

AMENDED APPENDIX C

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RULE 8.005. ORDERING CHILDREN INTO CUSTODY	Reason for Change
<p>If a verified petition has been filed, or if, prior to the filing of a petition, an affidavit or sworn testimony is presented to the court, either of which alleges facts which under existing law are sufficient to authorize that a child be taken into custody, the court may issue an order to a person, authorized to do so, directing that the child be taken into custody.</p> <p><u>(a) Requirements of Order.</u> The order shall:</p> <p>(a1) be in writing;</p> <p>(b2) specify the name and address of the child or, if unknown, designate the child by any name or description by which the child can be identified with reasonable certainty;</p> <p>(c3) specify the age and sex of the child or, if the child's age is unknown, that he or she is believed to be of an age subject to the jurisdiction of the circuit court as a juvenile case;</p> <p>(d4) state the reasons why the child is being taken into custody;</p> <p>(e5) order that the child be brought immediately before the court or be taken to a place of detention designated by the court to be detained pending a detention hearing;</p> <p>(f6) state the date when issued and the county and court where issued; and</p>	<p>Adds "Requirements of the Order" as subdivision title and renumbers additional subdivisions for clarity for reader.</p> <p>Existing subdivision (a) is renumbered as (a)(1).</p> <p>Existing subdivision (b) is renumbered as (a)(2).</p> <p>Existing subdivision (c) is renumbered as (a)(3).</p> <p>Existing subdivision (d) is renumbered as (a)(4).</p> <p>Existing subdivision (e) is renumbered as (a)(5).</p> <p>Existing subdivision (f) is renumbered as (a)(6).</p>

AMENDED APPENDIX C

<p>(g7) be signed by the court with the title of office, or may be electronically signed if the custody order bears the <u>affiant's signature or electronic signature and is supported by an oath or affirmation administered by the court or other person authorized by law to administer oaths.</u></p> <p>(b) Prohibited Orders. <u>The court shall not issue an order to take into custody for a failure to appear for children in the care or custody of the state unless the court has information that the child willfully failed to appear.</u></p>	<p>Existing subdivision (g) is renumbered as (a)(7). The subdivision is further amended to allow electronic signatures.</p> <p>Adds new subdivision (b) to prohibit the court from issuing a custody order based on a child's failure to appear for children in state custody unless there is evidence that the child's failure to appear was willful and not due to the state failing to bring the child to court.</p>
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AMENDED APPENDIX C

<p>RULE 8.045. NOTICE TO APPEAR</p> <p>(a) Definition. [NO CHANGE]</p> <p>(b) By Arresting Officer. [NO CHANGE]</p> <p>(c) By Departmental Agent. [NO CHANGE]</p> <p>(d) How and When Served. [NO CHANGE]</p> <p>(e) Distribution of Copies. [NO CHANGE]</p> <p>(f) Contents. A notice to appear shall contain the following information:</p> <p>(1) The name and address of the child and the person to whom the child was released;_i</p> <p>(2) The date of the offense(s);_i</p> <p>(3) The offense(s) charged by statute and municipal ordinance, if applicable;_i</p> <p>(4) The counts of each offense;_i</p> <p>(5) The time and place where the child is to appear;_i</p> <p>(6) The name and address of the trial court having jurisdiction to try the offense(s) charged;_i</p>	<p>Editorial Amendments are made to subdivision (f) in compliance with <i>In re: Guidelines for Rules Submission</i>, AOSC06-14 (Fla. 2006) (“<i>Guidelines</i>”).</p> <p>Deletes the capital “T” in “The” and replaces it with a lowercase “t.” Deletes the period and replaces it with a semicolon at the end of subdivision (f)(1).</p> <p>Deletes the capital “T” in “The” and replaces it with a lowercase “t.” Deletes the period and replaces it with a semicolon at the end of subdivision (f)(2).</p> <p>Deletes the capital “T” in “The” and replaces it with a lowercase “t.” Deletes the period and replaces it with a semicolon at the end of subdivision (f)(3).</p> <p>Deletes the capital “T” in “The” and replaces it with a lowercase “t.” Deletes the period and replaces it with a semicolon at the end of subdivision (f)(4).</p> <p>Deletes the capital “T” in “The” and replaces it with a lowercase “t.” Deletes the period and replaces it with a semicolon at the end of subdivision (f)(5).</p> <p>Deletes the capital “T” in “The” and replaces it with a lowercase “t.” Deletes the period and replaces it with a semicolon at the end of subdivision (f)(6).</p>
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AMENDED APPENDIX C

<p>(7) Tthe name of the arresting officer or authorized agent of the department.; <u>and</u></p> <p>(8) Tthe signatures of the child and the person to whom the child was released.</p> <p>(g) Failure to Appear. When a child signs a written notice to appear and fails to respond to the notice, an order to take into custody shall be issued. <u>The court shall not issue an order to take into custody for a child in the care or custody of the state unless the court has information that the child willfully failed to appear.</u></p> <p>(h) Form of Notice. [NO CHANGE]</p> <p style="text-align: center;">Committee Notes</p> <p>[NO CHANGE]</p>	<p>Deletes the capital “T” in “The” and replaces it with a lowercase “t.” Deletes the period and replaces it with a semicolon and conjunction at the end of subdivision (f)(7).</p> <p>Deletes the capital “T” in “The” and replaces it with a lowercase “t” in subdivision (f)(8).</p> <p>Amends subdivision (g) to prohibit the court from issuing an order to take into custody based on a child’s failure to appear for children in state custody unless there is evidence that the child’s failure to appear was willful and not due to the state failing to bring the child to court.</p>
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AMENDED APPENDIX C

<p>RULE 8.060. DISCOVERY</p> <p>(a) Notice of Discovery.</p> <p>(1)–(2) [NO CHANGE]</p> <p>(A) A list of the names and addresses of all persons known to the petitioner to have information which<u>that</u> may be relevant to the allegations, to any defense with respect thereto, or to any similar fact evidence to be presented at trial under section 90.402(2), Florida Statutes. The names and addresses of persons listed shall be clearly designated in the following categories:</p> <p>(i) Category A. These witnesses shall include:</p> <p style="padding-left: 40px;">(a)<u>a.</u> eye witnesses;</p> <p style="padding-left: 40px;">(b)<u>b.</u> alibi witnesses and rebuttal to alibi witnesses;</p> <p style="padding-left: 40px;">(c)<u>c.</u> witnesses who were present when a recorded or unrecorded statement was taken from or made by the child or codefendant, which shall be separately identified within this category;</p> <p style="padding-left: 40px;">(d)<u>d.</u> investigating officers;</p> <p style="padding-left: 40px;">(e)<u>e.</u> witnesses known by the petitioner to have any material information that tends to negate the guilt of the child as to the petition’s allegations;</p>	<p>Replaces “which” with “that” to correct grammar.</p> <p>Adds colon in compliance with the <i>Guidelines</i>.</p> <p>Renumbers the existing subdivision (a)(2)(A)(i)(a) to (a)(2)(A)(i)a., in compliance with the <i>Guidelines</i>.</p> <p>Renumbers the existing subdivision (a)(2)(A)(i)(b) to (a)(2)(A)(i)b., in compliance with the <i>Guidelines</i>.</p> <p>Renumbers the existing subdivision (a)(2)(A)(i)(c) to (a)(2)(A)(i)c., in compliance with the <i>Guidelines</i>.</p> <p>Renumbers the existing subdivision (a)(2)(A)(i)(d) to (a)(2)(A)(i)d., in compliance with the <i>Guidelines</i>.</p> <p>Renumbers the existing subdivision (a)(2)(A)(i)(e) to (a)(2)(A)(i)e., in compliance with the <i>Guidelines</i>.</p>
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AMENDED APPENDIX C

