

Supreme Court of Florida

ORIGINAL

THURSDAY, AUGUST 22, 1991

CORRECTED COPY

IN RE PETITION OF THE FLORIDA BAR TO AMEND
THE FLORIDA RULES OF JUVENILE PROCEDURE.

CASE NO. 76,669

The Juvenile Court Rules Committee's Motion for Clarification is granted and the attached corrected opinion dated May 9, 1991, is substituted in lieu thereof.

The Public Defender's Motion for Rehearing is hereby denied.

SHAW, C.J. and OVERTON, McDONALD, BARKETT, GRIMES, KOGAN and HARDING, JJ., concur.

A True Copy

JB

TEST:

cc: Jeanne D. Howard, Esquire
John F. Harkness, Jr., Esquire
Ward L. Metzger, Esquire
Daniel Dawson, Esquire
Anthony C. Musto, Esquire

Sid J. White
Clerk Supreme Court.

Supreme Court of Florida

No. 76,669

IN RE PETITION OF THE FLORIDA BAR TO AMEND
THE FLORIDA RULES OF JUVENILE PROCEDURE.

[May 9, 1991]

PER CURIAM.

In connection with The Florida Bar re Advisory Opinion HRS Nonlawyer Counselor, 547 So.2d 909 (Fla. 1989), and In re Amendments to Florida Rules of Juvenile Procedure (HRS Unlicensed Practice of Law), 557 So.2d 1360 (Fla. 1990), this Court gave permission to the Florida Bar Juvenile Court Rules Committee to revise the Florida Rules of Juvenile Procedure outside the four-year cycle for rules revision. The proposed amendments reflect statutory changes through the 1990 legislative session. The Court has received comments and suggestions from the Jacksonville Public Defender regarding the delinquency rules and from the

Florida Rules of Judicial Administration Committee regarding use of certified court reporters. The juvenile rules committee considered the public defender's suggestions and agreed with some and disagreed with others.

After considering the juvenile rules committee's proposed amendments and the suggestions received from others, the Court adopts the committee's proposals. Therefore, the rules of juvenile procedure are amended as set out following this opinion. The amended rules will be effective at 12:01 a.m., July 1, 1991.

It is so ordered.

SHAW, C.J., and OVERTON, McDONALD, BARKETT, GRIMES, KOGAN and HARDING, JJ., concur.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE RULES.

PART I. DELINQUENCY PROCEEDINGS

A. INTRODUCTORY RULES

RULE 8.01000. SCOPE AND PURPOSE

These rules shall govern the procedures in the circuit court in the exercise of its jurisdiction under the Florida Juvenile Justice Act.

They are intended to provide a just, speedy, and efficient determination of the procedures covered by them and shall be construed to secure simplicity in procedure and fairness in administration.

They shall be known as the Florida Rules of Juvenile Procedure and may be cited as Fla. R. Juv. P.

When appropriate the use of singular nouns and pronouns shall be construed to include the plural and the use of plural nouns and pronouns shall be construed to include the singular. ~~The use of male pronouns shall be construed in the universal sense of both male and female.~~

Committee Note: All rules have been edited for style and to remove gender-bias. The rules have been reorganized and renumbered to correspond to the types and stages of juvenile proceedings. Cross-references have been changed accordingly.

~~RULE 8.020 [RESERVED]~~

B. PRELIMINARY PROCEEDINGS

RULE 8.03005. ORDERING CHILDREN INTO CUSTODY

Initial paragraph [No change]

- (a) Bbe in writing;
- (b) Sspecify the name and address of the child or, if unknown, designate ~~him~~ the child by any name or description by which ~~he~~ the child can be identified with reasonable certainty;
- (c) Sspecify the age and sex of the child, or, if ~~his~~ 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;
- (d) State the reasons why the child is being taken into custody;
- (e) Oorder 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;

(f) Sstate the date when issued, and the county and court where issued; and

(g) Bbe signed by the judge court with the title of his office.

RULE 8.05010. DETENTION HEARING

(a) When Required. No detention order provided for in Rrule 8.04013 shall be entered without a hearing at which all parties shall have an opportunity to be heard on the necessity for the child's being held in detention, unless the court finds that the parent or custodian cannot be located or that the child's mental or physical condition is such that a court appearance is not in his the child's best interest.

(b)--(e) [No change]

(1) The nature of the charge for which he or she was taken into custody;

(2) His the right to be represented by counsel and if insolvent the right to appointed counsel;

(3) That he the child is not required to say anything and that anything he says said may be used against him or her;

(4) If his the child's parent, custodian, or counsel is not present, that he or she has a right to communicate with them and that, if necessary, reasonable means will be provided for him to do so; and

(5) The reason continued detention is requested.

(f) [No change]

(g) Probable Cause. If the court finds that such probable cause exists, it shall enter an order making such a finding and may, if other statutory needs of detention exist, retain the child in detention. If the court finds that such probable cause does not exist, it shall forthwith release the child from detention. If the court finds that one or more of the statutory needs of detention exists, but is unable to make a finding on the existence of probable cause, it may retain the child in detention and continue the hearing for the purpose of determining the existence of probable cause to a time within ~~seventy-two (72)~~ hours of the time the child was taken into custody. The court may, on a showing of good cause, continue the hearing a second time for not more than ~~twenty-four (24)~~ hours beyond the ~~seventy-two (72) hour~~ 72-hour period. Release of the child based on no probable cause existing shall not prohibit the filing of a petition and further proceedings thereunder, but shall prohibit the holding of the child in detention prior to an adjudicatory hearing.

RULE 8.04013. DETENTION PETITION AND ORDER

(a) Time Limitation. No child taken into custody shall be detained, as a result of the incident for which ~~he is~~ taken into custody, longer than ~~twenty-four hours~~ as provided by law unless a detention order so directing is made by the ~~judge~~ court following a detention hearing.

(b) Petition. The detention petition shall:

(1) Bbe in writing and be filed with the court;

(2) Sstate the name and address of the child or, if unknown, designate ~~him~~ the child by any name or description by which he or she can be identified with reasonable certainty;

(3) Sstate the age and sex of the child, or, if ~~his~~ the age is unknown, that ~~he~~ the child is believed to be of an age which will make him or her subject to the procedures covered by these rules;

(4) Sstate the reasons why the child is in custody and needs to be detained;

(5) Recommend the place where the child is to be detained or the agency to be responsible for the detention; and

(6) Bbe signed by an authorized agent of the Department of Health and Rehabilitative Services or by the state attorney or assistant state attorney.

(c) Order. The detention order shall:

(1) Bbe in writing;

(2) Sstate the name and address of the child or, if unknown, designate ~~him~~ the child by any name or description by which he or she can be identified with reasonable certainty;

(3) Sstate the age and sex of the child, or, if ~~his~~ the age is unknown, that ~~he~~ the child is believed to be of an age which will make him or her subject to the procedures covered by these rules;

(4) Orders that the child shall be held in detention and state the reasons therefor;

(5) Make a finding that probable cause exists that the child is delinquent ~~or dependent~~, or that such a finding cannot be made at this time and that the case is continued for such a determination to a time certain within ~~seventy-two (72)~~ hours from the time the child is taken into custody unless this time is extended by the court for good cause shown for not longer than an additional ~~twenty-four (24)~~ hours;

(6) Designate the place where the child is to be detained or the person or agency that will be responsible for ~~his~~ the detention along with any special conditions found to be necessary;

(7) State the date and time when issued and the county and court where issued, together with the date and time the child was taken into custody; and

(8) Be signed by the ~~judge~~ court with the title of ~~his~~ office.

RULE 8.015. ARRAIGNMENT OF DETAINED CHILD

(a) When Required. If a petition for delinquency is filed and the child is being detained, whether in secure, nonsecure, or home detention, the child shall be given a copy of the petition and shall be arraigned within 48 hours of the filing of the petition, excluding Saturdays, Sundays, or legal holidays.

(b) Notice.

(1) Personal appearance of any person in a hearing before the court shall obviate the necessity of serving process on that person.

(2) The clerk of the court shall give notice of the time and place of the arraignment to the parent or guardian of the child and the superintendent of the detention center by:

(A) summons;

(B) written notice; or

(C) telephone notice.

(3) The superintendent of the detention center, or designee, also shall verify that a diligent effort has been made to notify the parent or guardian of the child of the time and place of the arraignment.

(4) Failure of notice to the parent or guardian, or nonattendance of the parent or guardian at the hearing, shall not invalidate the proceeding.

Committee Note: This rule corresponds to section 39.044(7), Florida Statutes, which requires detained children to be arraigned within 48 hours of the filing of the delinquency petition. This statutory requirement does not allow the normal summons process to take place. The rule, therefore, creates an option for the clerk of the court to notice the parent by phone or in writing.

-DC. PLEADINGS, PROCESS, AND ORDERS

RULE 8.09025. STYLE OF PLEADINGS AND ORDERS

[No change in text]

RULE 8.10030. COMMENCEMENT OF FORMAL PROCEEDINGS

All proceedings shall be initiated by the filing of a petition by a person authorized by law to do so. A uniform traffic complaint may be considered a petition, but shall not be subject to the requirements of Rule 8.11035.

RULE 8.11035. PETITIONS FOR DELINQUENCY

(a) [No change]

(b) Verification. The petition shall be signed by the state attorney, or assistant state attorney, ~~or other petitioner,~~ stating under oath ~~his~~ the petitioner's good faith in filing the petition. No objection to a petition on the grounds that it was not signed or verified, as herein provided, shall be entertained after a plea to the merits.

(c) [No change]

(d) Defects and Variances. No petition or any count thereof shall be dismissed, or any judgment vacated, on account of any defect in the form of the petition or of misjoinder of offenses or for any cause whatsoever. If the court is of the opinion that the petition is so vague, indistinct, and indefinite as to mislead the child and prejudice ~~him~~ the child in the preparation of a defense, the petitioner may be required to furnish a statement of particulars.

(e) [No change]

RULE 8.12040. PROCESS

(a) Summons.

(1) Upon the filing of a petition upon a child who is not detained by order of the court, the clerk shall issue a summons. The summons shall require the person on whom it is served to appear for a hearing at a time and place specified. The time of the hearing shall not be less than ~~twenty-four (24)~~ hours after service of the summons. ~~If the child is not detained by order of the court,~~ ~~t~~The summons shall require the custodian to produce the child at the said time and place. A copy of the delinquency petition shall be attached to the summons.

(2) If the child is being detained by order of the court, process shall be in accordance with the rule pertaining to the arraignment of a detained child.

(b) [No change]

(c) [No change]

Committee Note: This rule clearly defines the difference in procedures for summons for detained and nondetained children.

RULE 8.045. NOTICE TO APPEAR

(a) Definition. A notice to appear, unless indicated otherwise, means a written order issued by a law enforcement officer or authorized agent of the department, in lieu of taking a child into custody or detaining a child, which requires a child accused of violating the law to appear in a designated court or governmental office at a specified date and time.

(b) By Arresting Officer. If a child is taken into custody for a violation of law and the officer elects to release the child as provided by law to a parent, responsible adult relative, or legal guardian, a notice to appear may be issued to the child by the officer unless:

(1) the child fails or refuses to sufficiently identify himself or herself or supply the required information;

(2) the child refuses to sign the notice to appear;

(3) the officer has reason to believe that the continued liberty of the child constitutes an unreasonable risk of bodily injury to the child or others;

(4) the child has no ties with the jurisdiction reasonably sufficient to assure an appearance or there is substantial risk that the child will refuse to respond to the notice;

(5) the officer has any suspicion that the child may be wanted in any jurisdiction; or

(6) it appears that the child has previously failed to respond to a notice or a summons or has violated the conditions of any pretrial release program.

(c) By Departmental Agent. If a child is taken into custody by an authorized agent of the department as provided by law, or if an authorized agent of the department takes custody of a child from a law enforcement officer and the child is not detained, the agent shall issue a notice to appear to the child upon the child's release to a parent, responsible adult relative, or legal guardian.

(d) How and When Served. If a notice to appear is issued it shall be prepared in sextuplicate. One copy of the notice shall be delivered to the child and 1 copy shall be delivered to the person to whom the child is released. In order to secure the child's release, the child and the person to whom the child is

released shall give their written promise that the child will appear as directed in the notice by signing the remaining copies. One copy is to be retained by the issuer and 3 copies are to be filed with the clerk of the court. These 3 copies shall be sworn to by the issuer, a notary public, a deputy clerk, or an authorized agent of the department.

(e) Distribution of Copies. The clerk shall deliver 1 copy of the notice to appear to the state attorney and 1 copy to the department and shall retain 1 copy in the court's file.

(f) Contents. A notice to appear shall contain the following information:

(1) The name and address of the child and the person to whom the child was released.

(2) The date of the offense(s).

(3) The offense(s) charged by statute and municipal ordinance, if applicable.

(4) The counts of each offense.

(5) The time and place where the child is to appear in court.

(6) The name and address of the trial court having jurisdiction to try the offense(s) charged.

(7) The name of the arresting officer or authorized agent of the department.

(8) The signatures of the child and the person to whom the child was released.

(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.

(h) Form of Notice. The notice to appear shall be substantially as found in form 8.930.

Committee Note: This rule allows juveniles to be released with definite notice as to when they must return to court. This should help decrease the number of juveniles held in detention centers awaiting a court date. It also should provide a mechanism to divert juveniles to programs more efficiently. The change also should decrease the number of summons issued by the clerk.

RULE 8.14055. ORDERS

[No change in text]

RULE 8.060 [RESERVED]

ED. DISCOVERY

RULE 8.07060. DISCOVERY

(a) ~~Required disclosure to child.~~ Notice of Discovery.

(1) If a child should elect to utilize the discovery process provided by these rules, including the taking of discovery depositions, the child shall file with the court and serve upon the prosecuting attorney notice of the child's intent to participate in discovery. Such "notice of discovery" shall bind both the petitioner and the child to all discovery procedures contained in these rules. The child may take discovery depositions upon the filing of such notice. The child's participating in the discovery process, including the child's taking of the deposition of any person, shall be an election to participate in discovery. If any child knowingly or purposely shares in discovery obtained by a codefendant, the child shall be deemed to have elected to participate in discovery.

~~(1)(2)~~ (2) After the filing of a petition alleging a child to be delinquent, and ~~prior to the adjudicatory hearing,~~ within 5 days of service of the child's notice of election to participate in discovery, the petitioner shall disclose to the child or ~~his~~ the child's counsel and permit ~~him to inspecting,~~ copying, testing, and photographing of the following information and material within the petitioner's possession or control:

(iA) [No change in text]

(iiB) The statement of any person whose name is furnished in compliance with the preceding paragraph. The term "statement" as used herein means a written statement made by said person and signed or otherwise adopted by him, or her and also includes any statement of any kind or manner made by such person and written or recorded or summarized in any writing or recording. The term "statement" is specifically intended to include all police and investigative reports of any kind prepared for or in connection with the case but shall not include the notes from which such reports are compiled. or a stenographic, mechanical, electrical, or other recording, or a transcript thereof, or which is a substantially verbatim recital of an oral statement made by said person to an officer or agent of the state and recorded contemporaneously with the making of such oral statement. The court shall prohibit the petitioner from introducing in evidence the material not disclosed, so as to secure and maintain fairness in the just determination of the cause.

(iiiC) [No change in text]

(ivD) [No change in text]

- (vE) [No change in text]
- (viF) [No change in text]
- (viiG) [No change in text]
- (viiiH) [No change in text]
- (ixI) [No change in text]
- (xJ) [No change in text]
- (xiK) [No change in text]

~~(2)~~(3) [No change in text]

~~(3)~~(4) The petitioner shall perform the foregoing obligations in any manner mutually agreeable to ~~him~~ the petitioner and the child or as ordered by the court.

~~(4)~~(5) [No change in text]

(b) [No change]

(1) Within ~~five~~ ~~(5)~~ days after receipt by the child of the list of names and addresses furnished by the petitioner pursuant to this rule the child shall furnish to the petitioner a written list of 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 the child, except for hearing subpoenas, reasonable notice shall be given to the child as to the time and place of examination pursuant to the subpoena. At such examination, the child shall have the right to be present and to examine the witness.

