

APPENDIX B

Proposed Rule	Reason for Change
<p>RULE 8.217. ATTORNEY AD LITEM/ATTORNEY FOR THE CHILD</p> <p>(a) Request. [NO CHANGE]</p> <p>(b) Appointment. The court may appoint an attorney ad litem to represent the child in any proceeding as allowed by law. <u>The court must appoint an attorney for the child who is the subject of a motion to modify custody as required by law.</u></p> <p>(c) Duties and Responsibilities. [NO CHANGE]</p> <p>(d) Service. Any attorney ad litem <u>appointed under this rule</u> is entitled to receive and must provide service of pleadings and documents as provided by rule 8.225.</p> <p><u>Committee Note</u></p> <p><u>202 Amendment.</u> Subdivision (b) was amended in response to ch. 2021-169, Laws of Florida.</p>	<p>Adds “attorney for the child” to the title to make the rule more expansive.</p> <p>Adds a sentence that specifies that the court must appoint an attorney for a child who is the subject of a motion to modify custody.</p> <p>Adds “y” to “An”, deleting “ad litem”, and adding “appointed under this rule” for greater clarity for the reader.</p> <p>Adds to specify the statute amendment that required this rule amendment.</p>

<p>RULE 8.305. SHELTER PETITION, HEARING, AND ORDER</p> <p>(a) Shelter Petition. [NO CHANGE]</p> <p>(b) Shelter Hearing.</p> <p>(1)–(9) [NO CHANGE]</p> <p>(10) The court shall inquire of the parents whether the parents have relatives, <u>fictive kin, or nonrelatives</u> who might be considered for placement of the child. The parents shall provide to the court and all parties identification and location information regarding the relatives, <u>fictive kin, or nonrelatives</u>. The court shall advise the parents that the parents have a continuing duty to inform the department of any relative, <u>fictive kin, or nonrelatives</u> who should be considered for placement of the child.</p> <p>(11)–(15) [NO CHANGE]</p> <p>(c) Shelter Order. An order granting shelter care must identify the parties present at the hearing and contain written findings that:</p> <p>(1)–(2) [NO CHANGE]</p> <p>(3) <u>the department made reasonable efforts to place the child in the order of priority provided in Chapter 39, Florida Statutes, or why such priority placement is not a placement option or in the best interest of the child based on the criteria</u></p>	<p>Adds “, fictive kin, or nonrelatives” throughout subdivision to include the other priority placement options for the child.</p> <p>Adds new subdivision regarding reasonable efforts to place the child in order of priority specified in the statute or why such placement is not a placement option or not in the child’s best interests.</p>
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<p><u>established by law.</u></p> <p>(34) the department made reasonable efforts to keep the siblings together after the removal from the home and specifies if the children are currently not placed together, why a foster home is not available or why it is not in the best interest of the child that all the siblings be placed together in out-of-home care;</p> <p>(45) specifies on-going visitation or interaction between the siblings or if sibling visitation or interaction is not recommended<u>ordered</u>, specifies why visitation or interaction would be contrary to the safety or well-being of the child <u>and, if services are available that would reasonably be expected to ameliorate the risk to the child's safety or well-being and may result in the communication and visitation being restored, directs the department to immediately provide such services;</u></p> <p>(56) continuation of the child in the home is contrary to the welfare of the child because the home situation presents a substantial and immediate danger to the child's physical, mental, or emotional health or safety that cannot be mitigated by the provision of preventive services;</p> <p>(67) there is probable cause to believe the child is dependent;</p> <p>(78) the department has made reasonable efforts to prevent or eliminate the need for</p>	<p>Renumbers subdivision to accommodate new subdivision (c)(3).</p> <p>Renumbers subdivision to accommodate new subdivision (c)(3).</p> <p>Adds a phrase regarding requiring the court to make a finding of whether services are available to ameliorate the risk to the children's safety when sibling visitation is not ordered.</p> <p>Renumbers subdivision to accommodate new subdivision (c)(3).</p> <p>Renumbers subdivision to accommodate new subdivision (c)(3).</p> <p>Renumbers subdivision to accommodate new</p>
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<p>removal of the child from the home, including a description of which specific services, if available, could prevent or eliminate the need for removal or continued removal from the home, the date by which the services are expected to become available, and, if services are not available to prevent or eliminate the need for removal or continued removal of the child from the home, an explanation of why the services are not available for the child;</p> <p>(89) the court notified the parents, relatives who are providing out-of-home care for the child, or legal custodians of the time, date, and location of the next dependency hearing, and of the importance of their active participation in all subsequent proceedings and hearing;</p> <p>(910) the court notified the parents or legal custodians of their right to counsel as provided by law;</p> <p>(1011) the court notified relatives who are providing out-of-home care for a child, as a result of the shelter petition being granted, that they have the right to attend all subsequent hearings, to submit reports to the court, and to speak to the court regarding the child, if they so desire; and</p> <p>(1112) the department has placement and care responsibility for any child who is not placed in the care of a parent at the conclusion</p>	<p>subdivision (c)(3).</p> <p>Renumbers subdivision to accommodate new subdivision (c)(3).</p> <p>Renumbers subdivision to accommodate new subdivision (c)(3).</p> <p>Renumbers subdivision to accommodate new subdivision (c)(3).</p> <p>Renumbers subdivision to accommodate new</p>
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<p>of the shelter hearing.</p> <p>(d) Release from Shelter Care. No child shall be released from shelter care after a shelter order has been entered except on order of the court unless the shelter order authorized release by the department.</p> <p style="text-align: center;"><u>Committee Note</u></p> <p><u>2021 Amendment. Multiple sections of this rule were amended in response to ch. 2021-169, Laws of Florida.</u></p> <p>RULE 8.345. POST-DISPOSITION RELIEF</p> <p>(a) Motion for Modification of Placement. At any time before a child is residing in the</p>	<p>subdivision (c)(3).</p> <p style="text-align: center;">Adds a Committee Note to specify the statute amendment that required this rule amendment.</p>
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permanent placement approved at the permanency hearing, a child who has been placed in his or her own home, in the home of a relative, or in some other place, under the supervision or legal custody of the department, may be brought before the court by the department or any interested person on a motion for modification of placement. ~~If neither the department, the child, the parents, the legal custodian, nor any appointed guardian ad litem or attorney ad litem object to the change, then the court may enter an order making the change in placement without a hearing.~~ The court may enter an order making the change in placement without a hearing unless a party or the current caregiver objects to the change. ~~If the department, the child, the parents, the legal custodian, or any appointed guardian ad litem or attorney ad litem~~ any party or the current caregiver objects to the change of placement, the court ~~shall~~must conduct a hearing and thereafter enter an order changing the placement, modifying the conditions of placement, continuing placement as previously ordered, or placing the child with the department or a licensed child-caring agency.