<p>witnesses; and</p> <p>(f)f. child hearsay</p> <p>(g)g. expert witnesses who have not provided a written report and a curriculum vitae or who are going to testify; <u>and</u></p> <p><u>h. informant witnesses who will offer testimony concerning the statements of a child charged with a delinquent act about the issues for which the child is being tried.</u></p> <p>(ii)–(iii) [NO CHANGE]</p> <p>(B)–(E) [NO CHANGE]</p> <p>(F) Any tangible papers or objects which<u>that</u> were obtained from or belonged to the child.</p> <p>(G) Whether the petitioner has any material or information which<u>that</u> has been provided by a confidential informant.</p> <p>(H)–(J) [NO CHANGE]</p> <p>(K) Any tangible papers or objects which<u>that</u> the petitioner intends to use in the hearing and which<u>that</u> were not obtained from or belonged to the child.</p> <p><u>(L) Whether the state has any material or information that has been provided by an informant witness, including:</u></p>	<p>Renumbers the existing subdivision (a)(2)(A)(i)(f) to (a)(2)(A)(i)f., in compliance with the <i>Guidelines</i>. In the new subdivision (a)(2)(A)(i)f., deletes “and” and adds a semicolon.</p> <p>Renumbers the existing subdivision (a)(2)(A)(i)(g) to (a)(2)(A)(i)g., in compliance with the <i>Guidelines</i>. In the new subdivision (a)(2)(A)(i)g., deletes the period at the end of the sentence and adds “and” and a semicolon.</p> <p>Adds new subdivision (a)(2)(A)(i)h. to include informant witnesses who may offer testimony concerning the child’s statements as Category A witnesses.</p> <p>Replaces “which” with “that” to correct grammar.</p> <p>Replaces “which” with “that” to correct grammar.</p> <p>Replaces “which” with “that” to correct grammar.</p> <p>Adds new subdivisions (a)(2)(L)(i)–(a)(2)(L)(vi) that requires the state to provide information and material from informant witnesses including statements from the child that the informant may testify to and the time and place that the</p>
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AMENDED APPENDIX C

<p>(i) <u>the substance of any statement allegedly made by the child about which the informant may testify;</u></p> <p>(ii) <u>a summary of the criminal record of the informant witness;</u></p> <p>(iii) <u>a summary of the delinquency record of the informant witness, if court ordered;</u></p> <p>(iv) <u>the time and place under which the child’s alleged statement was made;</u></p> <p>(v) <u>whether the informant witness has received, or expects to receive, anything in exchange for his or her testimony; and</u></p> <p>(vi) <u>the informant witness’s prior history of cooperation, in return for any benefit, as known to the state.</u></p> <p>(3)–(5) [NO CHANGE]</p> <p>(b) Required Disclosure to Petitioner.</p> <p>(1) If a child elects to participate in discovery, within 5 days after receipt by the child of the discovery exhibit furnished by the petitioner under this rule, the following disclosures shall be made:</p> <p>(A) The child shall furnish to the petitioner a written list of <u>names and addresses of</u> all persons whom the child expects to call as witnesses at the hearing. When the petitioner subpoenas a witness whose name has been furnished by</p>	<p>child’s alleged statement was made, the summary of the criminal history of the informant witness, the summary of the delinquency record of the informant witness by court order only, whether the informant has received or expects to receive anything in exchange for his testimony, and the informant’s history of prior cooperation with the state.</p> <p>Adds “names and addresses of” to subdivision (b)(1)(A) to provide greater specification for the reader of</p>
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AMENDED APPENDIX C

<p>the child, except for hearing subpoenas, reasonable notice shall be given to the child as to the time and location of examination pursuant to the subpoena. At such examination, the child through counsel shall have the right to be present and to examine the witness. The physical presence of the child shall be governed by rule 8.060(d)(6).</p> <p style="text-align: center;">(B) [NO CHANGE]</p> <p style="text-align: center;">(2)–(3) [NO CHANGE]</p> <p>(c) Limitations on Disclosure. [NO CHANGE]</p> <p>(d) Depositions.</p> <p style="padding-left: 20px;">(1) Time and Location. [NO CHANGE]</p> <p style="padding-left: 20px;">(2) Procedure. [NO CHANGE]</p> <p style="padding-left: 20px;">(3) Use of Deposition. [NO CHANGE]</p> <p style="padding-left: 20px;">(4) Introduction of Part of Deposition. [NO CHANGE]</p> <p style="padding-left: 20px;">(5) Sanctions. [NO CHANGE]</p> <p style="padding-left: 20px;">(6) Physical Presence of Child. The child shall not be physically present at a deposition except upon stipulation of the parties or as provided by this rule.</p> <p>_____The court may order the physical presence of the child upon a showing of good cause. In ruling, the court may consider:</p>	<p>the required witness information that must be provided during discovery.</p> <p style="text-align: center;">Removes indent and adds colon in compliance with the <i>Guidelines</i>.</p>
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AMENDED APPENDIX C

<p>(A) the need for the physical presence of the child to obtain effective discovery;</p> <p>(B) the intimidating effect of the child’s presence on the witness, if any;</p> <p>(C) any cost or inconvenience which<u>that</u> may result; and</p> <p>(D) any alternative electronic or audio-visual means available to protect the child’s ability to participate in discovery without the child’s physical presence.</p> <p>(7) Statements of Law Enforcement Officers. [NO CHANGE]</p> <p>(8) Depositions of Law Enforcement Officers. [NO CHANGE]</p> <p>(9) Videotaped Depositions. [NO CHANGE]</p> <p>(e) Perpetuating Testimony. [NO CHANGE]</p> <p>(f) Nontestimonial Discovery. After the filing of the petition, upon application, and subject to constitutional limitations, the court may with directions as to time, place, and method, and upon conditions which<u>that</u> are just, require:</p> <p>(1)–(2) [NO CHANGE]</p> <p>(g) Court May Alter Times. [NO CHANGE]</p>	<p>Replaces “which” with “that” to correct grammar.</p> <p>Replaces “which” with “that” to correct grammar.</p>
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AMENDED APPENDIX C

<p>(h) Supplemental Discovery. If, subsequent to compliance with these rules, a party discovers additional witnesses, evidence, or material which^{that} the party would have been under a duty to disclose or produce at the time of such previous compliance, the party shall promptly disclose or produce such witnesses, evidence, or material in the same manner as required under these rules for initial discovery.</p> <p>(i) Investigations Not to Be Impeded. [NO CHANGE]</p> <p>(j) Protective Orders. [NO CHANGE]</p> <p>(k) Motion to Terminate or Limit Examination. At any time during the taking of a deposition, on motion of a party or of the deponent, and upon a showing that the examination is being conducted in bad faith or in such manner as to unreasonably annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the circuit court where the deposition is being taken may:</p> <p>_____ (1) terminate the deposition;</p> <p>_____ (2) limit the scope and manner of the taking of the deposition;</p> <p>_____ (3) limit the time of the deposition;</p> <p>_____ (4) continue the deposition to a later time;</p> <p>_____ (5) order the deposition to be taken in open court and, in addition;</p>	<p>Replaces “which” with “that” to correct grammar.</p> <p>Adds colon and formats existing subdivision into a list in compliance with the <i>Guidelines</i> and for greater clarity for the reader.</p> <p>Deletes comma and replaces it with a semicolon at the end of subdivision (k)(1) in compliance with the <i>Guidelines</i>.</p> <p>Deletes comma and replaces it with a semicolon at the end of subdivision (k)(2) in compliance with the <i>Guidelines</i>.</p> <p>Deletes comma and replaces it with a semicolon at the end of subdivision (k)(3) in compliance with the <i>Guidelines</i>.</p> <p>Deletes comma and replaces it with a semicolon at the end of subdivision (k)(4) in compliance with the <i>Guidelines</i>.</p> <p>Deletes period and replaces it with a semicolon at the end of subdivision (k)(5) in compliance with the <i>Guidelines</i>.</p>
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AMENDED APPENDIX C