(2) ~~If the child demands discovery under section (a)(1), paragraphs (ii), (x), or (xi) of this rule, If the child elects to participate in discovery, the child shall disclose to the petitioner and permit him to inspecting, copying, testing, and photographing of the following information and material which corresponds to that which the child sought and which is in the child's possession or control:~~

- (iA) [No change in text]
- (iiB) [No change in text]
- (iiiC) [No change in text]

The child shall make the foregoing disclosure within ~~five~~ ~~(5)~~ days after receipt ~~by him~~ of the corresponding disclosure from the prosecutor. Defense counsel shall perform the foregoing obligations in any manner mutually agreeable to him or her and the prosecutor or as ordered by the court.

The filing of a motion for protective order by the petitioner will automatically stay the times provided for in ~~this~~ subdivision (b). If a protective order is granted, the child may, within ~~two~~ 2 days thereafter, or at any time before the petitioner furnishes the information or material which is the subject of the motion for protective order, withdraw ~~his~~ the demand and not be required to furnish reciprocal discovery.

(c), (1) [No change]

(2) [No change]

(iA) ~~Work Products~~. Disclosure shall not be required of legal research or of records, correspondence, or memoranda, to the extent that they contain the opinion, theories, or conclusions of the prosecuting or defense attorneys or members of ~~his~~ their legal staff.

(iiB) ~~Informants~~. Disclosure of a confidential informant shall not be required unless the confidential informant is to be produced at a hearing or a failure to disclose ~~his~~ the informant's identity will infringe upon the constitutional rights of the child.

(d), (1) [No change]

(iA) [No change in text]

(iiB) The deposition shall be taken in a building where the adjudicatory hearing may be held, in such other place as agreed upon by the parties, or where the trial court may designate by special or general order. A resident of the state may be required to attend an examination only in the county where he or she resides, ~~or~~ is regularly employed, or regularly transacts ~~his~~ business in person.

(2) Procedure.

(iA) [No change in text]

(iiB) [No change in text]

(iiiC) [No change in text]

(ivD) Except as otherwise provided by this rule, the procedure for taking the deposition, including the scope of the examination, objections, and the issuance, execution, and return of service shall be the same as that provided by the Florida Rules of Civil Procedure.

(3) Use of Deposition. [No change in text]

(4) Introduction of Part of Deposition. If only part of a deposition is offered in evidence by a party, an adverse party may require ~~him to the~~ introduction of any other part that in fairness ought to be considered with the part introduced, and any party may introduce any other parts.

(5) Sanctions. A person who refuses to obey a subpoena served upon him or her for the taking of a deposition may be adjudged in contempt of the court from which the subpoena issued.

(6) Physical Presence of Child. The child shall not be physically present at a deposition except upon stipulation of the parties or upon court order for good cause shown.

(A) The child may move the court for an order permitting physical presence of the child upon a showing of good cause. In ruling on such a motion, the court may consider the need for the physical presence of the child to obtain effective discovery, the intimidating effect of the child's presence on the witness, if any, and any cost or inconvenience related to the child's presence.

(B) In considering the child's motion to be physically present at a discovery deposition, the court may consider alternative electronic or audio-visual means to protect the child's ability to participate in discovery without the child's physical presence.

(7) Statement of Law Enforcement Officer. Upon stipulation of the parties and the consent of the witness, the statement of a law enforcement officer may be taken by telephone in lieu of deposition of the officer. In such case, the officer need not be under oath. The statement, however, shall be recorded and may be used for impeachment at trial as a prior inconsistent statement pursuant to the Florida Evidence Code.

(8) Videotaped Depositions. Depositions of children under the age of 16 shall be videotaped upon demand of any party unless otherwise ordered by the court. The court may order videotaping of a deposition or taking of a deposition of a witness with fragile emotional strength to be in the presence of the trial judge or a special master.

(e) [No change]

(1) After the filing of the petition and upon reasonable notice, any party may apply for an order to perpetuate testimony of a witness. The application shall be verified or supported by the affidavits of credible persons and shall state that the prospective witness resides beyond the territorial jurisdiction of the court, or may be unable to attend or be prevented from attending the subsequent court proceedings, or grounds exist to believe that he the witness will absent himself or herself from the jurisdiction of the court, ~~and that his the~~

testimony is material, and that it is necessary to take ~~his~~the deposition to prevent a failure of justice.

(2) If the application is well founded and timely made, the court shall order a commission to be issued to take the deposition of the witness to be used in subsequent court proceedings and that any designated books, papers, documents, or tangible objects, not privileged, be produced at the same time and place. The commission may be issued to any official court reporter, whether the witness be within or without the state, transcribed by ~~him~~ the reporter, and filed in the court. The commission shall ~~state the time and place of the deposition and~~ be served on all parties.

(3) No deposition shall be used or read in evidence when the attendance of the witness can be procured. If it shall appear to the court that any person whose deposition has been taken has absented himself or herself by procurement, inducements, or threats by or on behalf of any party, the deposition shall not be read in evidence on behalf of that party.

(f), (1) [No change]

(~~i~~A) Aappear in a lineup~~;~~;

(~~ii~~B) Sspeak for identification by a witness to an offense~~;~~;

(~~iii~~C) Bbe fingerprinted~~;~~;

(~~iv~~D) Ppose for photographs not involving reenactment of a scene~~;~~;

(~~v~~E) Ttry on articles of clothing~~;~~;

(~~vi~~F) Ppermit the taking of specimens of material under ~~his~~ the fingernails~~;~~;

(~~vii~~G) Ppermit the taking of samples of ~~his~~ blood, hair, and other materials of ~~his~~ the body which involve no unreasonable intrusion thereof~~;~~;

(~~viii~~H) Pprovide specimens of ~~his~~ handwriting~~;~~ or

(~~ix~~I) Ssubmit to a reasonable physical or medical inspection of his or her body.

(2) [No change]

(g) Limitations on Discovery. Upon a showing of good cause, the court may, by order, alter the time for compliance with any discovery rule or restrict or defer any disclosure and may permit any such showing in camera, provided that all material and information to which a party is entitled be disclosed to the party in time to make beneficial use thereof.

(h) Supplemental Discovery. If, subsequent to compliance with these rules, a party discovers additional witnesses, evidence, or material which ~~he the party~~ would have been under a duty to disclose or produce at the time of such previous compliance, he the party shall promptly disclose or produce such witnesses, evidence, or material in the same manner as required under these rules for initial discovery.

(i), (1) [No change]

(iA) ~~Order~~ such party to comply with the discovery or inspection of materials not previously disclosed or produced;

(iiB) ~~Grant~~ a continuance;

(iiiC) ~~Grant~~ a mistrial;

(ivD) ~~Prohibit~~ the party from calling a witness not disclosed or introducing in evidence the material not disclosed; or

(vE) ~~Enter~~ such order as it deems just under the circumstances.

(2) [No change]

Committee Note: This amendment tracks Florida Rule of Criminal Procedure 3.220. There are some sections of the criminal rule that have not been adopted for juvenile proceedings and a few that have been conformed to present juvenile rules.

(d)(6) The provision that a defendant child not be present at a deposition is similar to the corresponding criminal rule.

(d)(8) Many witnesses in juvenile court are children under 16 and the videotaping of testimony is not always necessary. The amendment mandates videotaping on demand of a party.

RULE 8.080065. NOTICE OF DEFENSE OF ALIBI

(a) Notice to State Attorney. After a petition has been served the state attorney may demand in writing that the child, ~~if he who~~ intends to offer an alibi ~~in his~~ defense, shall provide the state attorney with the details of the alibi as to the time and place where the child claims to have been at the time of the alleged offense and the names and addresses of such witnesses as may appear to testify thereon. The child shall comply as above not less than ~~ten~~ (10) days before the trial date.

(b) Rebuttal Witness List. The state attorney shall, within ~~five~~ (5) days of the receipt thereof, provide the child with a list of such witnesses ~~as he to be chooses to called,~~ to rebut the alibi testimony.

(c) Sanctions. Should the child fail or refuse to comply with the provisions hereof, the court may in its discretion exclude testimony of alibi witnesses other than the child himself, or, should the state attorney fail to comply herewith, the court may in its discretion exclude rebuttal testimony offered by the state.

(d) Waiver of Rule. For good cause shown, the court may waive the requirements of this rule.

E. ARRAIGNMENTS AND PLEAS

RULE 8.070. ARRAIGNMENTS

Prior to the adjudicatory hearing the court may conduct a hearing to determine whether a guilty, nolo contendere, or not guilty plea to the petition shall be entered and whether the child is represented by counsel or entitled to appointed counsel as provided by law. If a plea of guilty or nolo contendere is entered, the court shall proceed as set forth under rule 8.115, disposition hearings. If a plea of not guilty is entered, the court shall set an adjudicatory hearing within the period of time provided by law and appoint counsel when required. If the child is represented by counsel, counsel may file a written plea of not guilty at or before arraignment and thereupon arraignment shall be deemed waived.

Committee Note: This rule creates an arraignment proceeding that is referred to in section 39.044(7), Florida Statutes.

RULE 8.130075. RESPONSIVE PLEADINGS AND MOTIONS PLEAS

~~(a)~~ Pleas. [No change in text]

~~(1)~~ (a) Acceptance of Plea. [No change in text]

~~(2)~~ (b) Plan of Proposed Treatment, Training, or Conduct. [No change in text]

~~(i)~~ (1) The plan must be in writing, agreed to and signed in all cases by the state attorney, the child, and, when represented, by ~~his~~ the child's counsel, and, unless excused by the court, by the parents or custodian. An authorized agent of the supervising agency involved shall indicate whether the agency recommends the acceptance of the plan.

~~(ii)~~ (2) [No change in text]

~~(iii)~~ (3) [No change in text]

~~(iv)~~ (4) Violations of the conditions of the plan shall be presented to the court by motion by the supervising

agency or by any party. If the court, after hearing, finds a violation has occurred, it may take such action as is appropriate to enforce the plan, modify the plan by supplemental agreement, or ~~it may~~ set the case for hearing on the original petition.

(v)(5) The plan shall be effective for an indeterminate period, ~~or~~ for such period as is stated therein, or until the petition is dismissed.

(vi)(6) [No change in text]

(3)(c) Written Answer. A written answer admitting or denying the allegations of the petition may be filed by the child joined by a parent, custodian, or the child's counsel. If the answer admits the allegations of the petition it must acknowledge that the child has been advised of ~~his~~ the right to counsel, ~~of his~~ the right to remain silent, and ~~of the~~ possible dispositions available to the court and shall include a consent to a ~~pre-~~dispositional predispositional study. Upon the filing of such an answer a hearing for adjudication or adjudication and disposition shall be set at the earliest practicable time.

(4) (d) Entry of Plea by Court. [No change in text]

(5) (e) Withdrawal of Plea. [No change in text]

RULE 8.080. ACCEPTANCE OF GUILTY OR NOLO CONTENDERE PLEA

(a) Voluntariness. Before accepting a plea of guilty or nolo contendere, the court shall determine that the plea is knowingly and voluntarily entered and that there is a factual basis for it. Counsel for the prosecution and the defense shall assist the court in this determination.

(b) 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 the following:

(1) The nature of the charge to which the plea is offered and the possible dispositions available to the court.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) The complete terms of any plea agreement including specifically all obligations the child will incur as a result.

(c) Acknowledgment by Child. Before the court accepts a guilty or nolo contendere plea, the court must determine that the child either:

(1) acknowledges guilt; or

(2) acknowledges that the plea is in the child's best interest, while maintaining innocence.

(d) Of Record. These proceedings shall be of record.

(e) When Binding. No plea offer or negotiation is binding until it is accepted by the court after making all the inquiries, advisements, and determinations required by this rule. Until that time, it may be withdrawn by either party without any necessary justification.

(f) Failure to Follow Procedures. Failure to follow any of the procedures in this rule shall not render a plea void, absent a showing of prejudice.

F. MOTIONS AND SERVICE OF PLEADINGS

RULE 8.130(b)-(e)085. PREHEARING MOTIONS AND SERVICE

(b)(a) Pre-Hearing Prehearing Motions.

(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 his the party's attorney. This requirement may be waived by the court for good cause shown.

(2) Motion to Dismiss. All defenses not raised by a plea of not guilty or denial of the allegations of the petition shall be made by a motion to dismiss the petition. ~~(i)~~ If a motion to dismiss is granted, the child who is detained under an order entered under Rule 8.040013 may be continued in detention under the said order upon the representation that a new or amended petition will be filed.

(3) [No change]

~~(iA) Contents.~~ [No change in text]

~~(iiB) Hearing.~~ [No change in text]

(4) Motion to Sever. A motion may be made for the severance of ~~two~~ 2 or more counts in a multi-count petition, or for the severance of the cases of ~~two~~ 2 or more children to be adjudicated in the same hearing. The court may grant motions for severance of counts and severance of jointly-brought cases for good cause shown.

(5) [No change]

(6) Sworn Motions to Dismiss. Before the adjudicatory hearing the court may entertain a motion to dismiss on the ground that there are no material disputed facts and the undisputed facts do not establish a prima facie case of guilt against the child. The facts on which such motion is based shall be specifically alleged and the motion sworn to by the child. The motion shall be filed a reasonable time before the date of the adjudicatory hearing. The state may traverse or demur to this motion. Factual matters alleged in it shall be deemed admitted unless specifically denied by the state in a traverse. The court, in its discretion, may receive evidence on any issue of fact necessary to decide the motion. The motion shall be dismissed if the state files a written traverse that with specificity denies under oath the material fact or facts alleged in the motion to dismiss. Any demurrer or traverse shall be filed a reasonable time before the hearing on the motion to dismiss.

~~(e)~~(b) Service of Pleadings and Papers.

(1) ~~Service,~~ When Required. [No change in text]

(2) ~~Service,~~ How Made. When service is required or permitted to be made upon a party represented by an attorney, service shall be made upon the attorney unless service upon the party is ordered by the court. Service upon the attorney or party shall be made by delivering a copy ~~to him~~ or by mailing it to the attorney or party's him ~~at his~~ last known address or, if no address is known, by leaving it with the clerk of the court. Service by mail shall be complete upon mailing. Delivery of a copy within this rule shall mean:

(~~i~~A) Handing it to the attorney or party;

(~~ii~~B) Leaving it at the attorney's office with the person in charge thereof;

(~~iii~~C) If there is no one in charge of the office, leaving it in a conspicuous place therein; or

(~~iv~~D) If the office is closed or the person to serve has no office, leaving it at his or her usual place of abode with some person of ~~his~~ the family above ~~fifteen~~ 15 years of age and informing such person of the contents thereof.

(3) [No change]

(4) Filing with Court Defined. The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court except that the judge court may permit the papers to be filed with him the court in which event ~~he shall note thereon~~ the filing date shall be noted thereon and the papers shall be transmitted ~~them~~ to the office of the clerk.

(5) [No change]

(6) People Who May Certify Service. Service of pleadings and orders required to be served as provided by subdivision (2) may be certified by an attorney of record, clerk or deputy clerk, court, or authorized agent of the Department of Health and Rehabilitative Services in the form provided in subdivision (5).

(~~d~~)(c) [No change]

(~~e~~)(d) Additional Time After Service by Mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of notice or other paper ~~upon him~~ and the notice or paper is served ~~upon him~~ by mail, ~~three~~ (3) days shall be added to the prescribed period.

(~~f~~)(e) Pleading to be Signed by Attorney. Every written paper or pleading of a party represented by an attorney shall be signed in ~~his~~ the attorney's individual name by such attorney, whose address and telephone number, including area code, and Florida Bar number shall be stated, and who shall be duly licensed to practice law in Florida. ~~He~~ The attorney may be required by an order of court to vouch for ~~his~~ 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. The signature of an attorney shall constitute a certificate by him the attorney that ~~he has read~~ the paper or

pleading has been read; that, to the best of his or her knowledge, information, and belief, there is good ground to support it; and that it is not interposed for delay. If a pleading or paper is not signed, or is signed with intent to defeat the purpose of this rule, it may be stricken and the action may proceed as though the pleading or paper had not been served.

~~(g)~~(f) Pleading to be Signed by Unrepresented Party. A party who has no attorney but represents himself or herself shall sign ~~his~~ the written pleading or other paper and state his or her address and telephone number, including area code.