(b) Standard for Changing Custody.

(1) Generally. The standard for changing custody of the child ~~shall~~must be the best interests of the child as provided by law. When determining whether a change of legal custody or placement is in the best interests of the child, the court ~~shall consider~~must consider the best interests factors provided by law, the report filed by the

Deletes the second sentence and replaces it with a new sentence that tracks the 2021 amendments to section 39.522, Florida Statutes.

Modifies sentence to specify who may object to the change of placement.

Replaces “shall” with “must” in compliance with *In re Guidelines for Rules Submissions*, AOSC06-14 (Fla. 2006).

Replaces “shall” with “must” in compliance with *In re Guidelines for Rules Submissions*, AOSC06-14 (Fla. 2006).

Adds “as provided by law” as the factors the court must considered are listed in the new statutory changes and do not need to be repeated in

<p><u>multidisciplinary team, if applicable, and the priority of placements as provided by law, or as otherwise provided by law.</u>-</p> <p>(A) — The child’s age.</p> <p>(B) — The physical, mental, and emotional health benefits to the child by remaining in his or her current placement or moving to the proposed placement.</p> <p>(C) — The stability and longevity of the child’s current placement.</p> <p>(D) — The established bonded relationship between the child and the current or proposed caregiver.</p> <p>(E) — The reasonable preference of the child, if the court has found that the child is of sufficient intelligence, understanding, and experience to express a preference.</p> <p>(F) — The recommendation of the child’s current caregiver,.-</p> <p>(G) — The recommendation of the child’s guardian ad litem, if one has been appointed.</p> <p>(H) — The child’s previous and current relationship with a sibling, if the change of legal custody or placement will separate or reunite</p>	<p>the rule.</p> <p>Adds a phrase regarding the best interest standards being provided by law.</p> <p>Deletes the current standard for changing custody and the subsequent factors listed as the factors are in the new statute and do not need to be repeated in the rule.</p>
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siblings.

~~(I) — The likelihood of the child attaining permanency in the current or proposed placement.~~

~~(J) — Any other relevant factors.~~

(2) Rebuttable presumption.

(A) In a hearing on a change of physical custody when the child has been in the same safe and stable placement for 9 consecutive months or more, a rebuttable presumption that it is in the child's best interest to remain permanently in his or her current placement applies as required by law.

(B) A caregiver who objects to the department's official position on the change in physical custody must notify the court and the department of his or her objection and the intent to request an evidentiary hearing in writing within 5 days after receiving notice of the department's official position.