_____(6) may impose any sanction authorized by this rule.

If the order terminates the deposition, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of any party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

(l) In Camera and Ex Parte Proceedings. [NO CHANGE]

(m) Sanctions. [NO CHANGE]

Court Commentary

[NO CHANGE]

AMENDED APPENDIX C

<p>RULE 8.080. ACCEPTANCE OF GUILTY OR NOLO CONTENDERE PLEA</p> <p>(a) Voluntariness. [NO CHANGE]</p> <p>(b) Open Court. [NO CHANGE]</p> <p>(c) Determination by Court. The court, when making this determination, should place the child under oath and shall address the child personally. The court shall determine that the child understands each of the following rights and consequences of entering a guilty or nolo contendere plea:</p> <p>(1) <u>Nature of the Charge.</u> The nature of the charge to which the plea is offered and the possible dispositions available to the court.</p> <p>(2) <u>Right to Representation.</u> If the child is not represented by an attorney, that the child has the right to be represented by an attorney at every stage of the proceedings and, if necessary, one will be appointed. Counsel shall be appointed if the child qualifies for such appointment and does not waive counsel in writing subject to the requirements of rule 8.165.</p> <p>(3) <u>Right to an Adjudicatory Hearing and Attendant Rights.</u> That the child has the right to plead not guilty, or to persist in that plea if it had already been made, and that the child has the right to an adjudicatory hearing and at that hearing has the right to the assistance of counsel, the right to compel the attendance of witnesses on his or her behalf, the right to confront and cross-examine witnesses against him or her, and the right not to be compelled to incriminate himself or herself.</p>	<p>Amends subdivisions (c)(1)–(c)(10) to add subdivision titles for greater clarity for the reader.</p>
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AMENDED APPENDIX C

<p>(4) <u>Effect of Plea.</u> That, if the child pleads guilty or nolo contendere, without express reservation of the right to appeal, the right to appeal all matters relating to the judgment, including the issue of guilt or innocence, is relinquished, but the right to review by appropriate collateral attack is not impaired.</p> <p>(5) <u>Waiving Right to an Adjudicatory Hearing.</u> That, if the child pleads guilty or nolo contendere, there will not be a further adjudicatory hearing of any kind, so that by pleading so the right to an adjudicatory hearing is waived.</p> <p>(6) <u>Questioning by Judge.</u> That, if the child pleads guilty or nolo contendere, the court may ask the child questions about the offense to which the child has pleaded, and, if those questions are answered under oath, on the record, the answers may later be used against the child in a prosecution for perjury.</p> <p>(7) <u>Terms of Plea Agreement.</u> The complete terms of any plea agreement including specifically all obligations the child will incur as a result.</p> <p>(8) <u>Sexual Offender Registration.</u> That, if the child pleads guilty or nolo contendere to certain sexual offenses, the child may be required to register as a sexual offender.</p> <p>(9) <u>Sexually Violent or Sexually Motivated Offenses.</u> That, if the child pleads guilty or nolo contendere, and the offense to which the child is pleading is a sexually violent offense or a sexually motivated offense, or if the child has been previously adjudicated for such an offense, the plea may subject the child to involuntary civil commitment as a sexually violent predator on completion of his or her sentence. It shall not be necessary for the trial judge to determine whether the present or prior offenses were</p>	
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AMENDED APPENDIX C

sexually motivated, as this admonition shall be given to all children in all cases.

(10) ~~That, if the child pleads guilty or nolo contendere, and the child is not a United States citizen, the facts underlying the plea may subject the child to deportation pursuant to the laws and regulations governing the United States Citizenship and Immigration Services. It shall not be necessary for the trial judge to inquire as to whether the child is a United States citizen, as this admonition shall be given to all children in all cases.~~ **Immigration Consequences.**

(A) If the child is not a citizen of the United States, the facts underlying the child's plea and the court's acceptance of the plea of guilty or nolo contendere, regardless of whether adjudication of guilt has been withheld, may have the additional consequences of changing his or her immigration status, including any special immigrant juvenile status, deportation or removal from the United States, exclusion from readmission to the United States, detention, denial of naturalization, or ineligibility for citizenship, pursuant to the laws of the United States.

(B) The court should advise the child to consult with counsel if he or she needs additional information concerning the potential immigration consequences of the plea.

(C) If the child has not discussed the potential immigration consequences with his or her counsel, prior to accepting the child's plea, the court is required, upon request, to allow a reasonable amount of time to permit the child to consider the appropriateness of the plea in light of the advisement described in subdivision (c)(10)(B).

Deletes existing subdivision and adds a new subdivision title "Immigration Consequences."

Adds a new subdivision (c)(10)(A) to ensure that a child who is not a citizen of the United States understands the underlying facts of the delinquency charge may affect their immigration status when he or she pleads guilty or nolo contendere to a delinquency charge.

Adds a new subdivision (c)(10)(B) that requires the court to advise the child to consult with counsel for potential immigration consequences.

Adds a new subdivision (c)(10)(C) that requires the court to allow a reasonable amount of time for the child to consult with counsel regarding their plea in light of immigration consequences.

Adds new subdivision (c)(10)(D) that requires that the advisement under (c)(10)(B) be given to all children and

AMENDED APPENDIX C

<p><u>(D) This admonition should be given to all children in all cases, and the trial court must not require at the time of entering a plea that the child disclose his or her legal status in the United States.</u></p> <p>(d) Acknowledgment by Child. [NO CHANGE]</p> <p>(e) Of Record. [NO CHANGE]</p> <p>(f) When Binding. [NO CHANGE]</p> <p>(g) Withdrawal of Plea When Judge Does Not Concur [NO CHANGE]</p> <p>(h) Failure to Follow Procedures. [NO CHANGE]</p>	<p>states the court must not require the child to disclose his or her legal status when entering a plea.</p>
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AMENDED APPENDIX C

<p>RULE 8.085. PREHEARING MOTIONS AND SERVICE</p> <p>(a) Prehearing Motions.</p> <p>(1) Motions in General. Every motion made before a hearing and any pleading in response to the motion shall be in writing and shall be signed by the party making the motion and or <u>if the party is represented by an attorney</u>, the party's attorney. This requirement may be waived by the court for good cause shown.</p> <p>(2) Motion to Dismiss. [NO CHANGE]</p> <p>(3) Motion to Suppress. [NO CHANGE]</p> <p>(4) Motion to Sever. [NO CHANGE]</p> <p>(5) Time for Filing. [NO CHANGE]</p> <p>(6) Sworn Motions to Dismiss. [NO CHANGE]</p> <p>(b) Service of Pleadings and Papers. [NO CHANGE]</p> <p>(c) Format for E-mail Service. [NO CHANGE]</p> <p>(d) Time for Service of Motions and Notice of Hearing. [NO CHANGE]</p> <p>(e) Pleading to Be Signed by Attorney. Every written paper or pleading of a party represented by an attorney shall be signed in the attorney's individual name by such attorney, whose mailing address, primary e-mail address and telephone number, including area code, and Florida Bar number shall be stated, and</p>	<p>Deletes requirement that pleadings and motions must be signed by both the party and the attorney and instead allows that pleadings and motions be signed by the attorney of the party when the party is represented by an attorney.</p>
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AMENDED APPENDIX C

who shall be duly licensed to practice law in Florida. Any document served by e-mail or filed electronically may be signed by any of the “/s/,” “/s”, or “s/” formats. The attorney may be required by an order of court to vouch for the authority to represent such party and to give the address of such party. Except when otherwise specifically provided by these rules or applicable statute, pleadings as such need not be verified or accompanied by affidavit.