Committee Note: (a)(6) This creates a procedure for dismissal similar to Florida Rule of Criminal Procedure 3.190(c)(4).

RULE 8.18090. 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 ~~ninety~~ ~~(90)~~ days of the earliest of the following dates:

(1), (2) [No change]

(b) Dismissal. If an adjudicatory hearing has not commenced within ~~ninety~~ ~~(90)~~ days, upon motion timely filed with the court and served upon the prosecuting attorney, the respondent shall be entitled to the appropriate remedy as set forth in section subdivision (j) below. The court before granting such motion shall make the required inquiry under subsection subdivision (d) of this rule.

(c) Commencement. A child shall be deemed to have been brought to trial if the adjudicatory hearing begins before the judge court within the time provided.

(d) Motion to Dismiss. If the adjudicatory hearing is not commenced within the periods of time established, the respondent shall be entitled to the appropriate remedy as set forth in section subdivision (j) below unless:

(1) The child has voluntarily waived ~~his~~ the right to speedy trial~~†~~.

(2) An extension of time has been ordered under subdivision (e)†.

(3) The failure to hold an adjudicatory hearing is attributable to the child, a co-respondent in the same adjudicatory hearing, or their counsel~~†~~.

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

(iA) the child or ~~his~~ the child's counsel fails to attend a proceeding when their presence is required; or

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

No presumption of ~~non-availability~~ nonavailability attaches, but if the state objects to dismissal and presents any evidence tending to show ~~non-availability~~ nonavailability, the child must, by competent proof, establish availability during the term.

(5) The demand referred to in ~~section~~ subdivision (f) is invalid.

(6) If the court finds dismissal is not appropriate, the pending motion to dismiss shall be denied, and an adjudicatory hearing shall commence within ~~ninety~~ (90) days of a written or recorded order of denial.

(e) Extension of Time. The period of time established by subdivision (a) may be extended as follows:

(1) ~~Stipulation.~~ Upon stipulation, announced to the court or signed by the child or ~~his~~ the child's counsel and the state.

(2) ~~Exceptional Circumstances.~~ [No change in text]

(iA) [No change in text]

(iiB) [No change in text]

(iiiC) [No change in text]

(ivD) [No change in text]

(vE) [No change in text]

(viF) [No change in text]

~~(vii)~~ 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.

(3) [No change]

(f) Speedy Trial Upon Demand. Except as otherwise provided by this rule and subject to the limitations imposed by ~~section~~ subdivision (g), the child shall have the right to demand a trial within ~~sixty~~ (60) days, by written demand for speedy trial filed with the court and service upon the prosecuting attorney.

(1) No later than ~~five~~(5) days from the filing of a demand for speedy trial, the court shall set the matter for report, with notice to all parties, for the express purpose of announcing in open court, receipt of the demand and of setting the case for trial.

(2) At the report the court shall set the case for trial to commence at a date no less than ~~five~~(5) days nor more than ~~forty-five~~(45) days from the date of the report.

(3) The failure of the court to hold such a report date on a demand which has been properly filed shall not interrupt the running of any time periods under this ~~section~~ subdivision (f).

(4) In the event that the child shall not have been brought to trial within ~~fifty~~(50) days of the filing of the demand, the child shall have the right to the appropriate remedy as set forth in ~~section~~ subdivision (j) below.

(g) Demand for Speedy Trial; Effect. A demand for speedy trial shall be deemed a pleading by the respondent that he or she is available for the adjudicatory hearing, has diligently investigated ~~his~~ the case, and ~~that he~~ is prepared or will be prepared for the adjudicatory hearing within ~~five~~(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 shall not thereafter include nonreadiness for the adjudicatory hearing, except as to matters which may arise after the demand for the adjudicatory hearing is filed and which could not reasonably have been anticipated by the accused or ~~his~~ defense counsel.

(h) Dismissal After Demand. If an adjudicatory hearing has not commenced within ~~fifty~~(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 ~~section~~ subdivision (j) below; provided the court has made the required inquiry under subdivision (d).

(i) Effect of Mistrial, Appeal, or Order of New Trial. A child who is to be tried again or whose adjudicatory hearing has been delayed by an appeal by the state or the respondent shall be brought to trial within ~~ninety~~(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, 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 for the respondent, whichever is last. If the child is not brought to trial within the prescribed time periods, the child shall be entitled to the appropriate remedy as set forth in ~~section~~ subdivision (j) below.

(j) [No change]

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

(2) The respondent may, at any time after the expiration of the prescribed time period, file a motion for discharge. Upon filing the motion the respondent shall simultaneously file a notice of hearing. The motion for discharge and its notice of hearing shall be served upon the prosecuting attorney.

(3) No later than ~~five~~(5) days from the date of the filing of a motion for discharge, the court shall hold a hearing on the motion and, unless the court finds that one of the reasons set forth in section subdivision (d) exists, shall order that the respondent be brought to trial within ~~ten~~(10) days. If the respondent is not brought to trial within the ~~ten~~(10) day 10-day period through no fault of the respondent, the respondent shall be forever discharged from the crime.

Committee Note: (j)(2) This rule requires a notice of hearing at the time of filing the motion for discharge to ensure that the child's motion is heard in a timely manner. A dissenting opinion in the committee was that this change does not protect the child's rights but merely ensures that the case is not dismissed because of clerical error.

RULE 8.170095. PROCEDURE WHEN CHILD BELIEVED TO BE INCOMPETENT

(a), (1) [No change]

(2) If at the hearing provided for in subdivision (a)(1) ~~above~~ the child is found to be competent to proceed with an adjudicatory hearing, the court shall proceed therewith.

(3) If at the hearing provided for in subdivision (a)(1) ~~above~~ the child is found to be incompetent to proceed with the adjudicatory hearing, proceedings shall be commenced for the involuntary hospitalization of the child as provided by law.

(iA) If the child is not hospitalized because of the fact that the child does not meet the criteria for involuntary hospitalization according to law, the court may order any ~~non-delinquent~~ nondelinquent treatment for the child in order to restore the child's competence to proceed with an adjudicatory hearing.

(iB) If the child is not hospitalized, or upon ~~his~~ the child's release from the hospital, any interested party or the court on its own motion may call the matter up for the purpose of setting an adjudicatory hearing.

(4) [No change]

(b) At Time of ~~the~~ Offense.

(1) If the child named in the petition intends to plead insanity as a defense, he or she shall so advise the court in writing not less than ~~ten~~ ~~(10)~~ days in advance of the adjudicatory hearing and shall provide the court with a statement of particulars showing as nearly as he or she can the nature of the insanity ~~he expects to prove~~ expected to be proved and the names and addresses of witnesses ~~by whom he expects~~ expected to prove such insanity. Upon the filing of said statement, upon motion of the state, or on its own motion, the court may cause the child to be examined in accordance with the procedures set forth in this rule.

(2) [No change]

(c) [No change]

(1) Where a question has been raised concerning the sanity or competency of the child named in the petition and the court has set the matter for an adjudicatory hearing or a hearing to determine the mental condition of the child, the court may appoint not exceeding ~~three~~ ~~(3)~~ disinterested qualified experts to examine the child and testify at the hearing. Other competent evidence may be introduced at the hearing. The appointment of experts by the court shall not preclude the state ~~nor~~ the child from calling other expert witnesses to testify at the adjudicatory hearing or at the hearing to determine the mental condition of the child.

(2) [No change]

G. HEARINGS

RULE 8.220100. GENERAL PROVISIONS FOR HEARINGS

Initial paragraph [No change]

(a) [No change]

(b) Absence of the Child. If the child is present at the beginning of a hearing and shall thereafter during the progress of the hearing voluntarily absent himself or herself from the presence of the court without leave of the court, or is removed from the presence of the court because of disruptive conduct during the hearing, the hearing shall not thereby be postponed or delayed, but shall proceed in all respects as if the child were present in court at all times.

(c), (d) [No change]

(e) Record of Testimony. A record of the testimony in all hearings shall be made by an official court reporter, a court approved stenographer, or by a recording device. The records shall be preserved for ~~five~~ 5 years from the date of the hearing. Official records of testimony shall be transcribed only upon order of the court.

(f) [No change]

RULE 8.150105. WAIVER OF JURISDICTION

(a) On Demand. On demand for waiver of jurisdiction, the court shall enter a written order setting forth the demand, waiving jurisdiction, and certifying the case for trial as if the child were an adult. The demand shall be made in the form provided by law prior to the commencement of an adjudicatory hearing. A certified copy of the order shall be furnished to the clerk of the court having jurisdiction to try the child as an adult and to the prosecuting officer of the said child within ~~five~~(5) days of the demand being made. The court may order that the child be delivered to the sheriff of the county in which the court that is to try ~~him~~ the child is located.

(b), (1) [No change]

(2) Following the filing of the motion of the state attorney, summons shall be issued and served in conformity with the provision of rule 8.120040. A copy of the motion and a copy of the delinquency petition, if not already served, shall be attached to each summons.

(3), (4) [No change]

(5) After hearing as provided in this rule, 7:

(~~i~~A) ~~The~~ court may enter an order waiving jurisdiction and certifying the case for trial as if the child were an adult as provided by law. The order shall set forth the basis for waiver of jurisdiction and certification to the appropriate court. A certified copy of the order shall be furnished to the clerk of the court having jurisdiction to try the child as an adult and to the prosecuting officer of the said court within ~~five~~(5) days of the date of the order. The child shall be delivered immediately to the sheriff of the county in which the court that is to try ~~him~~ the child as an adult is located.

(~~i~~B) The court may enter an order denying waiver of jurisdiction. If the waiver is denied, the same judge, with the consent of the child and the state, may proceed immediately with the adjudicatory hearing.

(c) Bail. If the child is delivered to the sheriff under subdivision (a) or (b) ~~above~~ the court shall fix bail. A certified copy of the order shall be furnished to the sheriff.

RULE 8.190110. ADJUDICATORY HEARINGS

(a) - (c) [No change]

(d) Testimony. The child may be sworn and testify in his or her own behalf. ~~He~~ 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.

(e) Joint and Separate Trials. When ~~two~~ 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.

(f) - (k) [No change]

RULE 8.200115. DISPOSITION HEARING

(a) [No change]

(b) Disclosure ~~to Child or Parent~~. The child, ~~his~~ the child's attorney, and ~~his~~ the child's parent or custodian shall be entitled to disclosure of all information in the predisposition report.

(c) Fingerprints. The child's fingerprints shall be affixed to the order of disposition.

(d) Procedure for Placement as Serious or Habitual Offender.

(1) If the state elects to proceed under this subdivision, it shall file a petition to seek serious or habitual juvenile offender placement as provided by law.

(2) The petition shall be in writing and shall state the reasons why the child should be placed as a serious or habitual juvenile offender. A copy of the petition shall be served upon the child, the child's attorney, and a representative of the Department of Health and Rehabilitative Services.

(3) The child shall not be placed as a serious or habitual juvenile offender unless the child is adjudicated delinquent, is committed to the department, and meets the criteria as prescribed by law. The court shall not make a determination of the child's placement as a serious or habitual juvenile offender without allowing reasonable time for preparation of a response on behalf of the child.

Committee Note: (c) Section 39.032(3)(e)5, Florida Statutes, requires the court to fingerprint any child who is adjudicated or has adjudication withheld for a felony. This rule extends this requirement to all dispositions. Sentencing guidelines include scorable points for misdemeanor offenses as well as for felonies. This procedure also should assist in identifying juveniles who use false names and birthdates, which can result in the arrest of an innocent child whose name was used by the offender.

(d) Section 39.09(5), Florida Statutes, creates procedures to have a child placed in a serious or habitual juvenile offender program. This section allows for filing of a petition, service, and a reasonable time for preparation of a response on behalf of the child.

RULE 8.210120. ~~POST-DISPOSITION~~POSTDISPOSITION HEARING

(a) Revocation of Community Control Programs. A child who has been placed in a community control program may be brought before the court by the agent supervising his the child's probation community control or by the state attorney on a petition alleging the violation of the program. All interested persons, including the child, shall have an opportunity to be heard. After such hearing, the court shall enter an order revoking, modifying, terminating, or continuing the community control program. Upon the revocation of the program, the court shall, when the child has been placed in a community control program and adjudication has been withheld, adjudicate the child delinquent. In all cases after a revocation of the program, the court shall enter a new disposition order.

(b) [No change]

H. RELIEF FROM ORDERS AND JUDGMENTS

RULE 8.230130. MOTION FOR REHEARING

(a) [No change]

(b) Time and Method.

(1) A motion for rehearing may be made and ruled upon immediately after the court announces its judgment but must be made within ~~ten~~ (10) days of the entry of the order being challenged.

(2), (3) [No change]

(c), (1) [No change]

(2) The court on its own initiative may vacate or modify any order within the time limitation provided in subdivision (b) above.

RULE 8.240135. CLERICAL MISTAKES

[No change in text]

RULE 8.250140. EXTRAORDINARY RELIEF

(a) Basis. On motion and upon such items as are just, the court may relieve a party or ~~his~~ the party's legal representative from an order, judgment, or proceeding for the following reasons:

(1) Mistake, inadvertance, surprise, or excusable neglect~~+~~.

(2)-(4) [No change]

(b) Time. The motion shall be made within a reasonable time, and, for reasons (1), (2), and (3), not more than ~~one~~ 1 year after the judgment, order, or proceeding was taken.

RULE 8.270145. SUPERSEDEAS ON APPEAL

[No change in text]

I. CONTEMPT

RULE 8.270150. ~~DIRECT~~ CONTEMPT

(a) Direct Contempt. A contempt may be punished summarily if the court saw or heard the conduct constituting the contempt committed in the actual presence of the court. The judgment of guilt of contempt shall include a recital of those facts upon which the adjudication of guilt is based. Prior to the adjudication of guilt the ~~judge~~ court shall inform the person accused of the accusation ~~against him~~ and inquire as to whether ~~he has~~ there is any cause to show why he or she should not be adjudged guilty of contempt by the court and sentenced therefor. The accused shall be given the opportunity to present evidence of excusing or mitigating circumstances. The judgment shall be signed by the ~~judge~~ court and entered of record. Sentence shall be pronounced in open court.

~~Rule 8.280.INDIRECT CONTEMPT~~

(b) Indirect Contempt. An indirect contempt may be prosecuted in the following manner:

(a)(1) Order to Show Cause. The ~~judge~~ court on ~~his~~ its own motion or upon affidavit of any person having knowledge of the facts, may issue and sign an order directed to the one accused of contempt, stating the essential facts constituting the contempt charged and requiring ~~him~~ the accused to appear before the court to show cause why he or she should not be held in contempt of court. The order shall specify the time and place of

the hearing, with a reasonable time allowed for the preparation of a defense after service of the order on the one accused. It shall be served in the same manner as a summons. Nothing herein shall be construed to prevent the one accused of contempt from waiving the service of process.

(b)(2) Motions; Answer. The accused, personally or by counsel, may move to dismiss the order to show cause, move for a statement of particulars, or answer such order by way of explanation or defense. All motions and the answers shall be in writing unless specified otherwise by the judge court. The accused's omission to file a motion or answer shall not be deemed an admission of guilt of the contempt charged.

(c)(3) Order of Arrest; Bail. The judge court may issue an order of arrest of the one accused of contempt if the judge court has reason to believe he the accused will not appear in response to the order to show cause. The accused shall be admitted to bail in the manner provided by law in criminal cases.

(d)(4) Arraignment; Hearing. The accused may be arraigned at the hearing, or prior thereto upon his request. A hearing to determine the guilt or innocence of the accused shall follow a plea of not guilty. The judge court may conduct a hearing without assistance of counsel or may be assisted by the state attorney or by an attorney appointed for that purpose. The accused is entitled to be represented by counsel, have compulsory process for the attendance of witnesses, and may testify in his or her own defense. All issues of law and fact shall be determined by the judgecourt.

(e)(5) Disqualification of the Judge. If the contempt charged involves disrespect to or criticism of a judge, he the judge shall be disqualified by the Chief Judge of the circuit.

