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# **APPENDIX B**

## **PROPOSED AMENDMENTS WITH REASONS FOR CHANGE**

**January 29, 2018**

## **RULES REGULATING THE FLORIDA BAR**

### **CHAPTER 21 MILITARY SPOUSE AUTHORIZATION TO ENGAGE IN THE PRACTICE OF LAW IN FLORIDA**

#### **21-1 PREAMBLE**

##### **RULE 21-1.1 PURPOSE**

The Supreme Court of Florida may certify a lawyer who is the spouse of a full-time active duty member of the United States armed forces to engage in the practice of law in Florida while the lawyer's spouse is stationed within this jurisdiction, due to the unique mobility requirements of military families who support the defense of the United States. A lawyer certified under this chapter is considered a member of the Florida Bar during the period of certification.

Due to the unique mobility requirements of military families, lawyers licensed in a jurisdiction other than Florida often have to relocate to Florida with their spouse who is in the military. Currently, that lawyer is unable to engage in the practice of law in Florida without completing the Florida Bar Examination. Moving to Florida and taking the Florida Bar Examination is often impractical because of the timing of the deployment to Florida and the dates the bar examination is given. The timing issues could result in the military spouse being reassigned before the lawyer spouse is admitted. The cost of having to take multiple bar examinations is also often prohibitive. For these reasons, some lawyer spouses choose to remain in the jurisdiction where they are licensed splitting families apart while the military spouse is stationed in Florida. Recognizing the unique issues facing lawyer spouses of those in the military, in 2012 the American Bar Association adopted a resolution encouraging states to adopt a rule allowing for admission without having to take the bar examination. The American Bar Association resolution is supported by the Conference of Chief Justices. Chapter 21,

	<p>the Military Spouse Authorization to Engage in the Practice of Law (commonly referred to as the military spouse rule) accomplishes the goals set forth by the American Bar Association and would allow lawyers licensed in a jurisdiction other than Florida whose spouse is serving in the United States armed forces in Florida to become a member of The Florida Bar without having to sit for the Florida Bar Examination. The chapter would only apply to lawyers who are spouses of active military personnel stationed in Florida. The lawyer would have to meet the eligibility requirements, including the passage of a character and fitness investigation by the Florida Board of Bar Examiners. The lawyer would become a member of The Florida Bar during the time their military spouse is stationed in Florida. Therefore, while it is full admission to The Florida Bar, the admission is temporary, lasting only as long as the military spouse is stationed in Florida or 5 years, whichever is sooner. As a member of The Florida Bar, the lawyer would be under the jurisdiction of this Court and could be subject to discipline for unethical conduct. To date, 26 jurisdictions have adopted a military spouse rule.</p>
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## **21-2 ELIGIBILITY REQUIREMENTS**

### **RULE 21-2.1 ELIGIBILITY**

To be eligible for certification under this chapter, the applicant must:

(a) be identified and enrolled in the Department of Defense “Defense Enrollment Eligibility Reporting System” (or identified and enrolled by the Department of Homeland Security for the Coast Guard when not operating as a service of the Navy) as the spouse of a full-time active duty member of the United States armed forces or a member of the Guard or Reserve components who is ordered to extended active duty under Title 10 of the U.S. Code and transferred from outside Florida to a duty station in Florida;

(b) hold a J.D. or LL.B. degree from a law school accredited by the American Bar Association at the time the applicant matriculated or graduated;

(c) have been admitted after passing a written examination to the practice of law in another United States jurisdiction;

(d) be an active member of the bar in good standing who is eligible to practice law in at least 1 United States jurisdiction;

Sets forth eligibility requirements which include application to the Florida Board of Bar Examiners for a character and fitness investigation.

- (e) be a member of the bar in good standing in every jurisdiction to which the applicant has been admitted to practice law;
- (f) establish that the applicant is not subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;
- (g) not have failed the Florida Bar examination within 5 years of the date of application under this chapter or previously been denied admission to The Florida Bar for reasons of character and fitness;
- (h) reside in Florida with the service member stationed in Florida or provide evidence that the applicant intends to reside in Florida with the service member stationed in Florida within 6 months of the application;
- (i) certify having read the Florida Rules of Discipline, the Florida Rules of Professional Conduct and this chapter and agree to submit to the jurisdiction of the Supreme Court of Florida for disciplinary purposes;
- (j) submit an application to the Florida Board of Bar Examiners in the form required by that board, including a copy of the military member's orders to a duty station within Florida;
- (k) pay an application fee established by the Florida Board of Bar Examiners; and
- (l) establish the applicant's qualifications as to character and fitness to the satisfaction of the Florida Board of Bar Examiners.

**21-3 CONTINUING LEGAL EDUCATION REQUIREMENTS**

**RULE 21-3.1 CONTINUING LEGAL EDUCATION**

**(a) Basic Skills Course Requirement.** A lawyer certified to practice law in Florida as a military spouse must complete the basic skills course requirement as set forth in subchapter 6-12 of these rules within 6 months of initial certification.

**(b) Exemption and Deferment.** A lawyer certified to practice law in Florida as a military spouse is not eligible for exemption from or deferral of the basic skills course requirement.