(f) Pleading to Be Signed by Unrepresented Party.

[NO CHANGE]

(g) Effect of Signing Pleading. [NO CHANGE]

(h) Service of Orders. [NO CHANGE]

Committee Notes

[NO CHANGE]

Adds “or filed electronically” in subdivision (e) for greater clarity for reader that documents filed via the e-portal may be signed using the “/s/,” “/s”, or “s/” formats.

AMENDED APPENDIX C

RULE 8.090. SPEEDY TRIAL

(a) **Time.** If a petition has been filed alleging a child to have committed a delinquent act, the child shall be brought to an adjudicatory hearing without demand within 90 days of the earlier of the following:

(1) ~~the date the child was taken into custody;~~ or

(2) ~~the date of service of the summons that is~~ issued when the petition is filed.

(b) ~~Dismissal~~ **Motion to Discharge.** If an adjudicatory hearing has not commenced within 90 days, upon motion timely filed with the court and served upon the prosecuting attorney, the ~~respondent child~~ shall be entitled to the appropriate remedy as set forth in subdivision (m). ~~The court b~~ Before granting such motion, ~~the court~~ shall make the required inquiry under subdivision (d).

(c) **Commencement.** A child shall be ~~deemed~~ considered to have been brought to trial if the adjudicatory hearing begins ~~before the court~~ within the time provided. The adjudicatory hearing is considered to have commenced when the first witness is sworn before the judge.

(d) ~~Motion to Dismiss~~ **Discharge Exceptions.** If the adjudicatory hearing is not commenced within the periods of time established, the ~~respondent child~~ shall be entitled to the appropriate remedy as set forth in subdivision (m) unless any of the following situations exist:

(1)–(2) [NO CHANGE]

Deletes the capital “T” in “The” and replaces it with a lowercase “t” in subdivisions (a)(1) and (a)(2) in compliance with the *Guidelines*. Deletes the period and replaces with a semicolon and conjunction at the end of subdivision (a)(1) in compliance with the *Guidelines*.

Replaces “Dismissal” with “Motion for Discharge” in the subdivision title for greater clarity for the reader and to align with the existing legal requirements.

Replaces “respondent” with “child” for greater clarity for the reader. Rephrases the last sentence for greater clarity for the reader.

Replaces “deemed” with “considered” for greater clarity for the reader. Deletes “before the court” as the language is not necessary.

Adds additional sentence regarding the commencement of an adjudicatory hearing.

Replaces “Motion to Dismiss” with “Discharge Exceptions” in subdivision title for greater clarity for the reader and to align with the existing legal requirements. Replaces “respondent” with “child” for greater clarity for the reader.

AMENDED APPENDIX C

<p>(3) The failure to hold an adjudicatory hearing is attributable to the child, a co-respondent in the same adjudicatory hearing, or their counsel or his or her counsel, or to accommodate a co-defendant when the state shows the necessity of trying the cases together.</p> <p>(4) The child was unavailable for the adjudicatory hearing. A child is unavailable if:</p> <p style="text-align: center;">(A)–(B) [NO CHANGE]</p> <p>No presumption of nonavailability attaches, but if the state objects to dismissal<u>discharge</u> and presents any evidence tending to show<u>evidence of</u> nonavailability, the child must, by competent proof, establish availability during the term.</p> <p>(5) [NO CHANGE]</p> <p>(6) If the court finds dismissal<u>discharge</u> is not appropriate, the pending motion to dismiss<u>discharge</u> shall be denied, and an adjudicatory hearing shall commence within 90 days of a written or recorded order of denial.</p> <p>(e) Incompetency of Child. Upon the filing of a motion to declare<u>suggesting that</u> the child <u>may be</u> incompetent, the speedy trial period shall be tolled until a subsequent finding of the court that the child is competent to proceed.</p> <p>(f) Extension of Time. The period of time established by subdivision (a) may be extended as follows:</p> <p>(1) [NO CHANGE]</p>	<p>Rephrases the subdivision to clarify that remedies for failure to comply with the speedy trial timeframes are not available if that failure is attributable to the child’s counsel or to accommodate a co-defendant when the state can show the necessity of trying the cases together.</p> <p>Replaces “dismissal” with “discharge” for greater clarity and to align with the existing legal requirements. Deletes superfluous language “any evidence tending to show” replaces it with “evidence of” for greater clarity to the reader.</p> <p>“Dismissal” and “dismiss” are replaced with “discharge” for greater clarity and to align with the existing legal requirements.</p> <p>Amends subdivision (e) to clarify that any motion suggesting the child is incompetent will toll the speedy trial period until a competency finding is made by the court.</p>
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AMENDED APPENDIX C

<p>(2) By written or recorded order of the court on the court’s own motion or motion by either party in exceptional circumstances. The order extending the period shall recite the reasons for the extension and the length of the extension. Exceptional circumstances are those which require an extension as a matter of substantial justice to the child or the state or both. Such circumstances include:</p> <p style="padding-left: 40px;">(A) [NO CHANGE]</p> <p style="padding-left: 40px;">(B) a showing by the state that the case is so unusual and so complex, due to the number of respondents<u>child co-defendants</u> or the nature of the prosecution or otherwise, that it is unreasonable to expect adequate investigation or preparation within the periods of time established by this rule;</p> <p style="padding-left: 40px;">(C)–(D) [NO CHANGE]</p> <p style="padding-left: 40px;">(E) a showing that a delay is necessary to accommodate a co-respondent<u>defendant</u>, where<u>when</u> there is a reason not to sever the cases in order to proceed promptly with <u>the</u> trial of the respondent<u>child</u>; or</p> <p style="padding-left: 40px;">(F) [NO CHANGE]</p> <p>Exceptional circumstances shall not include general congestion of the court’s docket, lack of diligent preparation or failure to obtain available witnesses, or other avoidable or foreseeable delays.</p> <p>(3) By written or recorded order of the court for a period of reasonable and necessary delay resulting from proceedings including, but not limited to, an examination and hearing to</p>	<p style="text-align: center;">Replaces “respondents” with “child co-defendants” for greater clarity for the reader.</p> <p style="text-align: center;">Replaces “respondent” with “defendant,” “where” with “when,” and “respondent” with “child” for clarity for the reader. “[T]he” is added after “with” for greater clarity for the reader.</p>
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AMENDED APPENDIX C

