



Florida Public Defender Association, Inc.

August 14, 2017

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Juvenile Court Rules Committee
c/o Kara Fenlon, Chair
and Mikalla Davis, Bar Staff Liaison

Dear Committee Members:

The Florida Public Defender Association, Inc. (FPDA) respectfully offers the following comments on the proposed regular-cycle 2018 amendments to the Florida Rules of Juvenile Procedure published in the July 15, 2017, 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 juvenile defendants in hundreds of prosecutions every year, FPDA members have the experience and perspective to assist the Committee and Court in its ongoing task of ensuring that the rules adequately reflect statutory and decisional law while promoting both efficiency and fairness.

The FPDA appreciates the hard work by the members of the Committee. The FPDA agrees with the remainder of the proposals. The FPDA's opposition to one of the proposals should not eclipse its gratitude for the time and energy devoted to this task by each of the Committee's members.

Rule 8.090(d)(4)(B)

Rule 8.090(d) authorizes a motion to dismiss for failure to provide a speedy trial unless one of several situations exists. As currently phrased, subdivision (d)(4)(B) describes one of those situations as follows:

(4) The child was unavailable for the adjudicatory hearing. A child is unavailable if:

...

(B) the child or the child's counsel is not ready for the adjudicatory hearing on the date it is scheduled.

The committee proposes to replace this language with:

(B) the court continues the adjudicatory hearing and charges the continuance to the defense.

Because it lacks any express limitation on the court's authority to charge a continuance to the defense, this proposal would eviscerate a juvenile defendant's

right to a speedy trial. A judge could continue a case for reasons that are not the defense's fault or responsibility but nonetheless charge the continuance to the defense.

The proposal may be intended to address situations in which the court deems previous continuances to have been the responsibility of the defense. However, this is not explicit in the proposed language. As currently phrased, Rule 8.090(d)(4)(B) correctly limits disqualification from seeking dismissal to continuances—including previous continuances--caused by defense unreadiness for the adjudicatory hearing. Inclusion of previous continuances is inherent in the use, in Rule 8.090(d)(4), of the past tense, "The child was unavailable for the adjudicatory hearing," for the reasons stated in subdivisions (d)(4)(A) and (B).

For this reason, the FPDA opposes the proposed amendment to Rule 8.090(d)(4)(B).

Respectfully submitted on behalf of the
Florida Public Defender Association,

/s/ Glen P. Gifford

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