**(c) Minimum Ongoing Requirement.** A lawyer certified to practice law in Florida as a military spouse must complete 10 hours of continuing legal education during each year the authorization is renewed, including 2 hours of ethics each year.

Sets forth continuing education requirement which includes the basic skills course requirements of Practicing with Professionalism and 3 basic skills courses.

**21-4 PERMISSIBLE ACTIVITIES AND PRACTICE  
REQUIREMENT**

**RULE 21-4.1 ACTIVITIES AND REQUIREMENT**

**(a) Generally.** Except as provided elsewhere in this chapter, lawyers certified to practice law in Florida as military spouses are entitled to all privileges, rights, and benefits and subject to all duties, obligations, and responsibilities of members of the Florida Bar in good standing and eligible to practice law in Florida.

**(b) Required Association with Florida Bar Member.** A lawyer certified under this chapter must be employed by or in a mentorship relationship with a member of The Florida Bar who is eligible to practice law in Florida. The Military Affairs Committee will establish a mentor network for this purpose and may appoint its own committee members or other members of The Florida Bar as mentors.

Provides that lawyers certified under this chapter have all rights and responsibilities of members of The Florida Bar.

This subdivision differs from the original petition in that it requires the military spouse either to be employed by or in a mentorship relationship with a member of The Florida Bar who is eligible to practice law in Florida, and which this Court directed by included in this filing. Requires the Military Affairs Committee to establish a mentor network.

**21-5 RENEWAL**

**RULE 21-5.1 ANNUAL RENEWAL**

The authorization under this chapter is annual. Every member of the Florida Bar certified as a military spouse lawyer must pay annual membership fees equal to those paid by active members of the Florida Bar, must provide The Florida Bar with a statement that the certified lawyer continues to be eligible under this subchapter, and must provide any other information required by the Florida Bar.

Requires annual renewal of certification to practice.



## **21-6 TERMINATION**

### **RULE 21-6.1 TERMINATION**

#### **(a) Termination Due to Change in Status.**

(1) Generally. The certification to practice law under this chapter will terminate if:

(A) the service member is no longer an active duty member of the United States armed forces;

(B) the certified lawyer is no longer married to the service member;

(C) the service member receives a permanent transfer outside of Florida, except that the certified lawyer may continue to practice pursuant to this chapter if the service member has been assigned to an unaccompanied or remote assignment with no dependents authorized until the service member is assigned to a location with dependents authorized;

(D) the certified lawyer relocates outside of Florida for more than 6 continuous months;

(E) the certified lawyer requests that the certification be terminated;

Sets forth basis for termination of certification due to change in status, including the requirement that the authorization to practice will terminate if 5 years have elapsed since initial authorization in subdivision (a)(1)(F), which was not included in the original petition, and which this Court directed by included in this filing.

(F) five years have elapsed since the certified lawyer was certified; or

(G) the certified lawyer becomes a member of The Florida Bar by meeting all admission requirements to The Florida Bar.

(2) Notice. Except on becoming a Florida Bar member by meeting all admission requirements, the certified lawyer must notify The Florida Bar in writing of any of the above events within 30 days of its occurrence, must simultaneously file in each matter pending before any court or tribunal a notice that the lawyer will no longer be involved in the case, and must provide written notice to all clients receiving representation from the lawyer that the lawyer will no longer represent them. The Florida Bar will notify the Supreme Court of Florida and request that the certification be terminated.

**(b) Termination for Cause.**

(1) Generally. The certification to practice law under this chapter will terminate if the certified lawyer:

(A) fails to pay the annual renewal as required elsewhere in this chapter;

(B) fails to meet the continuing education requirement as required elsewhere in this chapter;

Sets forth the basis for termination of certification for cause.

(C) takes and fails the Florida Bar Examination or the character and fitness investigation; or

(D) is disbarred or suspended by another jurisdiction.

(2) Notice. The Florida Bar will provide written notification to the certified lawyer and the Supreme Court of Florida of any of the above events within 30 days of its occurrence. On termination the lawyer must file in each matter pending before any court or tribunal a notice that the lawyer will no longer be involved in the case and must provide written notice to all of the lawyer's clients that the lawyer will no longer represent them.

**RULES OF THE SUPREME COURT RELATING TO  
ADMISSION TO THE BAR**

**2-23.7 Military Spouse Fee.** Applicants submitting an application under the Rules Regulating The Florida Bar for authorization to practice law in Florida as military spouses while their spouse is stationed within this jurisdiction must file with the Bar Application the fee of \$1,000.

Military spouses applying for full admission to The Florida Bar and not relying on the rules regarding authorization to practice law in Florida as a military spouse under the Rules Regulating The Florida Bar will be required to pay the appropriate fee under rules 2-23.2 or 2-23.4, whichever is applicable.

This rule is filed in conjunction with the proposed amendment to the Rules Regulating The Florida Bar to include a military spouse rule, allowing for certification of a lawyer who is the spouse of a full-time active duty member of the United States Armed Forces while the lawyer's spouse is stationed in Florida. The bar's proposed rule outlines the requirements for certification, including requiring military spouses to submit an application to the board, to pay an application fee established by the board, and to receive character and fitness clearance from the board. The board is filing this joint petition for rule change allowing the board to set a flat fee for military spouses filing applications with the board per Chapter 21 of the Rules Regulating The Florida Bar.

