



Supreme Court of Florida

Office of the Clerk
500 South Duval Street
Tallahassee, Florida 32399-1927

JOHN A. TOMASINO
CLERK
MARK CLAYTON
CHIEF DEPUTY CLERK
JULIA BREEDING
STAFF ATTORNEY

PHONE NUMBER: (850) 488-0125
www.floridasupremecourt.org

February 7, 2018

The Florida Bar News Editor
The Florida Bar
651 East Jefferson Street
Tallahassee, Florida 32399-2300

*In re: Amendments to the Florida Rules of Juvenile Procedure - 2018
Regular-Cycle Report, Case No. SC18-174*

Dear Editor:

I have provided you with a copy of the proposed Rules in the above case. Please publish said Rules in the March 1, 2018, Bar News. Please publish a statement that the Court has placed the proposed Rules on the Internet at location: **http://jweb.flcourts.org/pls/docket/ds_docket_search**.

Any comments should be filed with the Supreme Court on or before April 2, 2018. If filed by an attorney in good standing with The Florida Bar, the comment must be electronically filed via the Florida Courts E-Filing Portal (Portal) in accordance with *In re Electronic Filing in the Supreme Court of Florida via the Florida Courts E-Filing Portal*, Fla. Admin. Order No. AOSC13-7 (Feb. 18, 2013). If filed by a nonlawyer or a lawyer not licensed to practice in Florida, the comment may be, but is not required to be, filed via the Portal. Comments filed via the Portal must be submitted in Microsoft Word 97 or higher. *See In re*

The Florida Bar News Editor
February 7, 2018
Page 2 of 2

Electronic Filing in the Florida Supreme Court, Fla. Admin. Order No. AOSC17-27 (May 9, 2017). Any person unable to submit a comment electronically must mail or hand-deliver the originally signed comment to the Florida Supreme Court, Office of the Clerk, 500 South Duval Street, Tallahassee, Florida 32399-1927; no additional copies are required or will be accepted.

Thank you for your cooperation in this matter.

Most cordially,

A handwritten signature in black ink, appearing to read 'JAT', followed by a horizontal line extending to the right.

John A. Tomasino

JAT/sh

Enclosure

cc: Kara Ann Fenlon, Chair, Juvenile Court Rules Committee
Honorable R. Fred Lewis, Supreme Court Justice Liaison
Honorable Michael J. Higer, President, The Florida Bar
Honorable Michelle R. Suskauer, President-elect, The Florida Bar
Joshua E. Doyle, Executive Director, The Florida Bar
Mikalla Davis, Bar Staff Liaison
Glen P. Gifford
Chief Judges of the District Courts of Appeal
Clerks of the District Courts of Appeal
Chief Judges of the Judicial Circuits
Clerks of the Judicial Circuits
Deborah J. Meyer, Central Staff Director

The Florida Bar's Juvenile Court Rules Committee (Committee) has submitted to the Florida Supreme Court a regular-cycle report proposing amendments to Florida Rules of Juvenile Procedure.

The Court invites all interested persons to comment on the proposed amendments, which are summarized below and reproduced in full below, as well as online at <http://www.floridasupremecourt.org/decisions/proposed.shtml>. All comments must be filed with the Court on or before April 2, 2018, with a certificate of service verifying that a copy has been served on the Committee Chair, Kara Ann Fenlon, Office of the Public Defender, 2nd Judicial Circuit, 301 S. Monroe Street, Suite 401, Tallahassee, Florida 32301-1861, Kara.Fenlon@flpd2.com, and on the Bar Staff Liaison to the Committee, Mikalla Davis, 651 E. Jefferson Street, Tallahassee, Florida 32399-2300, mdavis@floridabar.org, as well as a separate request for oral argument if the person filing the comment wishes to participate in oral argument, which may be scheduled in this case. The Committee Chair has until April 23, 2018, to file a response to any comments filed with the Court. If filed by an attorney in good standing with The Florida Bar, the comment must be electronically filed via the Florida Courts E-Filing Portal (Portal) in accordance with *In re Electronic Filing in the Supreme Court of Florida via the Florida Courts E-Filing Portal*, Fla. Admin. Order No. AOSC13-7 (Feb. 18, 2013). If filed by a nonlawyer or a lawyer not licensed to practice in Florida, the comment may be, but is not required to be, filed via the Portal. Comments filed via the Portal must be submitted in Microsoft Word 97 or higher. *See In re Electronic Filing in the Florida Supreme Court*, Fla. Admin. Order No. AOSC17-27 (May 9, 2017). Any person unable to submit a comment electronically must mail or hand-deliver the originally signed comment to the Florida Supreme Court, Office of the Clerk, 500 South Duval Street, Tallahassee, Florida 32399-1927; no additional copies are required or will be accepted.