(f)(6) Verdict; Judgment. At the conclusion of the hearing the judge court shall sign and enter of record a judgment of guilty or not guilty. There should be included in a judgment of guilty a recital of the facts constituting the contempt of which the defendant accused has been found and adjudicated guilty.

(g)(7) The Sentence. Prior to the pronouncement of sentence the judge court shall inform the defendant accused of the accusation and judgment against him or her and inquire as to whether he has there is any cause to show why sentence should not be pronounced. The accused shall be afforded the opportunity to present evidence of mitigating circumstances. The sentence shall be pronounced in open court and in the presence of the one found guilty of contempt.

J. GENERAL PROVISIONS

RULE 8.160. TRANSFER OF CASES

The court may transfer any case, after adjudication or when adjudication is withheld, to the circuit court for the county of the circuit in which is located the domicile or usual residence of the child or such other circuit court as the judge court may determine to be for the best interest of the child. No case shall be transferred to another county under this rule unless a plea of nolo contendere or guilty has been entered by the child on the charge being transferred, or until the transferring court has found the child committed the offense in question after an adjudicatory hearing in the county where the offense occurred. Any action challenging the entry of a plea or the adjudicatory hearing result must be brought in the transferring court's county. The transferring court shall enter an order transferring its jurisdiction and certifying the case to the proper court⁷. The transferring court shall furnishing the following to the clerk and the state attorney, the public defender, if counsel was previously appointed, and the clerk of the receiving court within five 5 days:

(a) aA certified copy of the order of transfer, which shall include, but not be limited to:

(1) specific offense that the child was found to have committed;

(2) degree of the offense;

(3) name of parent/custodian to be summoned;

(4) address at which the child should be summoned for disposition;

(5) name and address of victim; and

(6) whether the child was represented by counsel.

(b) A certified copy of the delinquency petition.

(c) A copy of the juvenile referral or complaint.

(d) Any reports and of all previous orders including orders appointing counsel entered by the court in the interest of that child.

Committee Note: This rule requires the transferring court to provide sufficient information to the receiving court when transferring the case to another jurisdiction to comply with the requirements of chapter 39, Florida Statutes.

RULE 8.290165. PROVIDING COUNSEL TO PARTIES

(a) Duty of the Court. The court shall advise the child of ~~his~~ the child's right to counsel. The court shall appoint counsel as provided by law unless waived by the child at each stage of the proceeding. This waiver shall be in writing if made at the time of a plea of guilty or no contest or at the adjudicatory hearing.

(b) [No change]

(1) The failure of a child to request appointment of counsel at a particular stage in the proceedings or ~~his~~ the child's announced intention to plead guilty shall not, in itself, constitute a waiver of counsel at any subsequent stage of the proceedings.

(2) A child shall not be deemed to have waived the assistance of counsel until the entire process of offering counsel has been completed and a thorough inquiry into the child's comprehension of that offer and ~~his~~ the capacity to make that choice intelligently and understandingly has been made.

(3) No waiver shall be accepted where it appears that the party is unable to make an intelligent and understanding choice because of ~~his~~ mental condition, age, education, experience, the nature or complexity of the case, or other factors.

(4) [No change]

RULE 8.300~~170~~. GUARDIAN AD LITEM.

[No change in text]

RULE 8.320~~175~~. DISQUALIFICATION OF JUDGE

(a) [No change]

(b) Form of Motion. Every motion to disqualify shall be in writing and be accompanied by ~~two~~ 2 or more affidavits setting forth facts relied upon to show the grounds of disqualification and shall contain a certificate of counsel of record that the motion is made in good faith.

(c) Time. A motion to disqualify a judge shall be filed no less than ~~ten~~ (10) days before the time the case is set for hearing unless good cause is shown for failure to file within such time.

(d) Challenged Judge; Responsibility. The judge presiding shall examine the motion and supporting affidavits to disqualify him or her for prejudice to determine their legal sufficiency only, but shall not pass on the truth of the facts alleged nor adjudicate the question of disqualification. If the motion and affidavits are legally sufficient, the presiding judge shall enter an order disqualifying himself or herself and proceed no further therein. Another judge shall be designated in a manner

prescribed by applicable laws or rules for the substitution of judges for the trial of causes where the judge presiding is disqualified.

(e) Substituted Judge; Responsibility. When a party shall have suggested the disqualification of a trial judge and an order shall have been made admitting the disqualification of such judge, and another judge shall have been assigned to act in lieu of the judge so held to be disqualified, the judge so assigned shall not be disqualified on account of alleged prejudice against the party making the motion in the first instance, or in favor of the adverse party, unless such judge shall admit and hold that it is then a fact that ~~he~~ the said judge does not stand fair and impartial between the parties, and, if such judge shall hold, rule, and adjudge that he or she does stand fair and impartial as between the parties and their respective interest, ~~he~~ the judge shall cause such ruling to be entered on the minutes of court, and shall proceed to preside as judge in the pending cause. The ruling of such judge may be reviewed by the appellate court, as are other rulings of the trial court.

RULE 8.330180. COMPUTATION AND ENLARGEMENT OF TIME

(a) Computation. In computing any period of time prescribed or allowed by these rules, except ~~R~~rules ~~8.040013~~ and ~~8.050010~~, by order of court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is not to be included. The last day of the period so computed shall be counted, unless it is Saturday, Sunday, or a legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, nor a legal holiday. When the period of time prescribed or allowed shall be less than ~~seven (7)~~ days, intermediate Saturdays, Sundays, and legal holidays shall be excluded ~~infrom~~ the computation.

(b) Enlargement of Time. When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for good cause shown may, at any time, in its discretion:

(1) with or without notice, order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order; or

(2) upon motion made and notice after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect; or

But it may not, except as provided by law or elsewhere in these rules, extend the time for making a motion for a new trial, a motion for rehearing, judgment of acquittal, vacation of

judgment, or for taking an appeal. This rule shall not be construed to apply to detention hearings.

PART II. DEPENDENCY AND TERMINATION OF PARENTAL RIGHTS
PROCEEDINGS

RULE 8.500200. SCOPE AND PURPOSE

These rules shall govern the procedures in the Ecircuit Ecourt in the exercise of its jurisdiction relating to juvenile dependency proceedings and termination of parental rights proceedings.

They are intended to provide a just, speedy, and efficient determination of the procedures covered by them and shall be construed to secure simplicity in procedure and fairness in administration.

They shall be known as the Florida Rules of Juvenile Procedure, and may be cited as Fla. R. Juv. P. Where these rules are silent, the parties are to refer to the Florida Rules of Civil Procedure.

When appropriate the use of singular nouns and pronouns shall be construed to include the plural and the use of plural nouns and pronouns shall be construed to include the singular. ~~The use of male pronouns shall be construed in the universal sense of both male and female.~~

Committee Note: This section includes termination of parental rights proceedings within the scope of dependency proceedings. It also refers practitioners to the Florida Rules of Civil Procedure when these rules are silent.

All rules have been edited for style and to remove gender-bias. The rules have been reorganized and renumbered to correspond to the types and stages of juvenile proceedings. Cross-references have been changed as appropriate.

A. GENERAL PROVISIONS

RULE 8.510201. COMMENCEMENT OF PROCEEDINGS

(a) Dependency. All dependency proceedings shall be initiated by the filing of ~~one of the following pleadings:~~

- (1) a request to take into custody;
- (2) a detention petition; or
- (3) a petition alleging dependency; ~~or.~~

~~(4) a petition for permanent commitment.~~

(b) Termination of Parental Rights. A termination of parental rights proceeding shall be initiated by the filing of a petition for termination of parental rights.

(c) File to be Opened. Upon commencement of any dependency or termination of parental rights proceeding, the clerk shall open a file and assign a case number.

RULE 8.520203. APPLICATION OF UNIFORM CHILD CUSTODY JURISDICTION ACT

Any pleading filed commencing proceedings as set forth in Rule 8.510201 shall be accompanied by an affidavit, to the extent of affiant's personal knowledge, under the Uniform Child Custody Jurisdiction Act. Each party has a continuing duty to inform the court of any custody proceeding in this or any other state of which ~~he obtains~~ information is obtained during the proceeding. RULE 8.530205. TRANSFER OF CASES

(a) Transfer of Cases Within Circuit Court. If it should appear at any time in a proceeding initiated in a division other than the juvenile division of the circuit court that facts are alleged that essentially constitute a dependency or the termination of parental rights, the court may upon consultation with the administrative judge assigned to juvenile cases order the transfer of action and the transmittal of all relevant papers to the juvenile division. The juvenile division shall then assume jurisdiction only over matters pertaining to dependency, custody, visitation, and child support.

(b) Transfer of Cases Within the State of Florida. The court may transfer any case after adjudication, when adjudication is withheld, when a plan under Rule 8.760327 has been accepted, or before adjudication where witnesses are available in another jurisdiction, to the circuit court for the county in which is located the domicile or usual residence of the child or such other circuit as the judge court may determine to be for the best interest of the child and to promote the efficient administration of justice. The transferring court shall enter an order transferring its jurisdiction and certifying the case to the proper court, furnishing all parties, the clerk, and the state attorney of the receiving court a copy of the order of transfer within ~~five~~ (5) days. The clerk shall also transmit a certified copy of the file to the receiving court within ~~five~~ (5) days.

(c) [No change]

RULE 8.540210. PARTIES

(a) Definitions. For the purpose of these rules the terms "party" and "parties" shall include the petitioner, the child, the parent, the guardian ad litem where appointed, the custodian, and every person upon whom service of summons is required by law, ~~including the guardian ad litem, where appointed.~~

(b) Additional Parties. The state attorney's office or the Department of Health and Rehabilitative Services may become a party upon notice to all other parties and the court. The court may add additional parties.

Committee Note: (b) This section provides a mechanism to allow the Department of Health and Rehabilitative Services or the state attorney to become parties on notice to all other parties and the court.

RULE 8.590215. GUARDIAN AD LITEM

(a) Request. [No change in text]

(b) Appointment. The court shall appoint a guardian ad litem to represent the child in any ~~child abuse or neglect~~ proceeding as required by law and shall ascertain at each stage of the proceeding whether a guardian ad litem has been appointed.

(c) Duties and Responsibilities. [No change in text]

(1) To investigate the allegations of the petition and any subsequent matters arising in the case and, unless excused by the court, to file a written report. This report shall include a statement of the wishes of the child and the recommendations of the guardian ad litem and shall be provided to all parties and the court at least 48 hours prior to the disposition hearing for which the report is prepared.

(2) To be present at all court hearings unless excused by the court.

(3) To represent the interests of the child until the jurisdiction of the court over the child terminates, or until excused by the court.

(4) [No change]

(d) Bond. [No change in text]

(e) Service. A guardian ad litem shall be entitled to receive service of pleadings and papers as provided by Rrule 8.630225.

(f) Practice of Law by Lay Guardians. [No change in text]

Committee Note: (c)(1) This section allows a report to be submitted before any hearing, not only the disposition hearing.

RULE 8.600220. STYLE OF PLEADING AND ORDERS

[No change in text]

RULE 8.630225. PROCESS

(a) Summons and Subpoenas.

(1) Summons. Upon the filing of a dependency or termination of parental rights petition, the clerk shall issue a summons. The summons shall require the person on whom it is served to appear for a hearing at a time and place specified. Except in cases of medical emergency, the time of hearing shall not be less than ~~twenty-four~~ (24) hours after service of the summons. If the child is not detained by an order of the court, the summons shall require the custodian to produce the child at the said time and place. A copy of the petition shall be attached to the summons.

(2) Subpoenas. Upon the application of a party, ~~the petitioner, or the state attorney,~~ the clerk shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, or other tangible objects at any hearing. This ~~section~~ subdivision shall not in any way limit the state attorney's power to issue subpoenas.

(3) [No change]

(b) Service of Pleadings and Papers.

(1) ~~Service,~~ When Required. Unless the court orders otherwise, every pleading subsequent to the initial petition, every order, every written motion, unless it is one as to which hearing ex parte is authorized, and every written notice filed in the case shall be served on each party or the party's attorney, if one is appointed or retained, the state attorney's office, and the Department of Health and Rehabilitative Services; however, nothing herein shall be construed to require that a plea be in writing or that an application for witness subpoena be served.

(2) ~~Service,~~ How Made. When service is required or permitted to be made upon a party represented by an attorney, service shall be made upon the attorney unless service upon the party is ordered by the court. Service upon the attorney ~~or party~~ shall be made by delivering a copy to ~~him~~ the attorney or by mailing it to ~~him at his~~ the attorney's last known address or, if no address is known, by leaving it with the clerk of the court. Service by mail shall be complete upon mailing. If the party is not represented by an attorney, service of all pleadings or papers shall be upon the party. Delivery may be made by mail to the party's last known address or by leaving it

at the party's usual place of abode with some person of the family above 15 years of age and informing such person of the contents thereof. Delivery of a copy within this rule shall mean:

(iA) Handing it to the attorney or party;

(iB) Leaving it at the attorney's office with the person in charge thereof;

(iC) If there is no one in charge of the office, leaving it in a conspicuous place therein; or

(iD) If the office is closed or the person to serve has no office, leaving it at his or her usual place of abode with some person of his the family above fifteen 15 years of age and informing such person of the contents thereof.

(3) [No change]

(4) Filing with Court Defined. The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court except that the judge court may permit the papers to be filed with him it in which event ~~he shall note thereon~~ the filing date shall be noted thereon and the papers shall be transmitted to the office of the clerk.

(5) [No change]

Committee Note: (b)(1) This change requires that the Department of Health and Rehabilitative Services and the state attorney's office receive notice of all pleadings to determine if their involvement as parties is required.

RULE 8.640230. PLEADINGS TO BE SIGNED

(a) Pleading to be Signed by Attorney. Every written paper or pleading of a party represented by an attorney shall be signed in ~~his~~ the attorney's individual name by such attorney, whose Florida Bar number, address, and telephone number, including area code, shall be stated, and who shall be duly licensed to practice law in Florida. ~~He~~ The attorney may be required by an order of court to vouch for his 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. The signature of an attorney shall constitute a certificate ~~by him that he has read~~ the paper or pleading has been read; that to the best of his the attorney's knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If a pleading or paper is not signed, or is signed with intent to defeat the purpose of this rule, it may be stricken and the

action may proceed as though the pleading or paper had not been served.

(b) Pleading to be Signed by Unrepresented Party. A party who has no attorney but who represents himself or herself shall sign ~~his~~ a written pleading or other paper and state his or her address and telephone number, including area code.

RULE 8.740235. ~~RESPONSIVE PLEADINGS AND MOTIONS~~

(a) Motions in General. An application to the court for an order shall be made by motion which shall be in writing unless made during a hearing; shall be signed by the party making the motion or ~~his~~ by the party's attorney; shall state with particularity the grounds therefor; and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

(b) [No change]

(c) Motion to Sever. A motion may be made for a severance of ~~two~~ 2 or more counts of a multi-count petition, or for the severance of the cases of ~~two~~ 2 or more children alleged to be dependent in the same petition. The court may grant motions for severance of jointly-brought cases for good cause shown.

RULE 8.620240. COMPUTATION AND ENLARGEMENT OF TIME

(a) Computation. In computing any period of time prescribed or allowed by these rules, except Rules 8.700300 and 8.710305, by order of court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is not to be included. The last day of the period so computed shall be counted, unless it is Saturday, Sunday, or a legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, nor a legal holiday. When the period of time prescribed or allowed shall be less than ~~seven~~ (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded infrom the computation.

(b), (c) [No change]

(1) Motions and Notice of Hearing. A copy of any written motion which may not be heard ex parte and a copy of the notice of the hearing thereof, shall be served a reasonable time before the time specified for the hearing.

(2) Additional Time After Service by Mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of notice or other paper upon him or her and the notice or paper is served upon him by mail, ~~three~~ (3) 5 days shall be added to the prescribed period.

RULE 8.770245. DISCOVERY

(a) [No change]

(1) At any time after the filing of a petition alleging a child to be a dependent child, or a petition for termination of parental rights, on written demand of any party, the party to whom the demand is directed shall disclose ~~to him~~ and permit him ~~to inspecting~~, copying, testing, or photographing matters material to the cause.

