

The Florida Bar News

Juvenile Court Rules Committee regular-cycle 2018 amendments

The Juvenile Court Rules Committee invites comments on the proposed rule amendments anticipated to be included in the Committee’s regular cycle report. The full text of the proposals can be found on The Florida Bar’s website at www.FloridaBar.org.

Interested persons have until August 15, 2017, to submit any comments, electronically, to Kara Fenlon, Chair of the Juvenile Court Rules Committee, at kara.fenlon@flpd2.com, and to the Bar staff liaison, Mikalla Davis, at mdavis@floridabar.org.

| Rule/Form | Vote | Explanation |
|-------------|--------|---|
| | | 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. |
| Rule 8.005. | 29-0-0 | 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. | 29-0-0 | 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. | 23-0-1 | 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 |

RECEIVED, 02/01/2018 01:33:28 PM, Clerk, Supreme Court

| | | |
|-------------|---------------------------------------|---|
| | | <p>Adds new subdivisions (a)(2)(L)(i)–(a)(2)(L)(vi) that clarifies that the discovery obligation extends to information known by law enforcement.</p> <p>Adds “names and addresses of” to subdivision (b)(1)(A) to provide greater specification for reader of required witness informational list.</p> <p>Adds a colon to subdivision (d)(6) for grammar and consistency</p> <p>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.</p> <p>Amends Committee Notes for grammar and consistency.</p> |
| Rule 8.080. | 29-0-0 24-0-3 (subdivision (a)) | <p>Deletes requirement that pleading and motions must be signed by both the party and the attorney when the party is represented.</p> <p>Adds “or filed electronically” in subdivision (e) for greater clarity for reader.</p> |
| Rule 8.085. | 19-0-0 (subdivision(e)) | <p>Changes “respondent” to “child” throughout the rule for greater clarity for the reader.</p> <p>Subdivisions (b) and (c) are rephrased for greater clarity for the reader.</p> <p>Rephrased subdivision titles for subdivisions (b) and (d) for greater clarity for the reader</p> <p>Subdivision (c) adds an additional sentence regarding the commencement of an adjudicatory hearing.</p> <p>Rephrases subdivision (d)(3) to clarify the speedy trial obligations discharge in cases in which there is a co-defendant child.</p> <p>Subdivision (d)(4)(A) adds “willfully” to ensure waiver of speedy trial is not due to circumstances out of the child’s or child’s counsel control.</p> |
| Rule 8.090. | 12-3-1 | |

Rephrases subdivisions(d)(4)(B) and (d)(6) for greater clarity to the reader.

Also in subdivision (d)(4)(B), 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 filling 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).

| | | |
|-------------|---|---|
| Rule 8.100. | 23-1-1 | <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>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> |
| Rule 8.110. | 20-1-7 23-1-1 21-0-2 (Amendments to (i) and (j)) | <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> |
| Rule 8.255. | | |

| | | |
|-------------|--------|--|
| | | Replaces “shall” in renumbered subdivisions (f) and (h) with “must.” |
| | | Deletes current subdivision (i). |
| | | Adds subdivision (j) to conform to 2016 amendments to Section 36.082(6)(g), Florida Statutes. |
| | | Adds additional committee note for more explanation regarding subdivision (e). |
| | | Adds comma to subdivision (a)(1). Adds subdivision (a)(4) to detail the requirement for the court to appoint an attorney for children with special needs. |
| Rule 8.320. | 28-0-1 | Deletes subdivisions (b)(4) and (d)(3) for clarity and to avoid repetition as the amendment to Rule 8.425(j) addresses written notice to parents about rights to participate in private adoption plan. Renumbers subdivision (d) to accommodate deletions. |
| Rule 8.425. | 21-0-2 | Adds colons to subdivisions (b)(1) and renumbered (d)(4) and (d)(6). |
| Rule 8.435. | 21-0-0 | 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. 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. |
| Form 8.947. | 22-1-3 | 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.

| | | |
|-------------|--------|---|
| Form 8.953. | 19-0-5 | 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.” 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. |
| Rule 8.964. | 28-0-1 | Amends form to add “Attorney for Child” to list of persons present before the Court. Adds a colon after “Petitioner” on the bottom of the second page. |
| Form 8.965. | 21-0-0 | Form deleted as the form does not comply with the 2014 amendments to Section 39.013, Florida Statutes. |
| Form 8.974. | 28-0-1 | Amendments to form to comply with changes in Section 39.01114, Florida Statutes. |
| Form 8.991 | 24-0-2 | |

The Florida Bar News

January 1, 2018

Juvenile Court Rules Committee Regular-Cycle 2018 additional amendment

The Juvenile Court Rules Committee invites comments on this proposed rule amendment anticipated to be included in the Committee's regular cycle report. The full text of the proposals can be found on The Florida Bar's website at www.FloridaBar.org. This rule was previously published on the bar website in July 2017 but is now included in this edition of *The Florida Bar News* and again can be found on the Florida Bar's website.

Interested persons have until January 15, 2018, to submit any comments, electronically, to Kara Fenlon, Chair of the Juvenile Court Rules Committee, at kara.fenlon@flpd2.com, and to the Bar staff liaison, Mikalla Davis, at mdavis@floridabar.org.

Rule 8.257

26-1-0

Deletes references to rules of judicial administration (d)(3) and adds "these rules" to refer to the taking testimony provision added to 8. 255.