<p>determine the mental competency or physical ability of the respondent<u>child</u> to stand trial for hearings or pretrial motions, for appeals by the state, and for adjudicatory hearings of other pending charges against the child.</p> <p>(g) Speedy Trial Upon Demand. Except as otherwise provided by this rule and subject to the limitations imposed by subdivision (h), the child shall have the right to demand a trial within 60 days, by filing a written-pleading entitled “Demand for Speedy Trial” with the court and serving it upon the prosecuting attorney.</p> <p>(1)–(4) [NO CHANGE]</p> <p>(h) Demand for Speedy Trial; Effect. A demand for speedy trial shall be deemed a pleading by the respondent<u>child</u> that he or she is available for the adjudicatory hearing, has diligently investigated the case, and is prepared or will be prepared for the adjudicatory hearing within 5 days. A demand may not be withdrawn by the child except on order of the court, with consent of the state, or on good cause shown. Good cause for continuance or delay on behalf of the accused<u>child</u> shall not thereafter include nonreadiness for the adjudicatory hearing, except as to matters which<u>that</u> may arise after the demand for the adjudicatory hearing is filed and which<u>that</u> could not reasonably have been anticipated by the accused<u>child</u> or defense counsel.</p> <p>(i) Dismissal<u>Discharge</u> After Demand. If an adjudicatory hearing has not commenced within 50 days after a demand for speedy trial, upon motion timely filed with the court having jurisdiction and served upon the prosecuting attorney, the child shall have the right to the appropriate remedy as set forth in</p>	<p>Replaces “respondent” with “child” for greater clarity for the reader.</p> <p>Deletes “written” and “en” in the word “entitled” as language is not necessary.</p> <p>Replaces “respondent” and “accused” with “child” and “which” with “that” for greater clarity for the reader.</p> <p>Replaces “Dismissal” with “Discharge” in subdivision title to align with the existing law regarding speedy trial and for clarity for the reader.</p>
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AMENDED APPENDIX C

subdivision (m), provided the court has made the required inquiry under subdivision (d).

(j) **Effect of Mistrial, Appeal, or Order of New Trial**
Adjudicatory Hearing. A child who is to be tried again or whose adjudicatory hearing has been delayed by an appeal by the state or the ~~respondent~~child shall be brought to trial within 90 days from the date of declaration of a mistrial by the trial court, the date of an order by the trial court granting a new ~~trial~~adjudicatory hearing, or the date of receipt by the trial court of a mandate, order, or notice of whatever form from an appellate or other reviewing court which makes possible a new ~~trial~~adjudicatory hearing for the ~~respondent~~child, whichever is last. If the child is not brought to ~~trial~~an adjudicatory hearing within the prescribed time periods, the child shall be entitled to the appropriate remedy as set forth in subdivision (m).

(k) **Discharge From Delinquent Act or Violation of Law; Effect.** [NO CHANGE]

(l) **Nolle Prosequi; Effect.** [NO CHANGE]

(m) **Remedy for Failure to Try ~~Respondent~~Child Within the Specified Time.**

(1) No remedy shall be granted to any ~~respondent~~child under this rule until the court shall have made the required inquiry under subdivision (d).

(2) The ~~respondent~~child may, at any time after the expiration of the prescribed time period, file a motion for discharge. Upon filing the motion the ~~respondent~~child shall simultaneously file a notice of hearing. The motion for discharge

Replaces “Trial” with “Adjudicatory Hearing” in the subdivision title and throughout the subdivision for greater clarity for the reader.

Replaces “respondent” with “child” throughout the subdivision for clarity for the reader.

Replaces “Respondent” with “Child” in the subdivision title for clarity for the reader.

Replaces “respondent” with “child” throughout the subdivision.

AMENDED APPENDIX C

and its notice of hearing shall be served upon the prosecuting attorney.

(3) ~~No later than 5 days from the date of the filing of a motion for discharge, the~~ The court shall hold a hearing on the motion ~~and for discharge within 5 days from the date that the motion was filed,~~ unless the court finds that one of the reasons set forth in subdivision (d) exists, shall order that the ~~respondent child~~ be brought to trial within ~~40~~15 days ~~from the date that the motion for discharge was filed.~~ If the ~~respondent child~~ is not brought to trial within the ~~40~~15-day period through no fault of the ~~respondent child~~, the ~~respondent child~~ shall be forever discharged from the ~~crime~~delinquent act or violation of law.

Committee Notes

[NO CHANGE]

Rephrases the sentence for greater clarity for the reader on when the court shall hold a hearing on the motion for discharge.

Amends timeframes for bringing the child to trial after a motion for discharge is filed in accordance with the Florida Supreme Court decision in State v. SA., 133 So. 3d 506 (Fla. 2014).

Replaces “crime” with “delinquent act or violation of the law” for greater clarity for the reader.

AMENDED APPENDIX C

<p>RULE 8.100. GENERAL PROVISIONS FOR HEARINGS</p> <p>Unless otherwise provided, the following provisions apply to all hearings:</p> <p>(a) [NO CHANGE]</p> <p>(b) Use of Restraints on the Child. Instruments of restraint, such as handcuffs, chains, irons, or <u>straitjackets, cloth and leather restraints, or other similar items,</u> may <u>shall</u> not be used on a child during a court proceeding and except when ordered by the court prior to the child's appearance in the courtroom in accordance with this rule. Instruments of restraint must be removed prior to the child's appearance before the court unless <u>after an individualized assessment of the child</u> the court finds both that:</p> <p>(1) The use of restraints is necessary due to one of the following factors:</p> <p>(A) Instruments of restraint are necessary to prevent physical harm to the child or another person;</p> <p>(B) The child's <u>has</u> a history of disruptive courtroom behavior that has placed others in potentially harmful situations or <u>that</u> presents a substantial risk of inflicting physical harm or himself or herself or others as evidenced by recent behavior; or</p> <p>(C) There is a <u>founded</u> belief that the child presents a substantial risk of flight from the courtroom; and</p>	<p>Amends subdivision (b) to list additional items that may be used as instruments of restraint. Adds the exception that a court order shall be required prior to the child's appearance if a child is restrained in court. Adds amendments in last sentence of subdivision (b) to emphasize that all instruments of restraint must be removed prior to the child's appearance unless the court makes an individualized assessment of the child and the court makes requisite findings.</p> <p>Deletes "Instrument of restraint are necessary" as language is not necessary.</p> <p>Deletes the capital "T" in "The" and replaces it with a lowercase "t," makes the person possessive, and deletes "has a" as language is not necessary. Adds "that" for greater clarity for the reader.</p> <p>Deletes "There is" as language is not necessary and adds an "a" to the beginning of the sentence for greater clarity for the reader.</p>
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AMENDED APPENDIX C