(C) Within 7 days after receiving written notice from the caregiver, the court must conduct an initial case status hearing, at which time the court must:

(i) grant limited purpose party status to the current caregiver who is seeking

Adds new subdivision (b)(2) to address new rebuttable presumption created by section 39.522(3)(b)1, Florida Statutes.

permanent custody and has maintained physical custody of that child for at least 9 continuous months for the limited purpose of filing a motion for a hearing on the objection and presenting evidence pursuant to this rule;

(ii) appoint an attorney for the child who is the subject of the permanent custody proceeding, in addition to the guardian ad litem, if one is appointed;

(iii) advise the caregiver of his or her right to retain counsel for purposes of the evidentiary hearing; and

(iv) appoint a court-selected neutral and independent licensed professional with expertise in the science and research of child-parent bonding.

(D) The court must conduct the evidentiary hearing and provide a written order of its findings regarding the placement that is in the best interest of the child no later than 90 days after the date the caregiver provided written notice to the court. The court must provide its written order to the department, the caregiver, and the prospective caregiver.

(23) Reunification.

(A) In cases in which the issue before the court is whether a child should be

<p>reunited with a parent, and the child is currently placed with someone other than a parent, the court must review the conditions for return and determine whether the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home with an in-home safety plan prepared or approved by the department will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health.</p> <p>(B) In cases in which the issue before the court is whether a child who is placed in the custody of a parent should be reunited with the other parent upon a finding that the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home of the other parent with an in-home safety plan prepared or approved by the department will not be detrimental to the child, the court must determine that the safety, well-being, and physical, mental, and emotional health of the child would not be endangered by reunification and that reunification would be in the best interest of the child.</p> <p>(34) Removal from Home. In cases in which the issue before the court is whether to place a child in out-of-home care after the child was placed in the child's own home with an in-home safety plan or the child was reunified with a parent or caregiver with an in-home safety plan, the court must consider, at a minimum, the following factors in</p>	<p>Renumbers the subdivision to accommodate new subdivision (b)(2).</p> <p>Renumbers the subdivision to accommodate new subdivision (b)(2).</p>
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making its determination whether to place the child in out-of-home care:

(A)–(D) [NO CHANGE]

(c) Change of Permanency Goal. [NO CHANGE]

(d) Motion for Termination of Supervision or Jurisdiction. [NO CHANGE]

Committee Note

201 Amendment. Multiple sections of this rule were amended in response to ch. 2021-169, Laws of Florida.

Adds a Committee Note to specify the statute amendment that required this rule amendment.

**RULE 8.415. JUDICIAL REVIEW OF
DEPENDENCY CASES**

(a) Required Review. [NO CHANGE]

(b) Scheduling Hearings.

(1) Initial Review Hearing. [NO

<p>CHANGE]</p> <p>(2) Subsequent Review Hearings.</p> <p>[NO CHANGE]</p> <p><u>(3) Review Hearings for Children 16 Years of Age.</u> <u>The court must provide the child the opportunity to address the court and must review the child’s independent living transition services. The foster parent, legal custodian, or guardian ad litem may also provide any information relevant to the child’s best interest to the court. At the first hearing after the child’s 16th birthday, the court must inquire about the life skills the child has acquired and whether they are age-appropriate, and the department must provide a report that includes specific information as to the life skills the child has acquired since the child’s 13th birthday, or since the child came into foster care, whichever came later.</u></p> <p><u>(34) Review Hearings for Children 17 Years of Age.</u> The court must hold a judicial review hearing within 90 days after a child’s 17th birthday. The court must also issue an order, separate from the order on judicial review, that the specific disabilities of nonage of the child have been removed pursuant to sections 743.044, 743.045, 743.046, and 743.047, Florida Statutes, as well as any other disabilities of nonage that the court finds to be in the child’s best interest to remove. The court must continue to hold timely judicial review hearings. The department must update the child’s transition plan before each judicial review hearing as required by</p>	<p>Adds new subdivision (b)(3) that provides the requirements of a judicial review for a child that is 16 years old.</p> <p>Renumbers the subdivision to accommodate new subdivision (b)(3).</p>
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law. If necessary, the court may review the status of the child more frequently during the year before the child's 18th birthday. At the last review hearing before the child reaches 18 years of age, the court must also address whether the child plans to remain in foster care, and, if so, ensure that the child's transition plan complies with the law. The court must approve the child's transition plan before the child's 18th birthday.

(45) Review Hearings for Young Adults in Foster Care. The court must review the status of a young adult at least every six months and must hold a permanency review hearing at least annually while the young adult remains in foster care. The young adult or any other party to the dependency case may request an additional hearing or judicial review.