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO THE FLORIDA RULES OF JUVENILE
PROCEDURE – 2018 REGULAR-CYCLE REPORT, CASE NO. SC18-174**

RULE	EXPLANATION
RULE 8.005 (ORDERING CHILDREN INTO CUSTODY)	Divides rule into subdivisions and adds subdivision titles to add clarity for the reader. Renumbers subdivisions (a)–(g) as (a)(1)–(a)(7). Amends subdivision(a)(7) to allow electronic signatures. New subdivision (b) requires the court have information that the child’s failure to appear is willful as children in state custody frequently are not brought to court due to no fault of their own.
RULE 8.045 (NOTICE TO APPEAR)	Adds semicolons to subdivision (f) for grammar and consistency. Amends subdivision (g) to require the court have information that the child’s failure to appear is willful as children in state custody frequently are not brought to court due to no fault of their own.
RULE 8.060 (DISCOVERY)	Adds colon to end of subdivision (a)(2)(A)(i). Adds new subdivision (a)(2)(A)(i)(h) to address informant witnesses who will offer testimony concerning the child’s statements and updates conjunctions. Adds new subdivisions (a)(2)(L)(i)–(a)(2)(L)(vi) that clarifies that the discovery obligation extends to information known by law enforcement. Adds “names and addresses of” to subdivision (b)(1)(A) to provide greater specification for reader of required witness informational list. Adds a colon to subdivision (d)(6) for grammar and consistency.
RULE 8.080 (ACCEPTANCE OF GUILTY OR NOLO CONTENDERE PLEA)	Amends subdivisions (c)(1)–(c)(10) to add subdivision titles for greater clarity for the reader. Amends subdivision (c)(10) to add further detail about additional consequences for a child who is not a citizen of the United States and pleads guilty or nolo contendere.
RULE 8.085 (PREHEARING MOTIONS AND SERVICE)	Deletes requirement that pleading and motions must be signed by both the party and the attorney when the party is represented. Adds “or filed electronically” in subdivision (e) for greater clarity for reader.

<p>RULE 8.090 (SPEEDY TRIAL)</p>	<p>Changes “respondent” to “child” throughout the rule for greater clarity for the reader. Subdivisions (b) and (c) are rephrased for greater clarity for the reader. Rephrased subdivision titles for subdivisions (b) and (d) for greater clarity for the reader. Subdivision (c) adds an additional sentence regarding the commencement of an adjudicatory hearing. Rephrases subdivision (d)(3) to clarify the speedy trial obligations discharge in cases in which there is a co-defendant child. Rephrases subdivisions (d)(4) and (d)(6) for greater clarity to the reader. Also in subdivision (d)(4), replaces “dismissal” with “discharge.” Amends subdivision (e) to broaden the rule to include any motions suggesting the child is incompetent. Amends subdivision (f)(2)(B) to replace “respondents” with “child co-defendant” for greater clarity for the reader. Amends subdivision (f)(2)(E) for greater clarity for the reader. Amends subdivision (f)(3) to change “respondent” to “child.” In subdivision (g), deletes “written” and “en” from “entitled” for clarity for the reader. In subdivision (h), changes “respondents” with “child co-defendant;” changes “accused” with “child” and “which” to “that” for clarity for the reader. Replaces “dismissal” with “discharge” in subdivision title (i). Amends subdivision (j) to use “discharge” instead of “dismissal” and “adjudicatory hearing” instead of “trial” to mirror statute. Amend the title of subdivision (m) to replace “respondent” with “child.” Rephrases for clarity and amends timeframes in subdivision (m)(3) for setting a hearing for a motion to discharge and filing a motion for discharge from 10 days to 15 days. Deletes “crime” and replaces with “delinquent act or violation of the law” in subdivision (m)(3).</p>
<p>RULE 8.100 (GENERAL PROVISIONS FOR HEARINGS)</p>	<p>Amends subdivision (b) to define and encompass additional items used as instruments of restraint. Additional amendments in subdivision (b) requires an individual assessment determination before shackling a child in court.</p>