<p>(2) There are no less restrictive alternatives to restraints that will prevent flight or physical harm to the child or another person, including, but not limited to, the presence of court personnel, law enforcement officers, or bailiffs.</p> <p><u>(3) In making a determination that the use of instruments of restraint is necessary, pursuant to subdivision (b)(1), the court shall consider:</u></p> <p><u>(A) any past escapes or attempted escapes by the child;</u></p> <p><u>(B) evidence of a present plan of escape by the child;</u></p> <p><u>(C) a credible threat by the child to harm himself or herself or another person during court;</u></p> <p><u>(D) evidence of self-injurious behavior on part of the child; and</u></p> <p><u>(E) any other factor that is relevant in determining whether the use of instruments of restraint are necessary pursuant to subdivision (b)(1).</u></p> <p><u>(4) The court shall provide the child's attorney an opportunity to be heard before the court orders the use of restraints. Counsel shall be appointed for this hearing if the child qualifies for such appointment and does not waive counsel in writing as required by rule 8.165.</u></p> <p><u>(5) If restraints are ordered, the court shall make specific and individualized findings of fact in support of the order</u></p>	<p>Adds a new subdivision that provides specification on the factors the court shall consider when making the finding that use of restraints is necessary. The Committee proposes adding the following factors that the court must consider: past escapes or attempted escapes by the child, evidence of a present plan of escape by the child, a credible threat by the child to harm himself or herself or another person during court, evidence of self-injurious behavior on the part of the child, and any other fact that is relevant.</p> <p>Adds new subdivision requiring an opportunity for the child's attorney to be heard regarding use of restraints in court and allows appointment of counsel for the hearing if the child qualifies.</p> <p>Adds new subdivision that requires the court to make specific and individualized findings of facts if restraints are ordered and, if restraints are ordered, the last sentence</p>
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AMENDED APPENDIX C

<p><u>and the least restrictive restraints shall be used. Any restraints shall allow the child limited movement of his or her hands to read and handle documents and writings necessary to the hearing.</u></p> <p><u>(6) Under no circumstances should a child be restrained using fixed restraints to a wall, floor, or furniture.</u></p> <p>(c) Absence of the Child. [NO CHANGE]</p> <p>(d) Invoking the Rule. [NO CHANGE]</p> <p>(e) Continuances. [NO CHANGE]</p> <p>(f) Record of Testimony. [NO CHANGE]</p> <p>(g) Notice. [NO CHANGE]</p>	<p>requires that the restraints allow some limited movement of the child's hands.</p> <p>The Committee recommends adding a new subdivision (b)(6) that prohibits a child from being restrained using fixed restraints to a wall, floor, or furniture.</p>
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AMENDED APPENDIX C

<p>RULE 8.110. ADJUDICATORY HEARINGS</p> <p>(a) Appearances; Pleas. The child shall appear before the court at the times set and, unless a written plea has been filed, enter a plea of guilty, not guilty, or, with the consent of the court, nolo contendere.</p> <p>(b) Preparation of Case. [NO CHANGE]</p> <p>(c) Trial by JudgeCourt. The adjudicatory hearing shall be conducted by the judge without a jury. At this hearing, the court determines whether the allegations of the petition have been sustained.</p> <p>(d) Testimony. The child may be sworn and testify in his or her own behalf. The child may be cross-examined as other witnesses. No child shall be compelled to give testimony against himself or herself, nor shall any prosecuting attorney be permitted to comment on the failure of the child to testify in his or her own behalf. A child offering no testimony in his or her own behalf except his or her own shall be entitled to the concluding argument.</p> <p>(ed) Joint and Separate Trials. When 2 or more children are alleged to have committed a delinquent act or violation of law, they shall be tried jointly unless the court in its discretion orders separate trials.</p> <p>(e) <u>Testimony.</u> <u>The child may choose to be sworn as a witness and testify in his or her own behalf. The child may be cross-examined as other witnesses. No child shall be compelled to give testimony against himself or herself, nor shall any prosecuting attorney be permitted to comment on the failure of the child to testify in his or her own behalf. A child offering no testimony on his</u></p>	<p>Adding a “s” to “time” for clarity for the reader.</p> <p>Amends subdivision title by replacing “Judge” with “Court” for clarity for the reader. Adds a comma after “hearing” to identify the dependent clause.</p> <p>Reorders the subdivision to provide logical and sequential order. The existing subdivision (d) is deleted to later become the new subdivision (e).</p> <p>Reorders the subdivision to provide logical and sequential order. The existing subdivision (e) is renumbered to become the new subdivision (d).</p> <p>Reorders subdivision to provide logical and sequential order. The new subdivision (e) is added which is the same as the existing subdivision (d) except “choose to” and “as a witness” is added to the first sentence to add clarity</p>
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AMENDED APPENDIX C

<p><u>or her own behalf except his or her own shall be entitled to the concluding argument.</u></p> <p>(f) Dismissal. If the court finds that the allegations in the petition have not been sustained, it shall enter an order so finding and dismissing the case. <u>Motion for Judgment of Dismissal. If, at the close of the evidence for the petitioner or at the close of all the evidence in the cause, the court is of the opinion that the evidence is insufficient to establish a prima facie case of guilt against the child, it may, or on the motion of the state attorney or the child shall, enter an order dismissing the petition for insufficiency of the evidence. 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.</u></p> <p>(g) Dispositional Alternatives. If the court finds that the evidence supports the allegations of the petition, it may enter an order of adjudication or withhold adjudication as provided by law. If the pre-disposition report required by law is available, the court may proceed immediately to disposition or continue the case for a disposition hearing. If the report is not available, the court will continue the case for a disposition hearing and refer it to the appropriate agency or agencies for a study and recommendation. If the case is continued the court may order the child detained. <u>Dismissal. If the court finds that the allegations in the petition have not been proven beyond a reasonable doubt, it shall enter an order so finding and dismissing the case.</u></p> <p>(h) Degree of Offense. <u>If in a petition there is alleged an offense which is divided into degrees, the court may find the child committed an offense of the degree alleged or of any lesser degree supported by the evidence.</u></p>	<p>for the reader and “in his or her own behalf” is grammatically changed to “on his or her own behalf”</p> <p>Reorders the subdivision to provide logical and sequential order. The existing subdivision (f) is deleted and is relocated to become the new subdivision (g).</p> <p>The existing subdivision (k) is now the new subdivision (f). The first sentence of the new subdivision (f) is the same as the existing subdivision (k). The new subdivision (f) adds two additional sentences that emphasizes that the introduction of evidence on behalf of the child does not waive a motion to dismiss and that a motion for dismissal must fully set forth the grounds of the motion.</p> <p>Reorders the subdivision to provide logical and sequential order. The existing subdivision (g) is deleted to later become the new subdivision (k). The existing subdivision (f) is the new subdivision (g). The new subdivision (g) is the same as the existing subdivision (f) except “sustained” is replaced with “proven beyond a reasonable doubt” to align with the standard of proof required.</p> <p>Adds “supported by the evidence” for clarity for the reader.</p>
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AMENDED APPENDIX C

<p>(i) Specifying Offense Committed. [NO CHANGE]</p> <p>(j) Lesser Included Offenses. On a petition on which the child is to be tried for any offense, the court may find the child committed:</p> <p style="padding-left: 40px;">(1) an attempt to commit the offense, if the<u>such</u> attempt is an offense and is supported by the evidence; or</p> <p style="padding-left: 40px;">(2) any offense that as a matter of law is a necessarily included offense or a lesser included offense of the offense charged in the petition and is supported by the evidence.</p> <p>(k) Motion for Judgment of Dismissal. If at the close of the evidence for the petitioner, the court is of the opinion that the evidence is insufficient to establish a prima facie case of guilt against the child, it may, or on the motion of the state attorney or the child shall, enter an order dismissing the petition for insufficiency of the evidence. <u>Dispositional Alternatives.</u> <u>If the court finds that the evidence proved the allegations of the petition beyond a reasonable doubt, it may enter an order of adjudication or withhold adjudication as provided by law. If the pre-disposition report required by law is available, the court may proceed immediately to disposition or continue the case for a disposition hearing. If the report is not available, the court will continue the case for a disposition hearing and refer it to the appropriate agency or agencies for a study and recommendation. If the case is continued the court may order the child detained.</u></p>	<p style="text-align: center;">Replaces “the” with “such” for greater clarity for the reader.</p> <p style="text-align: center;">Reorders subdivisions to provide logical and sequential order. The existing subdivision (k) is deleted as it was moved to become subdivision (f).</p> <p style="text-align: center;">The existing subdivision (g) is the new subdivision (k). The new subdivision (k) is the same as the existing subdivision (g) except that “supported” is replaced with “proved” and adds “beyond a reasonable doubt” in the first sentence of the subdivision.</p>
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AMENDED APPENDIX C