(2), (iA) [No change in text]

(iiB) The statement ~~as defined in this rule~~ of any person furnished in compliance with the preceding paragraph. The term "statement" as used herein means a written statement made by said person and signed or otherwise adopted or approved by the person, or a stenographic, mechanical, electrical, or other recording, or a transcript thereof, or which is a substantially verbatim recital of an oral statement made by said person to an officer or agent of the state and recorded contemporaneously with the making of such oral statement. The court may prohibit any party from introducing in evidence the material not disclosed, so as to secure and maintain fairness in the just determination of the cause.

(iiiC) [No change in text]

(ivD) [No change in text]

(vE) [No change in text]

(3) The petitioner shall be entitled to reciprocal discovery but shall not be entitled to initiate discovery under this rule, and the court may, for good cause shown, deny or partially restrict the disclosures provided for discovery sought by subdivisions (a)(1) and (2) of this rule.

(4) The disclosures required by subdivision (a) of this rule shall be made within ~~five~~(5) days from the receipt of the demand therefor.

(b), (1) [No change]

(2) ~~Work Products~~. Disclosure shall not be required of legal research or of records, correspondence, or memoranda, to the extent that they contain the opinion, theories, or conclusions of the prosecuting or defense attorney or members of his their legal staff.

~~(3) Discovery shall be subject to constitutional limitations.~~

(c), (1) [No change]

(iA) At any time after the filing of the petition alleging a child to be dependent or a petition for termination of parental rights, any party may take the deposition upon oral examination of any person who may have information relevant to the allegations of the petition.

(iiB) The deposition shall be taken in a building where the adjudicatory hearing may be held, in such other place as agreed upon by the parties, or where the trial court may designate by special or general order. A resident of the state may be required to attend an examination only in the county wherein he or she resides, ~~or~~ is employed, or regularly transacts ~~his~~ business in person.

(2) Procedure.

(iA) The party taking the deposition shall give written notice to each other party. The notice shall state the time and place the deposition is to be taken and the name of each person to be examined.

(iiB) Upon application the court or its clerk shall issue subpoenas for the persons whose depositions are to be taken.

(iiiC) After notice to the parties the court, for good cause shown, may extend or shorten the time and may change the place of taking.

(ivD) Except as otherwise provided by this rule, the procedure for taking the deposition, including the scope of the examination, shall be the same as that provided by the Florida Rules of Civil Procedure.

(3) Use of Deposition. Any deposition taken pursuant hereto may be used at any hearing covered by these rules by any party for the following purposes:

(iA) [No change in text]

(iiB) [No change in text]

(ai) He or she is dead.

(bii) He or she is at a greater distance than ~~one hundred (100)~~ miles from the place of hearing, or is out of the state unless it appears that the absence of the witness was procured by the party offering the deposition.

(eiii) [No change in text]

(~~div~~) He or she is unable to attend or testify because of age, illness, infirmity, or imprisonment.

(~~ev~~) It has been shown on application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used.

(~~fvi~~) [No change in text]

(4) Use of Part of Deposition. If only part of a deposition is offered in evidence by a party, an adverse party may require ~~him~~ the party to introduce any other part that in fairness ought to be considered with the part introduced, and any party may introduce any other parts.

(5) Refusal to Obey Subpoena. A person who refuses to obey a subpoena served upon ~~him~~ the person for the taking of a deposition may be adjudged in contempt of the court from which the subpoena issued.

(6) Limitations on Use. Except as provided in ~~section subdivision~~ (3) ~~above~~, no deposition shall be used or read in evidence when the attendance of the witness can be procured. If it shall appear to the court that any person whose deposition has been taken has absented himself or herself by procurement, inducements, or threats by or on behalf of any party, the deposition shall not be read in evidence on behalf of that party.

(d), (1) [No change]

(~~±A~~) Petition. A person who desires to perpetuate ~~his~~ the person's own testimony or that of another person regarding any matter that may be cognizable in any court of this state may file a verified petition in the circuit court in the county of the residence of any expected adverse party. The petition shall be entitled in the name of the petitioner and shall show:

(~~ai~~) [No change in text]

(~~bi~~) the subject matter of the expected action and ~~his~~ the person's interest therein;

(~~eiii~~) the facts which ~~he~~ the person desires to establish by the proposed testimony and ~~his~~ the reasons for desiring to perpetuate it;

(~~d~~) the names or a description of the persons ~~he expects will~~ expected to be adverse parties and their names and addresses so far as known; and

(ev) the names and addresses of the persons to be examined and the substance of the testimony ~~which he expects~~ expected to be elicited from each and ~~shall ask~~ asking for an order authorizing the petitioner to take the deposition of the persons to be examined named in the petition for the purpose of perpetuating their testimony.

(~~ii~~B) Notice and Service. The petitioner shall thereafter serve a notice on each person named in the petition as an expected adverse party, together with a copy of the petition, stating that the petitioner will apply to the court at a time and place therein for an order described in the petition. At least ~~twenty~~ 20 days before the date of the hearing, the notice shall be served either within or without the county in the manner provided by law for serving of summons but if such service cannot with due diligence be made on any expected adverse party named in the petition, the court may make an order for service by publication or otherwise, and shall appoint an attorney for persons not served in the manner provided by law for service of summons who shall represent them and, if they are not otherwise represented, shall cross-examine the deponent.

(~~iii~~C) [No change in text]

(~~iv~~D) Use of Deposition. If a deposition to perpetuate testimony is taken under these rules, it may be used in any action involving the same subject matter subsequently brought in any court of Florida in accordance with the provisions of ~~section~~ subdivision (c)(3).

(2) Pending Appeal. If an appeal has been taken from a judgment of any court or before the taking of an appeal if the time therefor has not expired, the court in which the judgment was rendered may allow the taking of the depositions of witnesses to perpetuate their testimony for use in the event of further proceedings in the court. In such case the party who desires to perpetuate the testimony may make a motion for leave to take the deposition upon the same notice and service as if the action ~~was~~ were pending in the court. The motion shall show (~~i~~) the names and addresses of persons to be examined and the substance of the testimony ~~which he expects to elicit~~ expected to be elicited from each and (~~ii~~) the reasons for perpetuating the testimony. If the court finds that the perpetuation is proper to avoid a failure or delay in justice, it may make orders of the character provided for by this rule and thereupon the deposition may be taken and used in the same manner and under the same conditions as are prescribed in these rules for depositions taken in actions pending in the court.

(3) [No change]

(e) [No change]

(f) Supplemental Discovery. If, subsequent to compliance with these rules, a party discovers additional witnesses, evidence, or material which ~~he~~ the party would have been under a duty to disclose or produce at the time of such previous compliance, ~~he~~ the party shall promptly disclose or produce such witnesses, evidence, or material in the same manner as required under these rules for initial discovery.

(g), (1) [No change]

(~~i~~A) [No change in text]

(~~ii~~B) [No change in text]

(~~iii~~C) [No change in text]

(~~iv~~D) prohibit the party from calling a witness not disclosed or introducing in evidence the material not disclosed;
or

(~~v~~E) [No change in text]

(2) [No change]

Committee Note: (a)(1) Termination of parental rights proceedings have been added to discovery procedures.

RULE ~~8-750~~ 8.250. EXAMINATIONS, EVALUATION, AND TREATMENT

(a) [No change]

(b) Parent, Guardian, or Other Person Requesting Custody. At any time after the filing of a dependency or termination of parental rights petition, when the mental or physical condition, including the blood group, of a parent, guardian, or other person requesting custody of a child is in controversy, any party may request the court may to order the person to submit to a physical or mental examination by a qualified professional. The order may be made only on good cause shown and ~~on~~ after notice to the person to be examined and to all parties and shall specify the time, place, manner, condition, and scope of the examination and the person or persons by whom it is to be made. The person whose examination is sought may, after receiving notice of the request for an examination, request a hearing seeking to quash the request. The court may, on its own motion, ~~or the motion of any party~~ order a parent, guardian, or other person requesting custody to undergo such evaluation, treatment, or counseling activities as authorized by law.

Committee Note: This rule allows any party to request an evaluation but provides a mechanism for a hearing to quash the request.

RULE ~~8-610~~ 8.255. GENERAL PROVISIONS FOR HEARINGS

(a) [No change]

(b) Presence of Child. ~~The child shall be~~ has a right to be present at the hearing unless ~~excused by the court or the court finds that the child's mental or physical condition or age is such that a court appearance is not in the best interest of the child. Any party may file a motion to~~ require or excuse the presence of the child.

~~(c) In-camera Proceedings. The child may be examined by the court outside the presence of other parties under circumstances as provided by law. The court shall assure that the proceedings are recorded unless otherwise stipulated by the parties.~~

(c) Examination of Child; Special Protections.

(1) Testimony by Child. A child may be called to testify in open court by any party to the proceeding, or the court, and may be examined or cross-examined as any other witness.

(2) In-camera Examination.

(A) Upon motion and hearing in camera and upon a finding that there is a substantial likelihood that the child will suffer at least moderate emotional or mental harm if required to testify in open court or that such child is unavailable as defined in section 90.804(1), Florida Statutes, the trial court may order that the testimony of a child under age 16 who is a victim or witness be taken outside of the courtroom and shown by means of closed circuit television.

(B) The motion may be filed by any party or the trial court on the court's own motion.

(C) Only the judge, the petitioner's attorney, the state's attorney, the parent, the attorney for the parent, the operators of the videotape equipment, an interpreter, and some other person who, in the opinion of the court, contributes to the well-being of the child and who will not be a witness in the case may be in the room during testimony.

(D) During the child's testimony by closed circuit television, the court may require the parent or custodian to view the testimony from the courtroom or other location. In such case, the court shall permit the parent or custodian to observe and hear the testimony of the child, but shall ensure that the child cannot hear or see the parent or custodian. The court and the persons in the room where the child is testifying may communicate by any appropriate electronic method.

(E) The court shall make specific written findings of fact, on the record, as to the basis for its ruling under this rule.

(3) Unavailability of Child. If a child is unavailable to be present to testify in open court or through the use of closed circuit television, on motion and hearing in camera and upon a finding of such unavailability, the court may order the videotaping of the testimony of the child. The court and the parties shall follow all the measures set out in subdivision (2).

(d)--(g) [No change]

(h) Masters. Pursuant to Florida Rule of Civil Procedure 1.490, both general and special masters may be appointed to hear issues involved in proceedings under this part.

Committee Note: (b) This change allows a child to be present instead of mandating the child's presence when the child's 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.

RULE ~~8.650~~ 8.260. ORDERS

All orders of the court shall be reduced to writing as soon after they are entered as is consistent with orderly procedure and shall contain specific findings of fact and conclusions of law as required by law.

RULE ~~8.820~~ 8.265. MOTION FOR REHEARING

(a) Basis. After the court has entered an order ~~of adjudication or an order withholding adjudication or an order of disposition,~~ following an adjudicatory hearing, a termination of parental rights hearing, a disposition hearing, or a review hearing when the court has made a finding that the parents have substantially complied with the performance agreement, any party may move for rehearing upon one or more of the following grounds:

(1)--(6) [No change]

(b) [No change]

(1) A motion for rehearing may be made and ruled upon immediately after the court announces its judgment but must be made within ~~ten~~ (10) days of the entry of the order.

(2), (3) [No change]

(c), (1) [No change]

(2) The court on its own initiative may vacate or modify any order within the time limitation provided in subdivision (b) above.

RULE ~~8-830~~ 8.270. RELIEF FROM JUDGMENTS OR ORDERS

(a) [No change]

(b) Extraordinary Relief. On motion and upon such terms as are just, the court may relieve a party or ~~his~~ the party's legal representative from an order, judgment, or proceeding for the following reasons:

(1) Mistake, inadvertence, surprise, or excusable neglect~~+~~.

(2) Newly discovered evidence which by due diligence could not have been discovered in time to move for rehearing~~+~~.

(3) Fraud (intrinsic or extrinsic), misrepresentation, or other misconduct of any other party~~+~~ ~~or~~.

(4) That the order or judgment or any part thereof is void.

The motion shall be made within a reasonable time and for reasons (1), (2), and (3) not more than ~~one~~ 1 year after the judgment, order, or proceeding was taken.

(c) Limitation. After the court loses jurisdiction of the cause, as provided by law, a motion for relief of judgment or order under subdivision (b) shall not be heard.

RULE ~~8-8408~~ 8.275. SUPERSEDEAS ON APPEAL

(a) ~~Permanent Commitment~~ Termination of Parental Rights. The taking of an appeal shall operate as a supersedeas in cases involving a petition for ~~permanent commitment to a licensed child placing agency or any agency of the Department of Health and Rehabilitation Services for subsequent adoption termination of parental rights~~, but the child shall continue in the custody of the agency under the order until the appeal is decided.

(b) Other Cases. In all other cases the taking of an appeal shall not operate as a supersedeas, but the court in considering the welfare and best interest of the child may grant a supersedeas in its discretion on such conditions, ~~with or without bond~~ as it may ~~fix~~ determine are appropriate.

(c) [No change]

RULE ~~8-8508~~ 8.280. DISQUALIFICATION OF JUDGE

[No change in text]

RULE ~~8-8608~~ 8.285. ~~DIRECT~~ CONTEMPT

(a) Direct Contempt. A contempt may be punished summarily if the court saw or heard the conduct constituting the contempt committed in the actual presence of the court. The judgment of guilt of contempt shall include a recital of those facts upon which the adjudication of guilt is based. Prior to the adjudication of guilt the judge court shall inform the person accused of the accusation ~~against him~~ and inquire as to whether ~~he has~~ there is any cause to show why he or she should not be adjudged guilty of contempt by the court and sentenced ~~therefor~~. The accused shall be given the opportunity to present evidence of excusing or mitigating circumstances. The judgment shall be signed by the judge court and entered of record. Sentence shall be pronounced in open court.

~~RULE 8.870. INDIRECT CONTEMPT~~

(b) Indirect Contempt. An indirect contempt shall be prosecuted in the following manner:

~~(a)~~ (1) Order to Show Cause. The judge court on ~~his~~ its own motion or upon affidavit of any person having knowledge of the facts may issue and sign an order directed to the one accused of contempt, stating the essential facts constituting the contempt charged and requiring ~~him~~ the accused to appear before the court to show cause why he or she should not be held in contempt of court. The order shall specify the time and place of the hearing, with a reasonable time allowed for the preparation of a defense after service of the order on the one accused. It shall be served in the same manner as a summons. Nothing herein shall be construed to prevent the one accused of contempt from waiving the service of process.

~~(b)~~ (2) Motions; Answer. The accused, personally or by counsel, may move to dismiss the order to show cause, move for a statement of particulars, or answer such order by way of explanation or defense. All motions and the answer shall be in writing unless specified otherwise by the judge court. The accused's omission to file a motion or answer shall not be deemed an admission of guilt of the contempt charged.

~~(c)~~ (3) Order of Arrest; Bail. The judge court may issue an order of arrest of the one accused of contempt if the judge court has reason to believe ~~he~~ the accused will not appear in response to the order to show cause. The accused shall be entitled to bail in the manner provided by law in criminal cases.

~~(d)~~ (4) Arraignment; Hearing. The accused may be arraigned at the hearing, or prior thereto upon ~~his~~ request. A hearing to determine the guilt or innocence of the accused shall follow a plea of not guilty. The judge court may conduct a hearing without assistance of counsel or may be assisted by the state attorney or by an attorney appointed for the purpose. The accused is entitled to be represented by counsel, have

compulsory process for the attendance of witnesses, and may testify in his or her own defense. All issues of law and fact shall be determined by the ~~judge~~ court.

~~(e)~~ (5) Disqualification of the Judge. If the contempt charged involves disrespect to or criticism of a judge, ~~he~~ the judge shall be disqualified by the ~~Chief Judge~~ of the circuit.

~~(f)~~ (6) Verdict; Judgment. At the conclusion of the hearing the judge court shall sign and enter of record a judgment of guilty or not guilty. There should be included in a judgment of guilty a recital of the facts constituting the contempt of which the ~~defendant~~ accused has been found and adjudicated guilty.