<p>RULE 8.110 (ADJUDICATORY HEARINGS)</p>	<p>Reorders subdivisions throughout rule to provide logical and sequential order.</p> <p>Amends subdivision (c) to use “court” instead of “judge.”</p> <p>Current subdivision (d) becomes subdivision (e) (testimony) for logical and sequential order.</p> <p>Renumbered subdivision (e) (Joint and Separate Trials) that was previous subdivision (d). Adds “may choose to” and “as a witness” in the first sentence for clarity for the reader.</p> <p>Amends renumbered subdivision (f) that was previously (k) for greater clarity regarding the burden for the court to dismiss case and adds new sentences “A motion for judgment of dismissal is not waived by subsequent introduction of evidence on behalf of the child. The motion must fully set forth the grounds on which it is based.” for emphasize and clarity.</p> <p>Amends renumbered subdivision (g) that was previously (f) to add the standard of proof “proven beyond a reasonable doubt.”</p> <p>Adds “supported by the evidence” at the end of subdivision (h) for greater clarity for the reader.</p> <p>Change “the” to “such” in subdivision (j)(1) for clarity for the reader.</p> <p>Subdivision (k) is moved from subdivision (g) for logical and sequential order.</p>
<p>RULE 8.255 (GENERAL PROVISIONS FOR HEARINGS)</p>	<p>Adds a new subdivision (e) to address taking testimony using communication equipment.</p> <p>Renumbers subdivisions (f)-(i) to accommodate taking testimony amendment.</p> <p>Replaces “shall” in renumbered subdivisions (f) and (h) with “must.”</p> <p>Replaces “shall” in renumbered subdivisions (f) and (h) with “must.”</p> <p>Deletes current subdivision (i).</p> <p>Adds subdivision (j) to conform to Section 39.802, Florida Statutes.</p> <p>Adds additional committee note for more explanation regarding subdivision (e).</p>
<p>RULE 8.257 (GENERAL MAGISTRATES)</p>	<p>Deletes references to Rule of Judicial Administration 2.530 and adds “these rules” to refer to the taking testimony provision added to 8.255.</p>
<p>RULE 8.320 (PROVIDING COUNSEL TO PARTIES)</p>	<p>Adds comma to subdivision (a)(1).</p> <p>Adds subdivision (a)(4) to detail the requirement for the court to appoint an attorney for children with special needs.</p>

RULE 8.425 (PERMANENCY HEARINGS)	Deletes subdivisions (b)(4) and (d)(3) for clarity and to avoid repetition as the amendment to Rule 8.255(j) addresses written notice to parents about rights to participate in private adoption plan. Renumbers subdivision (d) to accommodate deletions. Adds colons to subdivisions (b)(1) and renumbered (d)(4) and (d)(6).
RULE 8.435 (REINSTATEMENT OF JURISDICTION FOR YOUNG ADULT)	Amends subdivision (a)(2) and creates subdivision (c)(3) to require the petition and order for reinstatement of jurisdiction for young adults reentering extended foster care to address appointment of counsel for youth with special needs.
FORM 8.947 (DISPOSITION ORDER—DELINQUENCY)	Adds grammatical changes and missing language throughout form to make form easier for reader to understand. Reorders paragraphs for greater clarity throughout form. Adds additional language to mirror Florida Statutes throughout form. Rephrases subdivisions regarding where child is committed for consistency and clarity. Rephrased form subdivision to clarify who was responsible for payment of restitution. Adds new subdivision header “Driver License” to reflect the requirements of Florida Statutes 790.022, 985.435, and 322.056. Adds new subdivision header “Secure Detention for Firearm Charges” to track language in Florida Statute Section 790.022 which replaces “Gun Charges” paragraph header. Adds new subdivision “fines, fees, and costs” for clarity. Added new subdivision header “Specimens from the Child” for clarity for the reader. Adds new subdivision header “Orders to Parents and Guardians” for clarity for the reader and emphasize court’s jurisdiction over parents and guardians.
NEW FORM 8.953 (WAIVER OF RIGHTS)	New form created to ensure that juveniles understand charges and potential consequences of pleading nolo contendere or guilty. The form is phrased to be child “friendly.”
FORM 8.964 (DEPENDENCY PETITION)	Adds a paragraph to the petition for dependency to address whether a child has special needs. Amends signature block for Florida Bar number for grammar and consistency.
FORM 8.965 (ARRAIGNMENT ORDER)	Amends form to add “Attorney/Attorneys for....Child/Children....” to list of persons present before the Court. Adds a colon after “Petitioner” on the bottom of the second page.
FORM 8.974 (PETITION TO EXTEND OR REINSTATE COURT’S JURISDICTION)	Form deleted as the form does not comply with the 2014 amendments to Section 39.013, Florida Statutes

FORM 8.991 (FINAL ORDER DISMISSING PETITION FOR JUDICIAL WAIVER OF PARENTAL NOTICE OF TERMINATION OF PREGNANCY)	Amendments to form to comply with changes in Section 39.01114, Florida Statutes.
--	---