<p>RULE 8.255. GENERAL PROVISIONS FOR HEARINGS</p> <p>(a) Presence of Counsel. [NO CHANGE]</p> <p>(b) Presence of Child. [NO CHANGE]</p> <p>(c) Separate Examinations. [NO CHANGE]</p> <p>(d) Examination of Child; Special Protections. [NO CHANGE]</p> <p>(e) <u>Taking Testimony.</u></p> <p><u>(1) Testimony at Hearing or Trial.</u> When testifying at a hearing or trial, a witness must be physically present unless otherwise provided by law or these rules. This rule shall not apply to statutory requirements for parents to personally appear at arraignment hearings, advisory hearings, and adjudicatory hearings.</p> <p><u>(2) Communication Equipment.</u> The court may permit a witness to testify at a hearing or trial by contemporaneous audio or video communication equipment:</p> <p style="padding-left: 40px;">(A) <u>by agreement of the parties; or</u></p> <p style="padding-left: 40px;">(B) <u>for good cause shown upon written or ore tenus request of a party upon reasonable oral, written, or actual notice to all other parties. The request and notice must contain an estimate of the length of the proposed testimony. In considering sufficient good cause, the court must weigh and address in its order or its ruling on the record the reasons stated for testimony by</u></p>	<p>Amends subdivision (e) to permit taking testimony by communication equipment.</p> <p>Adds new subdivision (e)(1) that states that witnesses must be physically present to testify unless otherwise stated by the law or the Rules of Juvenile Procedure. The new subdivision (e)(1) emphasizes that subdivision (e) does not apply to statutory requirements for parent to personally appear at arraignment hearings, advisory hearings, and adjudicatory hearings.</p> <p>Adds the new subdivision (e)(2) that permits witnesses to testify at hearing or trial using contemporaneous audio or video equipment if the parties agree or if a party shows good cause after notice to the all parties. The new subdivision (e)(2) addresses the requirements of the request and notice to take testimony by communication equipment and the factors the court must weigh in considering whether good cause has been shown by the party.</p> <p>Adds new subdivision (e)(3) that addresses how the equipment used to take the testimony must function.</p>
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AMENDED APPENDIX C

communication equipment against the potential for prejudice to the objecting party.

(3) Required Equipment. Communication equipment as used in this rule means a conference telephone or other electronic device that permits all those appearing or participating to hear and speak to each other simultaneously and permits all conversations of all parties to be audible to all persons present. Contemporaneous video communications equipment, if used, must make the witness visible to all parties and participants present. For testimony by any of the foregoing means, there must be appropriate safeguards for the court to maintain sufficient control over the equipment and the transmission of the testimony so the court may stop the communication to accommodate objections or prevent prejudice. A parent who participates by contemporaneous audio or video communication equipment must be given the opportunity to privately and confidentially communicate with counsel during the proceedings.

(4) Oath. Testimony may be taken through communication equipment only if a notary public or other person authorized to administer oaths in the witness's jurisdiction is present with the witness and administers the oath consistent with the laws of the jurisdiction, unless all parties waive the requirement of a notary public or other person authorized to administer oaths in the witness's jurisdiction because there is no question as to the identity of the witness and the court will administer the oath via the communication equipment on the record.

(5) Burden of Expense. The cost for the use of the communication equipment is the responsibility of the requesting party unless otherwise ordered by the court.

Adds new subdivision (e)(4) regarding the oath that must be given to witnesses whose testimony is taken by contemporaneous audio or video equipment.

Adds new subdivision (e)(5) to address the cost for the use of communication equipment.

AMENDED APPENDIX C

<p><u>(f)</u> Invoking the Rule. Before the examination of any witness the court may, and on the request of any party shall<u>must</u>, exclude all other witnesses. The court may cause witnesses to be kept separate and to be prevented from communicating with each other until all are examined.</p> <p><u>(fg)</u> Continuances. As permitted by law, the court may grant a continuance before or during a hearing for good cause shown by any party.</p> <p><u>(gh)</u> Record. A record of the testimony in all hearings shall<u>must</u> be made by an official court reporter, a court-approved stenographer, or a recording device. The records of testimony shall<u>must</u> be preserved as required by law. Official records of testimony shall<u>must</u> be transcribed only on order of the court.</p> <p><u>(hi)</u> Notice. When these rules do not require a specific notice, all parties will be given reasonable notice of any hearing.</p> <p><u>(i)</u> Advising Parents. At any hearing when it has been determined that reunification is not a viable alternative, and prior to the filing of the petition for termination of parental rights, the court shall advise the parent of the availability of private placement of the child with an adoption entity as defined in Chapter 63, Florida Statutes.</p> <p><u>(j)</u> Written Notice. <u>The court must provide written notice of the right to participate in a private adoption plan, pursuant to chapter 63, Florida Statutes, when required by law.</u></p> <p style="text-align: center;">Committee Notes</p> <p>1991 Amendment. (b) This change allows a child to be present instead of mandating the child's presence when the child's</p>	<p>Renumbers subdivisions (e)–(i) to accommodate new taking testimony subdivision.</p> <p>Deletes archaic language “shall” in subdivisions (f) and (h) to “must” in compliance with the <i>Guidelines</i>.</p> <p>Deletes existing subdivision (i) and adds new subdivision (j) to conform to 2014 amendments to section 39.802, Florida Statutes, regarding written notice of the parents right to participate in a private adoption plan.</p>
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AMENDED APPENDIX C

presence would not be in his or her best interest. The court is given the discretion to determine the need for the child to be present.

1992 Amendment. This change was made to reflect a moderated standard for in-camera examination of a child less rigid than the criminal law standard adopted by the committee in the 1991 rule revisions.

2005 Amendment. Subdivision (i) was deleted because provisions for general masters were transferred to rule 8.257.

20 Amendment. This rule allows the parties to agree, or one or more parties to request, that the court authorizes presentation of witness testimony by contemporaneous video or audio communications equipment. A party seeking to present such testimony over the objection of another party must still satisfy the good-cause standard. In determining whether good cause exists, the trial court may consider such factors as the type and stage of proceeding, the presence or absence of constitutionally protected rights, the general substance of the testimony, the importance of the testimony to the resolution of the case, the relative cost or inconvenience of requiring the presence of the witness in court, the ability of counsel to use necessary exhibits or demonstrative aids, the limitations (if any) placed on the opportunity for opposing counsel and the finder of fact to observe the witness's demeanor, the potential for unfair surprise, the witness's affiliation with one or more parties, and any other factors the court reasonably deems material to weighing the justification the requesting party has offered in support of the request to allow a witness to testify by communications equipment against the potential for prejudice to the objecting party. With the advance of technology, the cost and availability of contemporaneous video testimony may be considered

Adds additional committee note for more explanation regarding subdivision (e).

