

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO THE
FLORIDA RULES OF JUDICIAL
ADMINISTRATION—PARENTAL
LEAVE**

CASE NO.: 18-1554

**SECOND COMMENT BY
BOARD OF GOVERNORS AND THE YOUNG LAWYERS DIVISION OF
THE FLORIDA BAR**

Michelle R. Suskauer, President, John M. Stewart, President-Elect, of The Florida Bar Board of Governors (Board), Christian George, President of The Florida Bar Young Lawyers Division (YLD), and Joshua E. Doyle, Executive Director of The Florida Bar, file this comment in response to this Court's January 17, 2019, letter and publication inviting comment about amended proposed Rule 2.570 (Parental-Leave Continuance).

The Board and YLD would first like to reiterate, through this reference, all comments filed on November 15, 2018, in support of the proposed rule. The Board and YLD strongly recommend the adoption of the proposed rule and have no objection to the published amendments created by the Rules of Judicial Administration Committee, the Juvenile Court Rules Committee, the Statewide Guardian ad Litem Program, the Florida Department of Children and Families, and the Florida Public Defense Association, Inc. The Board and YLD respect those groups' concerns regarding the coverage necessary and time-sensitivity of criminal and juvenile cases—both delinquency and dependency—and of the civil commitment of sexual offender cases. Though the departments and agencies who work in these cases will usually have other attorneys who can step into a case promptly, there may be incidents when someone is not available or where a private practitioner with limited or no coverage is involved. The Board and YLD respect the concerns and amendments that are proposed in this second publication.

The Board and YLD would also like to share for the Court's information a resolution that was recently approved by the American Bar Association. (See Second Comment Appendix A.) The ABA recognized the value and need of such a

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proposed parental-leave rule within the practice of law in state and federal courts nationwide. In support of the resolution, the ABA “[u]rges the enactment of a rule by the highest courts or legislative bodies of all states, territories, and tribes charged with the regulation of the legal profession, as well as by all federal courts, providing that a motion for continuance based on parental leave of either the lead attorney or another integrally involved attorney in the matter shall be granted if made within a reasonable time after learning the basis for the continuance unless: (1) substantial prejudice to another party is shown; or (2) the criminal defendant’s speedy trial rights are prejudiced.” The resolution by the ABA is:

**ADOPTED AS REVISED AND AMENDED
RESOLUTION**

RESOLVED, That the American Bar Association urges the enactment of a rule by all state, local, territorial, and tribal legislative bodies or their highest courts charged with the regulation of the legal profession, as well as by all federal courts, providing that a motion for continuance based on parental leave of either the lead attorney or another integrally involved attorney in the matter be granted if:

- a) consented to by all parties
- b) or if not consented to by all parties and the movant demonstrates:
 - i. the motion is made within a reasonable time after the reason for the continuance has been discovered;
 - ii. there is no substantial prejudice to another party;
 - iii. the criminal defendant’s speedy trial rights are not prejudiced, and
 - iv. the judge finds that the request was not made in bad faith, including for purposes of undue delay.

With this resolution by the ABA and in consideration of the research previously done in which many expecting or new parents experienced negative behavior from other counsel or courts when seeking continuances of a cases, the Board and YLD beg this Court to approve and adopt the amended proposed Rule

2.545 (Parental-Leave Continuance). If just one attorney or judge is helped by using this proposed rule to protect a client's interest by remaining as lead counsel on a case after a birth or adoption, then the adoption of this rule is warranted. As research has shown, many within this profession would have benefited from having this proposed rule adopted.

Respectfully submitted on March 8, 2019.

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CERTIFICATE OF SERVICE

This Second Comment by the Board of Governors and the Young Lawyers Division of The Florida Bar has been served on the following people in conjunction with the filing through the Florida Courts E-Filing Portal on this 8th day of March 2019:

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CERTIFICATION OF COMPLIANCE

I certify that this Second Comment was prepared in compliance with the font requirements of *Florida Rules of Judicial Administration* 9.210(a)(2).

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MIDYEAR MEETING 2019 - HOUSE OF DELEGATES RESOLUTION

101B


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ADOPTED AS REVISED AND AMENDED

Urges the enactment of a rule by the highest courts or legislative bodies of all states, territories, and tribes charged with the regulation of the legal profession, as well as by all federal courts, providing that a motion for continuance based on parental leave of either the lead attorney or another integrally involved attorney in the matter shall be granted if made within a reasonable time after learning the basis for the continuance unless: (1) substantial prejudice to another party is shown; or (2) the criminal defendant's speedy trial rights are prejudiced.

[Proposed Resolution and Report](#)

[Final Resolution](#)

 American Bar Association |

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ADOPTED AS REVISED AND AMENDED

RESOLUTION

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9 ii. there is no substantial prejudice to another party;

10 iii. the criminal defendant's speedy trial rights are not prejudiced, and

11 iv. the judge finds that the request was not made in bad faith, including for
12 purposes of undue delay.

Deletions struck through; additions underlined