

IN THE SUPREME COURT OF FLORIDA

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

CASE NO. SC18-1554

COMMENT OF FLORIDA PUBLIC DEFENDER ASSOCIATION

The Florida Public Defender Association, Inc., (“FPDA”) respectfully offers the following comments in support of the proposed adoption of Florida Rule of Judicial Administration 2.570, “Parental-Leave Continuance,” published in the March 2019 edition of The Florida Bar News. The FPDA consists of nineteen elected public defenders, hundreds of assistant public defenders, and support staff. As appointed counsel for indigent criminal defendants in hundreds of trials every year, FPDA members are familiar with issues relating to continuances, which this proposal addresses.

The FPDA agrees with the exclusion of criminal, juvenile, and sexual predator commitment cases from the requirement to grant parental leave of up to three months for the lead attorney in a case. The initial proposal did not exempt these cases until the FPDA voiced its concerns, which are reiterated below for the Court’s benefit.

Florida Rule of Criminal Procedure 3.191 has specific speedy-trial clocks for resolution of criminal cases. The Sixth and Fourteenth Amendments also guarantee

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criminal defendants a speedy trial. These rights cannot be overcome by parenting considerations. Defendants are entitled to be brought to trial within the time periods specified in Rule 3.191 regardless of inconvenience to witnesses, attorneys, or judges. The right to a speedy trial distinguishes criminal from civil cases for purposes of any parental leave rule.

In the experience of FPDA members, absent a waiver of speedy trial, colleagues are substituted in pending cases for lead counsel who take parental leave. Failure to exclude criminal prosecutions from proposed Rule 2.570 would undermine this practice, cause avoidable delays in criminal cases, and imperil defendants' speedy trial rights.

The FPDA is grateful for the Committee's responsiveness in modifying its proposal to accommodate our concerns, and supports the proposed rule in its current form.

SIGNATURE OF ATTORNEY AND CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by electronic mail to Committee Chair Eduardo I. Sanchez at eduardo.i.sanchez@usdoj.gov, and Bar staff liaison Krys Godwin at kgodwin@floridabar.org, this 18th day of March, 2019.

Respectfully submitted,

FLORIDA PUBLIC DEFENDER
ASSOCIATION, INC.

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