AMENDED APPENDIX C

<u>by the court in determining whether good cause is established for audio testimony.</u>	
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AMENDED APPENDIX C

<p>RULE 8.257. GENERAL MAGISTRATES</p> <p class="list-item-l1">(a) Appointment. [NO CHANGE]</p> <p class="list-item-l1">(b) Referral. [NO CHANGE]</p> <p class="list-item-l1">(c) General Powers and Duties. [NO CHANGE]</p> <p class="list-item-l1">(d) Hearings.</p> <p class="list-item-l2">(1)–(2) [NO CHANGE]</p> <p class="list-item-l2">(3) The general magistrate shall have authority to examine under oath the parties and all witnesses on all matters contained in the referral, to require production of all books, papers, writings, vouchers, and other documents applicable to it, and to examine on oath orally all witnesses produced by the parties. The general magistrate may take all actions concerning evidence that can be taken by the circuit court and in the same manner. The general magistrate shall have the same powers as a circuit judge to use communications equipment as defined and regulated by Florida Rule of Judicial Administration 2.530<u>these rules</u>.</p> <p class="list-item-l2">(4) [NO CHANGE]</p> <p class="list-item-l1">(e) Report. [NO CHANGE]</p> <p class="list-item-l1">(f) Exceptions. [NO CHANGE]</p> <p class="list-item-l1">(g) Record.</p>	<p>Removes reference to Florida Rule of Judicial Administration 2.530 and adds “these rules” as testimony by communication equipment is addressed in the proposed amendments to Rule 8.255(e).</p>
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AMENDED APPENDIX C

(1) For the purpose of the hearing on exceptions, a record, substantially in conformity with this rule, shall be provided to the court by the party seeking review. The record shall consist of:

(A)–(C) [NO CHANGE]

(2)–(4) [NO CHANGE]

(h) Prohibition on Magistrate Presiding over Certain Hearings [NO CHANGE]

Adds a colon in compliance with the *Guidelines*.

AMENDED APPENDIX C

<p>RULE 8.320. PROVIDING COUNSEL TO PARTIES</p> <p>(a) Duty of the Court.</p> <p>(1) At each stage of the dependency proceeding, the court shall advise the parent of the right to have counsel present.</p> <p>(2)–(3) [NO CHANGE]</p> <p>(4) <u>At each stage of the dependency proceeding, the court shall appoint an attorney to represent a child with special needs as defined in chapter 39, Florida Statutes, and who is not already represented by an attorney.</u></p> <p>(b) Waiver of Counsel. [NO CHANGE]</p>	<p>Adds a comma after proceeding to correct grammar.</p> <p>Adds a requirement for the court to appoint an attorney for children with special needs.</p>
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AMENDED APPENDIX C

<p>RULE 8.425. PERMANENCY HEARINGS</p> <p>(a) Required Review. [NO CHANGE]</p> <p>(b) Determinations at Hearing.</p> <p>(1) The court shall determine:</p> <p>(A)–(C) [NO CHANGE]</p> <p>(2)–(3) [NO CHANGE]</p> <p>(4) — If the court approves a permanency goal of adoption, the court shall advise the parents of the availability of private placement of the child with an adoption entity, as defined in chapter 63, Florida Statutes.</p> <p>(c) [NO CHANGE]</p> <p>(d) Permanency Order.</p> <p>(1)–(2) [NO CHANGE]</p> <p>(3) — If the court approves a permanency goal of adoption, the order approving this goal shall include a provision stating that the court advised the parents of the availability of private placement of the child with an adoption entity as defined in chapter 63, Florida Statutes, during the permanency hearing.</p> <p>(4³) If the court approves a permanency goal of permanent guardianship of a dependent child, placement with a fit and willing relative, or another planned permanent living arrangement, the court shall make findings as to why this permanent</p>	<p>Adds a colon in compliance with the <i>Guidelines</i>.</p> <p>Deletes subdivision (b)(4) as it is unnecessary in light of proposed new subdivision (j) in Rule 8.255.</p> <p>Deletes subdivision (d)(3) as it is unnecessary in light of proposed new subdivision (j) in Rule 8.255.</p> <p>Renumbers the subdivisions to accommodate for the deletion of subdivision (d)(3).</p>
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AMENDED APPENDIX C

<p>placement is established without adoption of the child to follow. The department and the guardian ad litem must provide the court with a recommended list and description of services needed by the child, such as independent living services and medical, dental, educational, or psychological referrals, and a recommended list and description of services needed by his or her caregiver.</p> <p>(54) If the court establishes a permanent guardianship for the child, the court's written order shall:</p> <p style="text-align: center;">(A)–(E) [NO CHANGE]</p> <p>(65) The court shall retain jurisdiction over the case and the child shall remain in the custody of the permanent guardian unless the order creating the permanent guardianship is modified by the court. The court shall discontinue regular review hearings and relieve the department of the responsibility for supervising the placement of the child. Notwithstanding the retention of jurisdiction, the placement shall be considered permanency for the child.</p> <p>(76) If the court permanently places a child with a fit and willing relative, the court's written order shall:</p> <p style="text-align: center;">(A)–(D) [NO CHANGE]</p> <p>(87) If the court establishes another planned permanent living arrangement as the child's permanency option:</p> <p style="text-align: center;">(A)–(D) [NO CHANGE]</p>	<p style="text-align: center;">Renumbers the subdivision to accommodate for the deletion of subdivision (d)(3). Adds a colon in compliance with the <i>Guidelines</i>.</p> <p style="text-align: center;">Renumbers the subdivision to accommodate for the deletion of subdivision (d)(3).</p> <p style="text-align: center;">Renumbers the subdivision to accommodate for the deletion of subdivision (d)(3). Adds colon in compliance with the <i>Guidelines</i>.</p> <p style="text-align: center;">Renumbers the subdivision to accommodate for the deletion of subdivision (d)(3).</p>
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AMENDED APPENDIX C

<p>(e) Entry of Separate Order Establishing Permanency. [NO CHANGE]</p> <p>(f) Recommendations for Sustaining Permanency. [NO CHANGE]</p>	
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AMENDED APPENDIX C

<p>RULE 8.435. REINSTATEMENT OF JURISDICTION FOR YOUNG ADULT</p> <p>(a) Petition for Reinstatement of Jurisdiction.</p> <p>(1) [NO CHANGE]</p> <p>(2) The petition for reinstatement of jurisdiction must be in writing and specify that the young adult meets the eligibility requirements for readmission to foster care as provided by law. <u>The petition shall indicate whether the young adult has a special need requiring appointment of counsel as required by section 39.01305, Florida Statutes.</u> The petition is not required to be sworn and notarized.</p> <p>(3) [NO CHANGE]</p> <p>(b) [NO CHANGE]</p> <p>(c) Order on Petition for Reinstatement of Jurisdiction.</p> <p>(1)–(2) [NO CHANGE]</p> <p>(3) <u>The court shall appoint an attorney to represent a young adult with special needs as defined in section 39.01305, Florida Statutes, who is not already represented by an attorney.</u></p>	<p>Amends subdivision (a)(2) to require the petition for reinstatement of jurisdiction for young adults reentering extended foster care to address appointment of counsel for youth with special needs.</p> <p>Adds new subdivision (c)(3) to require that the order for reinstatement of jurisdiction for young adults reentering extended foster care address the appointment of counsel for youth with special needs.</p>
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