~~(g)~~ (7) ~~The Sentence~~. Prior to the pronouncement of sentence the judge court shall inform the ~~defendant~~ accused of the accusation and judgment against him or her and inquire as to whether ~~he has~~ there is any cause to show why sentence should not be pronounced. The accused shall be afforded the opportunity to present evidence of mitigating circumstances. The sentence shall be pronounced in open court and in the presence of the one found guilty of contempt.

B. DEPENDENCY PROCEEDINGS

RULE ~~8.700~~8.300. TAKING INTO CUSTODY

(a), (1) [No change]

(2) specify the name, address, and sex of the child or, if unknown, designate ~~him~~ the child by any name or description by which he or she can be identified with reasonable certainty;

(3) specify that the child is of an age subject to the jurisdiction of the court; and

(4) [No change]

(b) Criteria for Order. The court may issue an order to take a child into custody based on sworn testimony meeting the criteria set forth in ~~Rule 8.700~~ subdivision (a).

(c), (1) [No change]

(2) specify the name, address, and sex of the child or, if unknown, designate ~~him~~ the child by any name or description by which he or she can be identified with reasonable certainty;

(3), (4) [No change]

(5) order that the child be detained in a suitable place pending a detention hearing as provided by law; and

(6) state the date when issued, and the county and court where issued.

~~(d) Notification of Right to Attend Detention Hearing. Upon the execution of the order, the parents or custodian shall be notified in writing of their right to appear before the court for a detention hearing which shall be held within 24 hours, with or without counsel on the question of the child's detention at a time and place designated in the notice.~~

RULE 8-7108.305. SHELTER DETENTION PETITION, HEARING, AND ORDER

(a) Shelter Detention Petition. If a child is to be placed in a shelter after being taken into custody for a period longer than ~~twenty-four~~ 24 hours, the person requesting placement shall file a written petition which shall:

(1) specify the name, address, and sex of the child or, if unknown, designate ~~him~~ the child by any name or description by which he or she can be identified with reasonable certainty;

(2) specify that the child is of an age subject to the jurisdiction of the court;

(3) state the reasons why the child needs to be placed in a shelter;

(4) recommend where the child is to be placed or the agency to be responsible for placement; and

(5) be signed by the petitioner and, if represented by counsel, by ~~his~~ the petitioner's attorney.

(b) Shelter Detention Hearing.

(1)--(4) [No change]

(5) The court may base its determination on sworn complaint, testimony, or affidavit, and may hear relevant and material evidence, including oral and written reports, to the extent of its probative value even though it would not be competent at an adjudicatory hearing.

(6) The court shall advise the parent or custodian of:

(iA) the right to be represented by counsel as provided by law;

(iB) the reason for the child being in custody and why continued placement is requested; and

(iC) the right to present placement alternatives.

(c) Shelter Detention Order. ~~(2)~~ The order shall be in writing and shall:

~~(1) The court shall not proceed with entry of a shelter order in the absence of the parent or legal custodian except for good cause shown. Absence of the parent or legal custodian shall not invalidate the proceedings or the order after the court has made such a finding.~~

~~(i) (1) state the name, age, and sex of the child and, if his the child's age is unknown, that he or she is believed to be of an age which makes him subject to the jurisdiction of the court.~~

~~(ii) (2) include findings that probable cause to believe the child is dependent exists and that the criteria provided by law for continued placement of the child have been met. If the court finds that such probable cause does not exist, it shall forthwith release the child from shelter care. If the court finds that one or more of the statutory criteria for placement exists, but is unable to make a finding on the existence of probable cause, it may retain the child in shelter care and continue the hearing for the purpose of determining the existence of probable cause to a time within 72 hours of the time the child was taken into custody. The court may, on a showing of good cause, continue the hearing a second time for not more than 24 hours beyond the 72-hour period. Release of the child based on no probable cause existing shall not prohibit the filing of a petition and further proceedings thereunder, but shall prohibit the holding of the child in shelter care prior to the adjudicatory hearing.~~

~~(iii) (3) designate the place where the child is to be placed or the person or agency that will be responsible for his the child's placement along with any special conditions found to be necessary.~~

~~(iv) (4) state the date and time where issued.~~

~~(v) (5) state whether the child may be released from shelter at the discretion of the Department of Health and Rehabilitative Services.~~

(d) Release from Shelter Care. No child shall be released from shelter after a shelter detention order has been entered except on order of the court unless the shelter detention order authorized release by the Department of Health and Rehabilitative Services.

RULE 8-7208.310. DEPENDENCY PETITIONS

(a) Contents of Petition.

(1) A dependency petition may be filed as provided by law. Each petition shall be entitled a petition for dependency and shall allege sufficient facts showing the child to be dependent based upon applicable law.

(2) [No change]

(3) The petition shall identify the age, sex, and name of the child. Two or more children may be the subject of the same petition.

(4) [No change]

(5) Upon the filing of a petition, the clerk's office shall forward the petition to the Sstate Aattorney or ~~his~~ designate. In the case of child abuse, where the petition is filed by a person who is not an attorney, the Sstate Aattorney or ~~his~~ designate shall review the petition for legal sufficiency or otherwise be available to assist the petitioner in preparation of the technical aspects of the petition. Nothing in this ~~section~~ subdivision shall interfere with the right or decision of any person to file a petition alleging dependency.

(b) Verification. The petition shall be signed by ~~the state attorney, assistant state attorney, or other petitioner,~~ stating under oath his the signer's good faith in filing the petition. No objection to a petition on the grounds that it was not signed or verified, as herein provided, shall be entertained after a plea to the merits.

(c) Amendments. At any time prior to the conclusion of an adjudicatory hearing, an amended petition may be filed or the petition may be amended by motion; however, after a written answer or plan has been filed, amendments shall be permitted only with the permission of the court, unless all parties consent. Amendments shall be freely permitted in the interest of justice and the welfare of the child. A continuance may be granted upon motion and a showing that the amendment prejudices or materially affects any party.

(d) Defects and Variances. No petition or any count thereof shall be dismissed, or any judgment vacated, on account of any defect in the form of the petition or of misjoinder of counts. If the court is of the opinion that the petition is so vague, indistinct, and indefinite as to mislead the child, parent, or custodian and prejudice any of them in the preparation of a defense, the petitioner may be required to furnish a more definite statement.

(e) Voluntary Dismissal. ~~At any time prior to entry of an order of adjudication, the petition for dependency may be voluntarily dismissed by petitioner without leave of the court by serving a notice of dismissal on all parties, or if during a hearing, by so stating on the record.~~ The petitioner without

leave of the court, at any time prior to entry of an order of adjudication, may request a voluntary dismissal of the petition by serving a notice requesting dismissal on all parties or, if during a hearing, by so stating on the record. The petition shall be dismissed and the court loses jurisdiction unless another party adopts the petition within 48 hours. Unless otherwise stated, the dismissal shall be without prejudice.

~~(f) Involuntary Dismissal. If an adjudicatory hearing is not begun within 180 days of the date the child was taken into custody or the date the petition was filed, whichever occurs first, the petition for dependency shall be dismissed with prejudice on motion and hearing. The court may extend the period of time established by this rule on motion of any party, after hearing on a finding that the interest of justice will be served by such extension. The order granting the extension shall be in writing and shall state the reasons for the extension. The general congestion of the court's docket, lack of diligent preparation, failure to obtain available witnesses, or other avoidable or foreseeable delays shall not constitute grounds for an extension.~~

Committee Note: (c) The time limit for amending a petition has been extended to be consistent with civil pleading procedures. The best interest of the child requires liberal amendments. The procedures for determining if a party has been prejudiced have not been changed.

(e) This section has been reworded to provide a procedure for notice to all parties before dismissal and to allow adoption of a petition by another party.

RULE 8-7308.315. ANSWERS; ARRAIGNMENTS AND PRE-HEARING PREHEARING CONFERENCES

~~(a) Answers. The parent or custodian of the child may enter an oral or written answer to the petition or remain silent. If the parent or custodian remains silent or pleads evasively, the court shall enter a denial of dependency. The court shall determine that any admission or consent to finding of dependency is made voluntarily and with a full understanding of the nature of the allegations and the possible consequences of such admission or consent, and that the parent or custodian has been advised of the right to be represented by counsel. The court shall incorporate these findings into its order in addition to findings of fact specifying the act or acts of dependency, by whom committed and facts upon which the findings are based. If the answer admits the allegations of the petition it shall constitute consent to a pre-disposition study.~~

~~(b)~~ (a) Arraignment. Prior to the adjudicatory hearing the court may shall conduct a hearing to determine whether an admission, consent, or denial to the petition shall be entered and whether the parties are represented by counsel or are

entitled to appointed counsel as provided by law. If an admission or consent is entered, the court shall proceed as set forth in Rule 8-7808.340. If a denial is entered, the court shall set an adjudicatory hearing within the period of time provided by law or grant a continuance as provided by law and appoint counsel when required.

~~(e)~~(b) Withdrawal of Plea. The court may at any time prior to the beginning of a disposition hearing permit an admission of the allegations of the petition to be withdrawn, and, if an adjudication has been entered thereon, set aside such adjudication. In the subsequent adjudicatory hearing the court shall disregard an admission that has been withdrawn.

~~(d)~~(c) Pre-Hearing Prehearing Conference. Prior to the ~~conduct of~~ any adjudicatory hearing the court may set or the parties may request that a pre-hearing prehearing conference be held to determine the order in which each party may present witnesses or evidence and the order in which cross-examination and argument shall occur. The court may also enter findings on the record of any stipulations entered into by the parties, and consider any other matters which may aid in the conduct of the adjudicatory hearing.

(d) Status Hearing. Within 30 days of the filing of the petition a status hearing shall be held with all parties present unless an adjudicatory hearing has commenced. Subsequent status hearings shall be held every 30 days thereafter unless an adjudicatory hearing has commenced.

Committee Note: (d) This section requires a status hearing every 30 days to ensure prompt resolution of the case while preserving the rights of all parties.

RULE 8-5608.320. PROVIDING COUNSEL TO PARTIES

(a) [No change]

(1) At each stage of the dependency proceeding the court shall advise the parent, guardian, or custodian of their right to have counsel present.

(2) The court may and upon request shall appoint counsel to insolvent persons who are so entitled as provided by law.

~~(3) The court shall ascertain whether the right to counsel is understood and where appropriate, knowingly and intelligently waived. The court shall enter its findings in writing with respect to the appointment or waiver of counsel for insolvent parties as aforementioned.~~

~~(2) The court may appoint an attorney for the parent, guardian or custodian of a child, as provided by law.~~

(b) [No change]

(1) No waiver of counsel shall be accepted where it appears that the party is unable to make an intelligent and understanding choice because of his age, education, experience, the nature or complexity of the case, or other factors.

(2) A waiver of counsel made in court shall be of record. ~~A waiver made out of court shall be in writing with not less than two attesting witnesses, and shall be filed with the court. Said witnesses shall attest the voluntary execution thereof.~~ The court shall question the party insufficient detail to ascertain that the waiver is made knowingly, intelligently, and voluntarily.

(3) [No change]

RULE 8.325. ANSWERS AND PLEADINGS

(a) No Answer Required. No written answer to the petition need be filed by the parent or custodian. The parent or custodian of the child may enter an oral or written answer to the petition or remain silent.

(b) Denial of Allegations. If the parent or custodian denies the allegations of the petition or remains silent or pleads evasively, the court shall enter a denial of dependency and shall set the case for an adjudicatory hearing.

(c) Admission of or Consent to Dependency. The parent or custodian may admit or consent to a finding of dependency. The court shall determine that any admission or consent to a finding of dependency is made voluntarily and with a full understanding of the nature of the allegations and the possible consequences of such admission or consent, and that the parent or custodian has been advised of the right to be represented by counsel. The court shall incorporate these findings into its order in addition to findings of fact specifying the act or acts causing dependency, by whom committed, and facts upon which the findings are based. If the answer admits the allegations of the petition it shall constitute consent to a predisposition study.

RULE 8.760. PLANS AND STIPULATIONS

[Delete entire rule]

RULE 8.7808.330. ADJUDICATORY HEARINGS

(a) Hearing by Judge. The adjudicatory hearing shall be conducted by the judge without a jury utilizing the rules of evidence. At this hearing the court shall determine whether the allegations of the dependency petition have been sustained by a preponderance of the evidence. If the court is of the opinion that the allegations are sustained by clear and convincing evidence, it may enter an order so stating.

~~(b) Examination of Witnesses. Any A party shall have the right to examine the witnesses may call any person as a witness. A party shall have the right to examine or cross-examine all witnesses. No party shall be excluded from the hearing unless so ordered by the court for disruptive behavior.~~

~~(c) Right Against Self-Incrimination, Child. The child shall not be required to give testimony that may tend to incriminate him in any criminal matter.~~

~~(d) Right Against Self-Incrimination, Parent or Custodian. The parents or custodians shall, if they so elect, be sworn and may testify in their own behalf. In such cases they shall be warned that anything they say may be used against them at a subsequent criminal trial. They may be cross-examined as other witnesses.~~

(c) Presence of Parties. All parties have the right to be present at all hearings. No party shall be excluded from any hearing unless so ordered by the court for disruptive behavior or as provided by law.

~~(e)(d) Joint and Separate Hearings. When two 2 or more children are alleged to be dependent children, the hearing may be held simultaneously when the several children involved are related to each other or involved in the same case, unless the court orders separate hearings.~~

~~(f)(e) [No change in text]~~

~~(g)(f) [No change in text]~~

~~(h) [Text moved to rule 8.335]~~

(i)(g) Findings and Orders. In all cases the court shall enter a written order stating the legal basis for a finding of dependency, specifying the facts upon which the finding of dependency is based, and stating whether the court made the finding by a preponderance of the evidence or by clear and convincing evidence.

Committee Note: (a) This change gives the court the option of making a finding based on a higher burden of proof to eliminate the need for a repetitive hearing on the same evidence if a termination of parental rights petition is filed.

RULE 8-780(h)8.335. ALTERNATIVES PENDING DISPOSITION

~~(h) Alternatives Pending Disposition. If the court finds that the evidence supports the allegations of the petition, it may make a finding of dependency as provided by law. If the predisposition and other reports required by law are available, the court may proceed to disposition or continue the case for a~~

disposition hearing. If the case is continued, the court may refer the case to appropriate agencies for additional study and recommendation. The court may order the child continued in placement, designate the ~~place of detention~~ placement or the agency that will be responsible for ~~his~~ the child's placement, and enter such other orders deemed necessary to protect the health, safety, and well-being of the child, including diagnosis, evaluation, treatment, and visitation.

RULE ~~8-7908~~.340. DISPOSITION HEARINGS

(a), (b) [No change]

(c) Treatment Plans. At any time after adjudication, any party may submit a plan of proposed treatment, training, or conduct. The Department of Health and Rehabilitative Services shall be the supervising agency unless the court appoints another agency or person.

(1) The plan must be in writing and shall be agreed to and signed in all cases by the parents or custodians, and, when represented, by their counsel; whenever possible, by the child, the guardian ad litem, and the child's counsel. The authorized agent of the department shall indicate whether ~~they recommend~~ the acceptance of the plan is recommended.

(2) The court shall conduct a hearing on acceptance of the plan, which may be waived by oral or written stipulation of all parties and the supervising agency. The court shall provide an opportunity for all parties to be heard on contested issues, may accept or reject the plan or any parts thereof, and shall enter a written order.

(3) Violations of the conditions of the plan shall be presented to the court by a motion alleging a violation during the pendency of the plan. If the court, after hearing, finds a violation has occurred, it may take such action as is appropriate to enforce the plan, to modify the plan by supplemental agreement, or to set aside the plan.

(4) [No change]

(d) Orders of Disposition. The court shall in its written order of disposition include:

(1), (2) [No change]

(3) evaluation, counseling, treatment activities, and other actions to be taken by the parties, where ordered;

(4) [No change]

(5) period of time or date for subsequent case review where required by law; and

(6) such other requirements deemed necessary to protect the health, safety, and well-being of the child.