(c) Report. [NO CHANGE]

(d) Service. [NO CHANGE].

(e) Information Available to Court. [NO CHANGE]

(f) Court Action. [NO CHANGE]

(g) Jurisdiction. [NO CHANGE]

(h) Administrative Review. [NO CHANGE]

Renumbers the subdivision to accommodate new subdivision (b)(3).

(i) Concurrent Planning. [NO CHANGE]

Committee Note

202 Amendment. Section (b) of this rule was amended in response to ch. 2021-169, Laws of Florida.

Adds a Committee Note to specify the statute amendment that required this rule amendment.

RULE 8.540. MOTION TO REINSTATE PARENTAL RIGHTS

(a) Initiation of Proceedings. Following a termination of parental rights, the department, the parent whose rights were terminated, or the child, may file a motion to reinstate the parent's parental rights as provided by Chapter 39, Florida Statutes.

Adds a new rule to address the new statute

<p><u>(b) Initial Evidentiary Hearing on Motion.</u></p> <p><u>(1) Notice of Hearing.</u> <u>The court must issue a notice of the hearing on the motion to the parties and participants. The notice must state the issue to be determined and that the movant is required to present evidence at the hearing on the motion.</u></p> <p><u>(2) Burden to Present Evidence and Proof.</u> <u>At the initial evidentiary hearing, the movant has the burden of presenting relevant evidence. All other parties may present evidence regarding the claims raised.</u></p> <p><u>(3) Generally.</u> <u>When evaluating a motion to reinstate parental rights, the court must consider all relevant evidence including the criteria provided in Chapter 39, Florida Statutes. The court determines if the movant met the criteria provided by law by clear and convincing evidence.</u></p> <p><u>(c) Transition Period.</u></p> <p><u>(1) Visitation and Trial Home Visits.</u> <u>If the court determines that the movant met the criteria at the initial evidentiary hearing, the court must order the department to conduct supervised visitation and trial home visits between the child and the former parent for at least 3 consecutive months following the completion of an approved home study. The court must consider the multidisciplinary team's transition plan.</u></p>	<p>section 39.8155, Florida Statutes.</p> <p>Adds subdivision (a) to specify how the proceeding would be initiated.</p> <p>Adds subdivision (b)(1) that provides the requirements of the notice of hearing on the initial evidentiary hearing on the motion to reinstate parental rights.</p> <p>Adds subdivision (b)(2) specifies that the movant has the burden of proof and presentation of evidence.</p> <p>Adds subdivision (b)(3) specifies that the court must use the clear and convincing</p> <p>Adds subdivision (c) that specifies the manner of the trial home visits and subsequent reports and notifications that must be completed by the department if the court grants the motion.</p>
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(2) Reports and Notifications.

During the period of visitation and trial home visits, the court must consider reports provided by the department every 30 days regarding the supervised visitation, home visits, and the department's recommendation for reinstatement of parental rights. The court must also consider any notifications by the department of termination of visitations due to allegations of abuse, neglect, or abandonment, if the child's safety or well-being is threatened, or if continuing visitation is not in the child's best interest.

(d) Final Evidentiary Hearing for Consideration of the Reinstatement of Parental Rights. Within 30 days of either completion of the period of visitation and trial home visits or the department's termination of trial home visits, the court must conduct a final evidentiary hearing on the motion. The court may reinstate parental rights upon a finding of clear and convincing evidence that it is in the best interest of the child. If visits are terminated and the court finds it is not in the child's best interest to reinstate parental rights, the court must deny the motion to reinstate.

(e) Retention of Jurisdiction Following Reinstatement of Parental Rights. Upon ordering reinstatement of parental rights, the court must place the child in the custody of the former parent with an in-home safety plan. The court must retain jurisdiction for at least 6 months during which the court must consider the department's reports on the

Adds subdivision (d) that specifies how the final evidential hearing should be conducted.

Adds subdivision(e) specifies the court retention of jurisdiction when the court reinstates

<p><u>stability of the placement. At the end of the 6 months, the court must determine whether its jurisdiction should continue or be terminated based on the received reports or any other relevant factors. If the court retains jurisdiction, the court must review the continued retention of jurisdiction every 3 months thereafter until the court terminates its jurisdiction or the child reaches the age of majority.</u></p> <p style="text-align: center;"><u>Committee Note</u></p> <p><u>202 Amendment.</u> This rule was created in response to ch. 2021-169, Laws of Florida.</p>	<p>parental rights.</p> <p style="text-align: center;">Adds a Committee Note to specify the statute amendment that required this rule creation.</p>
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