Under Florida's judicial ethics rules, the court is not allowed to separately investigate a family law case. The court does not call witnesses or present evidence but the court is allowed to question any witnesses called by either party if the court feels it will help in making a final decision. It is the parties' responsibility to present admissible evidence at a trial or applicable hearing to support what has been requested in a petition/motion or to defend against what the other party has requested in their petition/motion. Evidence can be witness testimony, testimony of either party or both parties, documents, photographs, objects, and any other information that will help prove the matter being argued about. **Admissible** evidence is evidence that the court is allowed to consider under the Rules of Evidence. Some evidence introduced by a party may be hearsay evidence. In simple terms, **hearsay** is a legal term for certain evidence that is generally not admissible because of its potential unreliability, although there are many exceptions that allow certain hearsay evidence to be admissible. The court makes the decision on whether any evidence introduced by the parties is admissible evidence.

Time

Generally, each party has HALF of the time scheduled for a hearing or trial to present their evidence. For example, if a hearing is scheduled for 30 minutes, each side has approximately 15 minutes to present their evidence to support their request.

Case Management

Case management conferences are hearings scheduled by the court to determine the status of the case. Generally, case management conferences are not hearings where decisions on petitions or motions will be made.

Notice

When scheduling a hearing, a party is responsible for notifying the other party of the hearing. All parties are required to make a good faith effort to cooperate in selecting available hearing dates. The party who coordinated the scheduling of the hearing is required to send a Notice of Hearing – identifying the date, time, location, and method of how the hearing is conducted – to the other party at the last known address in the court file. However, it is better to send the Notice of Hearing to all other known or possible addresses, including e-mail addresses, and to list all addresses used for the other party on the Notice of Hearing. It is the responsibility of all parties to keep their address current in the court file. All documents filed by any party should include the party's current address.

Decision

The court will sometimes make a decision on a petition or motion at the end of the trial or at the end of the hearing. Other times the court may wait to consider the matter further and write an order or final judgment that explains the decision in greater detail. If the court does not make a decision at the end of a trial or hearing but rather “takes the matter under advisement,” the court will generally advise the parties when they can expect a decision.

FAMILY COURT RESOURCES & INFORMATION can be found online at the Hillsborough County Bar Association’s Family Law Section Public Access Committee page:

www.hillsbar.com → For Attorneys → Sections and Committees → Marital & Family Law → “Check out our list of family law resources.”

- Family Court Information □ Legal Resources for Family
- Child Support Resources Law Cases
- Law Enforcement Information
- Domestic Violence Resources

OTHER RESOURCES

Family Law Forms

- Complete packets with all family law forms including self-help instructions are priced separately and individual forms which may not include necessary instructions are 10¢ per page and available at the Court Business Center in Room 630 (6th Floor) of the George Edgecomb Courthouse, 800 East Twiggs Street, Tampa, Florida 33602.
- Free family law forms are also available online at:
 - <http://www.fljud13.org/SelfHelp.aspx> → Access Forms → Pro Se Forms;
 - <http://www.hillsclerk.com/About-Us/Forms> → Family Law; and
 - www.flcourts.org then click on “Family Law Forms”

Family Forms Clinic

The Family Forms Clinic is a free program to provide forms assistance to people representing themselves in family law cases in Hillsborough County. For more information, call the Family Forms Clinic information line **(813) 864-2280, option #2**.

Legal Information Center

The Legal Information Center is a free program to provide information to people who are representing themselves in Family Law cases in Hillsborough County. Ask your questions here: www.bals.org/LIC

Case Dockets for Hillsborough County Cases (HOVER):

<https://hover.hillsclerk.com/>

Legal Terms/Definitions - <https://help.flcourts.org/Get-Started/Legal-Terms>

Florida Rules of Court (including Florida Family Law Rules of Procedure) -

www.floridabar.org/rules/ctproc/

Florida Statutes - www.leg.state.fl.us/statutes/

Hillsborough County Family Law Administrative Orders -

www.fljud13.org/AdministrativeOrders.aspx → Unified Family Court
Domestic Relations/Family Law (left side menu)

James J. Lunsford Hillsborough County Law Library

701 East Twiggs Street, Tampa, FL 33602

Phone: 813-272-5818 / Fax: 813-272-5226

Website: <https://hcplc.org/locations/james-j-lunsford-law>

