

**IN THE CIRCUIT COURT OF FLORIDA, SEVENTH JUDICIAL CIRCUIT
IN AND FOR FLAGLER, PUTNAM, ST. JOHNS AND VOLUSIA COUNTIES**

RE: Procedures for Indigency Determination in Certain Family Law Cases

REF: FM-2009-007-SC (Rescinds FM-2006-007-SC)

WHEREAS, §§ 57.081 and 57.085, Florida Statutes, provide that certain indigent persons in judicial proceedings (the “Litigant”) are entitled to receive certain services of the Courts, Sheriffs and Clerks of Court on Flagler, Putnam, St. Johns and Volusia Counties (the “Clerk”) without the payment or prepayment of costs, and

WHEREAS, 57.082, Florida Statutes, requires the Clerk to determine if a non-prisoner litigant is indigent based upon information provided in an Application for Determination of Indigent Status, and

WHEREAS, 57.085, Florida Statutes sets forth additional requirements for prisoners as defined by subsection (1) who wish to file civil court actions as indigents, and

WHEREAS, detailed financial information is necessary to properly evaluate applications for indigent status.

NOW THEREFORE, I, J. DAVID WALSH, Chief Judge of the Seventh Judicial Circuit of Florida, hereby order as follows:

1. Application/Affidavit for Determination of Indigent Status

a) Non-Prisoner Litigants

Any party to or intervenor in any family law case, excluding matters filed pursuant to § 741.30 or § 784.046, Florida Statutes, who wish to proceed as an indigent in order to receive certain Court, Sheriff and Clerk services without the payment or prepayment of costs shall, prior to obtaining a Clerk’s certificate of indigency, file a fully completed Application for Determination of Indigent Status. The application required to be filed by non-prisoner litigants pursuant to §§ 57.081 and 57.082, Florida Statutes, is attached as [Exhibit A](#).

b) Prisoner Litigants

A “prisoner” {see § 57.085(1), Florida Statutes} who wishes to proceed as an indigent in order to receive certain Court, Sheriff and Clerk services without prepayment must file a fully completed affidavit. The affidavit required to be filed by prisoner litigants pursuant to § 57.085(2), Florida Statutes, is attached as [Exhibit B](#).

In addition, pursuant to § 57.085(7), Florida Statutes, if a prisoner litigant has been determined indigent twice in the preceding 3 years, said prisoner litigant may not be determined indigent to pursue a new suit without first obtaining leave of court.

Therefore, any prisoner litigant who wishes to proceed as an indigent in order to receive

certain Court, Sheriff and Clerk services without prepayment must, prior to obtaining a clerk's certificate of indigency, file a fully completed Affidavit of Prior Litigation attached as [Exhibit C](#).

2. The Clerk is directed to stamp or otherwise indicate on the court case file that a person involved with the case is seeking indigent status.
3. The Clerk is directed to provide litigants seeking indigent status with blank copies of the appropriate application/affidavit in substantially the same forms as Exhibits A, B and/or C and must inform said litigants that the application(s)/affidavit(s) must be fully completed and filed with the Clerk before his/her office makes a determination of indigency.
4. If the Clerk, based upon the application filed, determines a non-prisoner litigant to be indigent, the Clerk will immediately file the certificate of indigency in the court case file.
5. In the following instances, the Clerk is directed to forward the court case file to the assigned judge for the judge's consideration:
 - a) The Clerk determines a prisoner litigant to be indigent;
 - b) If the Clerk determines a litigant not to be indigent and the litigant files a petition seeking review of the clerk's determination.
6. In the event the Clerk is unable to make an indigency determination based on a litigant's application, the Clerk may seek assistance / guidance from the assigned judge.
7. Judicial Consideration

a) Non-Prisoner Litigants

The assigned judge will promptly review the application to determine if the litigant is indigent. The judge may set the issue of the litigant's indigency for hearing upon notice to the litigant or may rule on the litigant's indigency status based on the information provided in the application. The litigant has the burden of proving indigency. When the file is sent to the judge, the Clerk is directed to prepare and also send an order in substantially the same form as attached [Exhibit D](#).

b) Prisoner Litigants

Pursuant to § 57.085(7), Florida Statutes, if a prisoner litigant has been determined indigent twice in the preceding 3 years, the prisoner litigant may not be determined indigent to pursue a new suit without first obtaining leave of court. Therefore, the assigned judge will promptly review the Affidavit of Prior Litigation by Prisoner to determine if the prisoner litigant requires leave of court to be determined indigent. When the file is sent to the judge, the Clerk is directed to prepare and also send an order in substantially the same form as attached [Exhibit E](#).

If the judge determines that the prisoner litigant qualifies under § 57.085(7), or grants the

prisoner litigant leave to proceed, the assigned judge will promptly review the affidavit to determine if the litigant is indigent. The judge may set the issue of the litigant's indigency for hearing upon notice to the litigant or may rule on the litigant's indigency status based on the information provided in the affidavit. The litigant has the burden of proving indigency. When the file is sent to the judge, the Clerk is directed to prepare and also send an order in substantially the same form as attached [Exhibit F](#).

In addition, before an indigent prisoner may intervene in, initiate, or continue any judicial proceeding, the Court must review the prisoner's claim to determine whether it is legally sufficient to state a cause of action for which the court has jurisdiction and may grant relief {see § 57.085(6), (8), Florida Statutes}. When the file is sent to the judge, the Clerk is directed to prepare and also send an order in substantially the same form as attached [Exhibit G](#). All or part of an indigent prisoner's claim must be dismissed if one or more of the enumerated criteria contained in said order is met.

8. If a litigant fails to file a fully completed application/affidavit, or if the judge determines that the litigant is not indigent based on the information provided in the application/affidavit and that a hearing on the indigency issue is not necessary, the judge will issue an order declaring that the person has not adequately demonstrated indigency and will revoke the Clerk's certificate of indigency. If payment of all appropriate fees is not made to the Clerk for disbursement to the appropriate agencies within fourteen (14) days after the issues of the revocation order, the cause will automatically be dismissed without prejudice. These time limits may be extended at the discretion of the assigned judge.
9. Indigent litigants are only entitled to those services enumerated in § 57.081, Florida Statutes, without prepayment. Any other service requested by the litigant must be paid for at the standard rate.
10. In the event multiple parties to a case seek indigent status, each party must complete the appropriate application/affidavit and each party must fully comply with all requirements of this Administrative Order.
11. When possible, the Clerk is directed to notify the judge at the time he/she reviews the litigant's indigency status as to other pending actions in which said litigant sought indigent status and the determinations reached in such other actions.
12. Administrative Order FM-2006-007-SC is hereby rescinded.

TO BE RECORDED in Flagler, Putnam, St. Johns and Volusia counties.

DONE AND ORDERED in Daytona Beach, Volusia County, Florida this 21st day of July 2009.

/s/ J. David Walsh
Judge J. David Walsh
Chief Judge