RULE ~~8.800~~345. POSTDISPOSITION RELIEF

(a) Motion for Modification of Placement. 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 of the Department of Health and Rehabilitative Services, may be brought before the court by the parent, guardian, or any interested person on a motion for modification of placement. The court shall 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) [No change]

~~(c)~~ [Text moved to rule 8.400]

~~(d)~~ [Text moved to rule 8.415]

C. FOSTER CARE

RULE ~~8.800~~(~~c~~)400. PERFORMANCE AGREEMENTS

(a) Performance Agreements. Within 30 days after placement of a child in foster care the department shall do one of the following:

(1) ~~f~~File with the court a performance agreement signed by the parties involved, which shall include but not be limited to the attorney representing the department, the department counselor, the parent(s), counsel for the parent, if represented, and the guardian ad litem; ~~or~~.

(2) ~~s~~Submit a motion requesting an extension of the time for filing the performance agreement for a period of not more than 30 days; however, this shall not preclude a party or any other agency or person participating in the preparation of the performance agreement from filing the motion.

(~~i~~A) ~~Service~~. A copy of the motion and notice of hearing shall be served on the parties and participants involved in the preparation of the performance agreement.

(~~i~~B) ~~Hearing~~. The court shall hear all parties present, in person, by counsel, or both. The department at all times, however, shall be represented by an attorney. Only one 30-day extension may be granted upon a showing of good cause; ~~or~~.

(3) ~~§~~Submit a motion for review of a plan for permanent placement to which a copy of the proposed plan shall be attached. ~~In the event that such a motion and plan are submitted because the parents will not or cannot participate in the preparation of the performance agreement, the motion shall contain a full explanation of circumstances preventing the parents from participating. In the event that the motion and plan are being submitted due to inability of the parents and the department to concur in all or any portion of the performance agreement, the motion shall contain an explanation of the nature of the disagreement.~~

~~(i) Service. The motion, proposed plan, and notice of hearing shall be served on the parties and participants in the preparation of the performance agreement.~~

~~(ii) Hearing. The court shall hear all parties present, in person, by counsel, or both. The department, at all times, however, shall be presented by an attorney. After such hearing, the court shall order the department to submit the plan for permanent placement, but may, in its discretion, issue a protective order modifying, deleting, or adding to the requirements included in the plan for permanent placement.~~

(b) Amendments. The performance agreement may be amended by:

(1) the parties at any time provided agreement is unanimous by all parties, but any revised agreement must be filed with the court which may convene a hearing on the revisions after notice to all parties; or

(2) the court upon motion of a party after notice to all other parties.

RULE 8.405. PERMANENT PLACEMENT PLANS

If the parents, legal guardian, or custodian are unable or unwilling to participate in the preparation of a performance agreement, the department shall submit a plan for permanent placement. In the event that such a plan is submitted because the parents will not or cannot participate in the preparation of the performance agreement, the plan or supporting documents shall contain a full explanation of the circumstances preventing the parents from participating. In the event that the plan is being submitted due to the inability of the parents and the department to concur in all or any portion of the performance agreement, the plan or supporting documents shall contain an explanation of the nature of the disagreement.

(a) Service. The motion, proposed plan, and notice of hearing shall be served on the parties and participants in the preparation of the performance agreement.

(b) Hearing. The court shall hear all parties present, in person, by counsel, or both. After such hearing, the court shall order the department to submit the plan for permanent placement, but may, in its discretion, issue a protective order modifying, deleting, or adding to the requirements included in the plan for permanent placement.

Committee Note: This new rule provides a procedure for permanent placement plans consistent with law. Sections on service and hearing were taken from old rule 8.800.

RULE 8.410. JUDICIAL REVIEW OF INITIAL PERFORMANCE AGREEMENT OR PERMANENT PLACEMENT PLAN

(a) Hearing. Upon receipt of the performance agreement or permanent placement plan, the court shall set, within 45 days, a hearing to review the contents of the agreement or plan. Notice of the review hearing will be served on all parties and/or their counsel.

(b) Determinations by Court. At the hearing, the court shall determine if:

(1) The agreement or plan is consistent with the previous findings and orders of the court placing the child in care.

(2) The agreement or plan is consistent with the requirements for the content of a performance agreement or permanent placement plan as provided by law.

(3) The parents were advised of their right to have counsel present at all prior hearings and the parents, guardian, or custodian were advised of their right to have counsel or any other person assist in the preparation of the performance agreement.

(4) The performance agreement is meaningful and designed to address the facts, circumstances, and problems upon which the court based its order of dependency for the child; particularly, if the parents, guardian, or custodian have the ability to perform the tasks assigned to them and that the social service agency can provide the assistance necessary to the parents to reunite the family.

(5) The permanent placement plan adequately addresses the goals and needs of the child and complies with all the requirements for a performance agreement.

(c) Court Action. After the hearing:

(1) If the court determines that the requirements for the performance agreement have not been met, it may order the parties to make amendments to the agreement. The amended plan shall be submitted to the court for another hearing and

approval. If the parties do not agree on the final terms, the court shall order those conditions and tasks it believes the parents, guardian, or custodian must accomplish for the return of the child. In addition, the court may order the department to provide those services necessary to assist in the efforts to reunify the family.

(2) If the court finds that the proposal of a permanent placement plan was not warranted, it can order the preparation of a performance agreement. The ordered performance agreement will then be reviewed according to these rules and as provided by law.

(d) Entry of Findings. The court shall enter its findings with respect to the review of the performance agreement or permanent placement plan in writing and make specific findings on each element required by law to be included in a performance agreement or permanent placement plan.

(e) Review Hearing. The court will set a hearing to review the performance of the parties to the performance agreement 6 months from the date of approval.

Committee Note: This rule provides for judicial review of performance agreements and permanent placement plans consistent with law. It requires a hearing within 45 days, lists the criteria the court must consider in reviewing the agreement or plan, and provides procedures following the hearing.

RULE 8-800(d)8.415. FOSTER CARE REVIEW IN DEPENDENCY CASES- JUDICIAL REVIEW OF CHILDREN IN FOSTER CARE

Children in foster care shall have their status reviewed as provided by law.

(1)(a) Scheduling Hearings.

(i)(1) If the child is placed in foster care pursuant to a court order at a disposition hearing, the court shall determine when the first review hearing shall be held and the clerk of the court shall immediately schedule the review hearing. In no case shall the hearing be scheduled for later than ~~six~~ 6 months from the date of placement.

(ii)(2) In all other cases where a child is in foster care, proceedings for judicial review shall be initiated by the filing of a supplemental petition for judicial review by the Department of Health and Rehabilitative Services. Upon filing of said petition, the clerk of the court shall immediately schedule the review hearing.

(2)(b) Petition and Report.

(i)(1) Petition. In all cases, including those in which a foster care review hearing has already been scheduled by the

court or a clerk of Court, the department shall prepare a petition to which a copy of the report shall be attached. The petition shall allege facts showing the court to have jurisdiction of the cause as a dependency case. It shall contain allegations as to the identity and residence of the parent and custodian, if known, the dates of the original dependency adjudication and any subsequent judicial review proceedings, and a request for one of the following forms of relief:

(a)(A) That the child be continued in foster care.

(b)(B) That the child be placed in the custody of a parent, guardian, relative, or former custodian.

(c)(C) That the child be placed in the custody of a relative, guardian, or other custodian willing to care for the child.

(d)(D) That the performance agreement be continued to permit the parents, guardian, custodian, or social service agency time to complete the tasks assigned to them in the agreement.

(e)(E) That proceedings be instituted to terminate parental rights and legally free the child for adoption.

(ii)(2) Report. The Department shall prepare a report, as required by law. Said report shall be signed by the attorney representing the Department of Health and Rehabilitative Services.

(3)(c) Service. A copy of the petition, report, and recommendations and a notice of review hearing shall be served on all persons who are required by law to be served prior to the judicial review hearing.

(4)(d) Court Action.

(1) The court shall hold a hearing to review the compliance of the parties with the performance agreement to determine what assigned tasks were and were not accomplished and the reasons for their nonachievement.

(i)(2) If the court finds that the parents have substantially complied with the performance agreement, the court shall return the child to the custody of the natural parents on expiration of the performance agreement.

(ii)(3) If the court finds the social service agency has not complied with its obligations, the court may find the social service agency to be in contempt, shall order the social service agency to submit its plan for compliance with the agreement, and shall require the social service agency to show why the child

should not be returned immediately to the home of ~~his~~ the parents or legal guardian. If the court finds that the child should not be returned immediately to ~~his~~ the natural parents or legal guardian, it shall extend the performance agreement for a period of not more than ~~six~~ 6 months to allow the social service agency to comply with its obligations under the performance agreement.

(iii) (4) If, at the expiration of the performance agreement, the court finds that the parents have not substantially complied with the performance agreement and the child is not returned to the physical custody of ~~his~~ the natural parents, the court shall order the social service agency shall to initiate permanent commitment proceedings unless the court finds that such would not be in the child's best interests or unless the court finds by clear and convincing proof that the situation of the child is so extraordinary that the performance agreement should be extended a termination of parental rights proceeding. If the court finds that an order initiating a termination of parental rights proceeding would not be in the child's best interests; that the parents in good faith attempted to comply with the terms of the agreement but need more time to accomplish their assigned tasks and believes the parents will accomplish them; or, by clear and convincing proof, that the situation of the child is so extraordinary that the performance agreement should be extended, the court may extend the time limitation for the performance agreement or modify the terms of the agreement. No agreement shall be extended for a period longer than ~~six~~ 6 months, except that the court may extend the agreement for ~~twelve~~ 12 months if the child is 13 years of age or older. At the expiration of the extended agreement, the court shall again review the child's status.

(iv) (5) When a child is returned to the natural parents, the court shall not terminate its jurisdiction over the child until six months after the return. Based on a report of the department and any other relevant factors, the court shall then determine whether the jurisdiction should be continued or terminated; if its jurisdiction is to be terminated, it shall enter an order to that effect.

(v) (6) When a child has not been returned to the natural parent, but has been permanently committed to the ~~Department of Health and Rehabilitative Services~~ or to a licensed child-placing agency willing to receive the child for subsequent adoption, the court shall continue to hold judicial review hearings on the status of the child at least annually. Such hearings shall be held in accordance with these rules.

(7) The court shall enter a written order upon the conclusion of the review hearing including a statement of the facts, those findings it was directed to determine by law, and a determination of the future course of the proceedings.

Committee Note: The rule allows for certain forms of relief pertinent to foster care review. It allows the court to order commencement of a termination of parental rights proceeding if the parents are not in compliance. The court also is permitted to extend or modify the plan.

~~RULE 8.810. PERMANENT COMMITMENT~~

[Delete entire rule]

D. TERMINATION OF PARENTAL RIGHTS

RULE 8.500. PETITION

(a) Initiation of Proceedings. All proceedings seeking the termination of parental rights to a child shall be initiated by the filing of an original petition in the pending dependency action, if any.

(b) Contents.

(1) A petition may be filed by the department or any person having knowledge of the facts. Each petition shall be entitled a petition for termination of parental rights.

(2) The petition shall contain allegations as to the identity and residence of the parents and custodians if known.

(3) The petition shall identify the age, sex, and name of the child. Two or more children may be the subject of the same petition.

(4) When required by law, the petition shall contain a showing that the parents were offered a performance agreement or permanent placement plan and did not substantially comply with it.

(5) The petition shall have a certified copy of the birth certificate of each child named in it attached unless the petitioner, after diligent search and inquiry, is unable to produce it, in which case the petition shall state the date and place of birth of each child, unless these matters cannot be ascertained after diligent search and inquiry or for other good cause.

(c) Verification. The petition shall be signed under oath stating the good faith of the petitioner in filing it. No objection to a petition on the grounds that it was not signed or verified, as herein provided, shall be entertained after a plea to the merits.

(d) Amendments. At any time before the conclusion of an adjudicatory hearing, an amended petition may be filed or the petition may be amended by motion; however, after a written

answer has been filed or the adjudicatory hearing has commenced, amendments shall be permitted only with the permission of the court unless all parties consent. Amendments shall be freely permitted in the interest of justice and the welfare of the child. A continuance shall be granted upon motion and a showing that the amendment prejudices or materially affects any party.

(e) Defects and Variances. No petition or any count thereof shall be dismissed, or any judgment vacated, on account of any defect in the form of the petition or of misjoinder of counts. If the court is of the opinion that the petition is so vague, indistinct, and indefinite as to mislead the child, parent, or custodian and prejudice any of them in the preparation of a defense, the petitioner will be required to furnish a more definite statement.

(f) Voluntary Dismissal. The petitioner, without leave of the court, at any time before entry of an order of adjudication, may request a voluntary dismissal of the petition by serving a notice of request of dismissal on all parties or, if during a hearing, by so stating on the record. The petition shall be dismissed and the court loses jurisdiction unless another party adopts the petition within 48 hours. Unless otherwise stated, the dismissal shall be without prejudice.

(g) Parental Consent.

(1) The parents of the child may consent to the petition for termination of parental rights at any time, in writing or orally, on the record.

(2) If the parents have consented to the termination of parental rights and executed surrenders and waivers of notice of hearing as provided by law, this shall be alleged in the petition and copies shall be attached to the petition and presented to the court.

Committee Note: This is an entirely new part consistent with the restructuring of chapter 39, Florida Statutes, which now contains a separate part on termination of parental rights. These rules closely track the rules in Part B., Dependency, except for areas that are significant only in termination of parental rights proceedings such as provisions for an advisory hearing within 14 days and the requirement that a petition show proof of admission or consent, if alleged.

RULE 8.505. SUMMONS AND NOTICE

Upon the filing of a pleading requesting the termination of parental rights a summons containing notice of the petition and directing the parties to appear at a specific date and time shall be personally served on those persons as provided by law. The summons shall notify the required persons of the filing of the petition and shall contain the following language:

"You must either appear on the date and at the time specified or send a written response to the court before that time. Your failure to appear or respond may be treated as consent to the termination of your parental rights and you may lose all legal rights as a parent to the child or children named in the petition attached to the summons."

Parties upon whom personal service of process cannot be effected shall be served as provided by law.

RULE 8.510. ADVISORY HEARING AND PREHEARING CONFERENCES

(a) Advisory Hearing.

(1) Within 14 days of the filing of the petition, or as soon as service of process can be effected, the court shall hold an advisory hearing.

(2) The court shall:

(A) advise the parents of their right to counsel; and

(B) determine whether an admission, consent, or denial to the petition shall be entered.

If an admission or consent is entered, the court shall proceed as set forth in rule 8.530. If a denial is entered, the court shall set an adjudicatory hearing within the period of time provided by law or grant a continuance until the parents have sufficient time to proceed to an adjudicatory hearing and shall appoint counsel when required. (b) Prehearing Conference. Before the adjudicatory hearing the court may set, or the parties may request, a prehearing conference to determine the order in which each party may present witnesses or evidence, the order in which cross-examination and argument shall occur, and any other matters that may aid in the conduct of the adjudicatory hearing.

RULE 8.515. PROVIDING COUNSEL TO PARTIES

(a) Duty of the Court.

(1) At each hearing, the court shall advise unrepresented parents of their right to have counsel present.

(2) The court shall appoint counsel for insolvent parents. The court may appoint an attorney for all other parties in its discretion.

(3) The court shall ascertain whether the right to counsel is understood. If the right to counsel is waived by any parent the court shall ascertain if the right to counsel is knowingly and intelligently waived.

(4) The court shall enter its findings with respect to the appointment or waiver of counsel of insolvent parents or the waiver of the right to have counsel present.

(b) Waiver of Counsel.

(1) No waiver shall be accepted if it appears that the parent is unable to make an intelligent and understanding choice because of mental condition, age, education, experience, the nature or complexity of the case, or other factors.

(2) A waiver of counsel shall be made in court and be of record. The court shall question the parent in sufficient detail to ascertain that the waiver is made knowingly and intelligently.

(3) If a waiver is accepted at any hearing, the offer of assistance of counsel shall be renewed by the court at each subsequent hearing at which the parent appears without counsel.

RULE 8.520. ANSWERS AND RESPONSIVE PLEADINGS

(a) No Answer Required. No answer to the petition need be filed by the parent. The parent of the child may enter an oral or written answer to the petition or remain silent.

(b) Denial of Allegations. If the parent denies the allegations of the petition, remains silent, or pleads evasively, the court shall enter a denial and shall set the case for an adjudicatory hearing.

(c) Admission of or Consent to Termination of Parental Rights. The court shall determine that any admission or consent to a termination of parental rights is made voluntarily and with a full understanding of the nature of the allegations and the possible consequences of the admission or consent and that the parent or custodian has been advised of the right to be represented by counsel. The court shall incorporate these findings into its order of adjudication.

RULE 8.525. ADJUDICATORY HEARINGS

(a) Hearing by Judge. The adjudicatory hearing shall be conducted by the judge without a jury utilizing the rules of evidence. At this hearing the court shall determine whether the allegations of the termination of parental rights petition have been sustained by clear and convincing evidence.

(b) Examination of Witnesses. A party may call any person, including a child, as a witness. A party shall have the right to examine or cross-examine all witnesses.

(c) Presence of Parties. All parties have the right to be present at all termination hearings. No party shall be excluded from any hearing unless so ordered by the court for disruptive behavior or as provided by law.

(d) Examination of Child. The court may hear the testimony of the child outside the physical presence of the parties as provided by rule 8.255. Counsel for the parties shall be present during all examinations. The court may limit the manner in which counsel examine the child.

(e) Joint and Separate Hearings. When 2 or more children are the subject of a petition for termination of parental rights, the hearings may be held simultaneously when the children are related to each other or involved in the same case, unless the court orders separate hearings.

(f) Motion for Judgment of Dismissal. In all termination of parental rights proceedings, if at the close of the evidence for the petitioner the parents move for a judgment of dismissal and the court is of the opinion that the evidence is insufficient to sustain the allegations of the petition, it shall enter an order dismissing the petition for insufficiency of the evidence.

(g) Dismissal. If the court finds after all the evidence has been presented that the allegations in the petition have not been sustained it shall enter an order dismissing the petition.

(h) Order of Adjudication. If the court finds that the elements of adjudication are sustained by clear and convincing evidence, the court shall enter an order of adjudication and set a disposition hearing.

RULE 8.530. DISPOSITION HEARINGS

(a) Information Available to Court. At the disposition hearing the court, after establishing compliance with the dispositional considerations, determinations, and discussions required by law, may receive any relevant and material evidence helpful in determining the proper disposition to be made. This evidence shall include the predisposition study report and all other written reports required by law and may include, but shall not be limited to, any psychiatric or psychological evaluations of the child or parent or custodian that may be obtained and that are relevant and material. Such evidence may be received by the court and may be relied upon to the extent of its probative value, even though not competent in an adjudicatory hearing.

(b) Disclosure to Parties. All parties shall be entitled to disclosure of all information in all reports submitted to the court.

(c) Order of Disposition. The court shall enter a final order granting or denying the petition for termination of parental rights including a statement of the facts upon which it was based.

PART III. PROCEEDINGS FOR FAMILIES
AND CHILDREN IN NEED OF SERVICES

RULE 8.600. SCOPE AND PURPOSE

These rules shall govern the procedures in the circuit court in the exercise of its jurisdiction relating to children in need of services (CINS) and families in need of services (FINS).

They are intended to provide a just, speedy, and efficient determination of the procedures covered by them and shall be construed to secure simplicity in procedure and fairness in administration.

Committee Note: This is an entirely new part consistent with the restructuring of chapter 39, Florida Statutes, which now contains a separate part on Families and Children in Need of Services. The language is taken from Part B., Dependency, except in areas significant only to CINS/FINS. In rule 8.625 language was added to require the child's presence at the hearing because the child is the focal point of the hearing. In rule 8.680, discovery is allowed only on order of the court because these cases often do not produce discoverable material.

RULE 8.601. COMMENCEMENT OF PROCEEDINGS

(a) Pleadings. All proceedings shall be initiated by the filing of:

- (1) a request to take into custody;
- (2) a petition for children in need of services; or
- (3) a shelter petition.

(b) File to be Opened. Upon commencement of any proceeding, the clerk shall open a file and assign a case number.

RULE 8.603. APPLICATION OF UNIFORM CHILD CUSTODY JURISDICTION ACT

Any pleading filed commencing proceedings as set forth in rule 8.601 shall be accompanied by an affidavit, to the extent of affiant's personal knowledge, under the Uniform Child Custody Jurisdiction Act. Each party has a continuing duty to inform

the court of any custody, dependency, or children in need of services proceeding in this or any other state of which the party obtains information during the proceeding.

RULE 8.605. TRANSFER OF CASES

(a) Transfer of Cases within the State of Florida. After the commencement of a proceeding pursuant to rule 8.601, the court may transfer any case after adjudication, when adjudication is withheld, or before adjudication where witnesses are available in another jurisdiction, to the circuit court for the county in which is located the domicile or usual residence of the child or such other circuit as the court may determine to be for the best interest of the child and to promote the efficient administration of justice. The transferring court shall enter an order transferring its jurisdiction and certifying the case to the proper court, furnishing all parties, the clerk, and the state attorney of the receiving court a copy of the order of transfer within 5 days. The clerk shall also transmit a certified copy of the file to the receiving court within 5 days.

(b) Transfer of Cases among States. If it should appear at any time that an action involving the child is pending in another state, the court may transfer jurisdiction, stay the proceedings, or dismiss the action as provided by law.

RULE 8.610. PARTIES

(a) Definitions. For the purposes of these rules the terms "party" and "parties" shall include the petitioner, the child, the parent, the guardian ad litem where appointed, the custodian, and every person upon whom service of summons is required by law.

(b) Other Parties. The state attorney's office or the Department of Health and Rehabilitative Services may become a party upon notice to all other parties and the court. The court may add additional parties.

RULE 8.615. PROVIDING COUNSEL TO PARTIES

(a) Duty of the Court.

(1) At each stage of the proceeding the court shall advise all parties of their right to have counsel present. The court shall appoint counsel to insolvent persons who are so entitled as provided by law. The court shall ascertain whether the right to counsel is understood and, where appropriate, knowingly and intelligently waived. The court shall enter its findings in writing with respect to the appointment or waiver of counsel for insolvent parties.

(2) The court may appoint an attorney for the child or parent, guardian, or custodian of the child as provided by law.

(b) Waiver of Counsel.

(1) No waiver shall be accepted where it appears that the party is unable to make an intelligent and understanding choice because of mental condition, age, education, experience, the nature or complexity of the case, or other factors.

(2) A waiver of counsel shall be made in court and be of record.

(3) If a waiver is accepted at any stage of the proceedings, the offer of assistance of counsel shall be renewed by the court at each subsequent stage of the proceedings at which the party appears without counsel.

RULE 8.617. GUARDIAN AD LITEM

(a) Appointment. At any stage of the proceedings any party may request, or the court may appoint, a guardian ad litem to represent any child alleged to be in need of services or from a family in need of services.

(b) Qualifications; Responsibilities. The guardian ad litem shall be an attorney or other responsible adult and shall have the following responsibilities:

(1) To investigate the allegations of the petition and any subsequent matters arising in the case and, unless excused by the court, to file a written report. This report shall include a statement of the wishes of the child and the recommendations of the guardian ad litem and shall be provided to all parties and the court at least 48 hours before the disposition hearing.

(2) To be present at all court hearings unless excused by the court.

(3) To represent the interest of the child until the jurisdiction of the court over the child terminates or until excused by the court.

(4) To perform such other duties and undertake such other responsibilities as the court may direct.

(c) Bond Not Required. A guardian ad litem shall not be required to post bond but shall file an acceptance of the office.

(d) Receiving Service. A guardian ad litem shall be entitled to receive service of pleadings and papers as provided by rule 8.635.

(e) Lay Guardians' Duties. The duties of lay guardians shall not include the practice of law.

RULE 8.620. STYLE OF PLEADINGS AND ORDERS

All pleadings and orders shall be styled: "In the interest of , a child", or "In the interest of , children."

RULE 8.625. GENERAL PROVISIONS FOR HEARINGS

(a) Presence of Counsel. The Department of Health and Rehabilitative Services must be represented by an attorney at every stage of these proceedings.

(b) Presence of Child. The child shall be present unless the child's presence is waived. If the child is present at the beginning of a hearing and during the progress of the hearing voluntarily absents himself or herself from the presence of the court without leave of the court, or is removed from the presence of the court because of disruptive conduct during the hearing, the hearing shall not be postponed or delayed, but shall proceed in all respects as if the child were present in court at all times.

(c) In-camera Proceedings. The child may be examined by the court outside the presence of other parties under circumstances as provided by law. The court shall assure that the proceedings are recorded unless otherwise stipulated by the parties.

(d) Invoking the Rule. Before the examination of any witness the court may, and on the request of any party shall, 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.

(e) Continuances. The court may grant a continuance before or during a hearing for good cause shown by any party.

(f) Record. A record of the testimony in all hearings shall be made by an official court reporter, a court-approved stenographer, or a recording device. The records of testimony shall be preserved as required by law. Official records of testimony shall be transcribed only on order of the court.

(g) Notice. Where these rules do not require a specific notice, all parties will be given reasonable notice of any hearing.

(h) Masters. Pursuant to Florida Rule of Civil Procedure 1.490, both general and special masters may be appointed to hear issues involved in proceedings under this part.

RULE 8.630. COMPUTATION AND ENLARGEMENT OF TIME

(a) Computation. In computing any period of time prescribed or allowed by these rules, by order of court or by any applicable statute, the day of the act or event from which the designated period of time begins to run is not included. The last day of the period so computed shall be counted unless it is Saturday, Sunday, or a legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, nor a legal holiday. When the period of time prescribed or allowed shall be less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

(b) Enlargement of Time. When by these rules, by a notice given thereunder, or by order of court an act is required or allowed to be done at or within a specified time, the court for good cause shown may, at any time in its discretion, (1) with or without notice order the period enlarged if the request is made before the expiration of the period originally prescribed or as extended by a previous order, or (2) upon motion made and notice after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but it may not, except as provided by law or elsewhere in these rules, extend the time for making motion for new trial, for rehearing, or for vacation of judgment or for taking an appeal. This rule shall not be construed to apply to detention or shelter hearings.

(c) Time for Service.

(1) Motions and Notice of Hearing. A copy of any written motion which may not be heard ex parte and a copy of the notice of the hearing thereof shall be served a reasonable time before the time specified for the hearing.

(2) Additional Time after Service by Mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of notice or other paper and the notice or paper is served by mail, 5 days shall be added to the prescribed period.

RULE 8.635. PROCESS

(a) Summons and Subpoenas.

(1) Summons. Upon the filing of a petition, the clerk shall issue a summons. The summons shall require the person on whom it is served to appear for a hearing at a time and place specified. Except in cases of medical emergency, the time of hearing shall not be less than 24 hours after service of the summons. If the child is not detained by an order of the court, the summons shall require the custodian to produce the child at the said time and place. A copy of the petition shall be attached to the summons.

(2) Subpoenas. Upon the application of a party, the clerk shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, or other tangible objects at any hearing. This paragraph shall not in any way limit the state attorney's power to issue subpoenas.

(3) Service. The summons and other process shall be served upon such persons and in such manner as required by law. If the parents or custodian are out of the state and their address is known, the clerk shall give them notice of the proceedings by mail. Service of process may be waived. Authorized agents of the Department of Health and Rehabilitative Services may also serve summons and other process upon such persons and in such manner as required by law.

(b) Service of Pleadings and Papers.

(1) When Required. Unless the court orders otherwise, every pleading subsequent to the initial petition, every order, every written motion, unless it is one as to which hearing ex parte is authorized, and every written notice filed in the case shall be served on each party; however, nothing herein shall be construed to require that a plea be in writing or that an application for witness subpoenas be served.

(2) How Made. When service is required or permitted to be made upon a party represented by an attorney, service shall be made upon the attorney unless service upon the party is ordered by the court. Service upon the attorney or party shall be made by delivering a copy to the attorney or party or by mailing it to the attorney or party's last known address or, if no address is known, by leaving it with the clerk of the court. Service by mail shall be complete upon mailing. Delivery of a copy within this rule shall mean:

(A) handing it to the attorney or the party;

(B) leaving it at the attorney's office with the person in charge thereof;

(C) if there is no one in charge of the office, leaving it in a conspicuous place therein; or

(D) if the office is closed or the person to serve has no office, leaving it at the person's usual place of abode with some person of the family above 15 years of age and informing such person of the contents thereof.

(3) Filing. All original papers, copies of which are required to be served upon parties, must be filed with the court either before service or immediately thereafter.

(4) Filing with Court Defined. The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of court except that the court may permit the papers to be filed with it in which event the filing date shall be noted thereon and they shall be transmitted to the office of the clerk.

(5) Certificate of Service. When any authorized person shall in substance certify:

"I do certify that copy (copies) hereof have been furnished to (here insert name or names) by (delivery) (mail) this day of, 19...."

Title

This certificate shall be taken as prima facie proof of such service in compliance with the rules of court and law. The certificate must be signed by the attorney of record, clerk or deputy clerk, judicial assistant, or judge.

RULE 8.640. PLEADINGS TO BE SIGNED

(a) Pleadings 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 the attorney, whose Florida Bar Number, address, and telephone number, including area code, shall be stated, and who shall be duly licensed to practice law in Florida. 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 need not be verified or accompanied by affidavit. The signature of an attorney shall constitute a certificate by the attorney that the paper or pleading has been read; that to the best of the attorney's knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If a pleading or paper is not signed, or is signed with intent to defeat the purpose of this rule, it may be stricken and the action may proceed as though the pleading or paper has not been served.

(b) Pleadings to be Signed by Unrepresented Party. A party who is unrepresented shall sign a written pleading or other paper and state the party's address and telephone number, including area code.

RULE 8.645. ORDERS

Upon the conclusion of all hearings, the court shall enter its decisions in a written order. All orders of the court shall be reduced to writing as soon after they are entered as is consistent with orderly procedure and shall contain findings of fact and conclusions of law.

RULE 8.650. TAKING INTO CUSTODY

(a) Affidavit. An affidavit may be filed by any person alleging facts under existing law sufficient to establish grounds to take a child into custody. The affidavit shall:

(1) be in writing and signed;

(2) specify the name, address, and sex of the child or, if unknown, designate the child by any name or description by which the child can be identified with reasonable certainty;

(3) specify that the child is of an age subject to the jurisdiction of the court; and

(4) state the reasons why the child is being taken into custody.

(b) Criteria for Order. The court may issue an order to take a child into custody based on sworn testimony meeting the criteria set forth in subdivision (a).

(c) Order. The order to take into custody shall:

(1) be in writing and signed;

(2) specify the name, address, and sex of the child or, if unknown, designate the child by any name or description by which the child can be identified with reasonable certainty;

(3) specify that the child is of an age subject to the jurisdiction of the court;

(4) state the reasons why the child is being taken into custody;

(5) order that the child be placed in a suitable place pending a shelter hearing as provided by law; and

(6) state the date when issued and the county and court where issued.

RULE 8.655. SHELTER PETITION, HEARING, AND ORDER

(a) Shelter Petition. If child is to be placed in a shelter after being taken into custody for a period longer than 24 hours, the person requesting placement shall file a written petition which shall:

(1) specify the name, address, and sex of the child or, if unknown, designate the child by any name or description by which the child can be identified with reasonable certainty;

(2) specify that the child is of an age subject to the jurisdiction of the court;

(3) state the reasons why the child needs to be placed in a shelter;

(4) recommend where the child is to be placed or the agency to be responsible for placement; and

(5) be signed by the attorney for the petitioner.

(b) Shelter Hearing.

(1) An authorized agent of the department shall make a diligent effort to notify the parent or custodian of the child of the hearing by the most expeditious method available.

(2) The court shall conduct an informal hearing on the petition within the time period provided by law. The court shall determine at the hearing whether the criteria provided by law for placement in a shelter have been met.

(3) At the hearing all interested persons present shall have an opportunity to be heard on the criteria for placement as provided by law.

(4) The court may base its determination on a sworn complaint, testimony, or affidavit and may hear all relevant and material evidence, including oral and written reports, to the extent of its probative value even though it would not be competent at an adjudicatory hearing.

(5) The court shall advise the parties of:

(A) their right to be represented by counsel as provided by law;

(B) the reason for the child being in custody and why continued placement is requested; and

(C) their right to present placement alternatives.

(c) Shelter Order.

(1) The order shall be in writing and shall:

(A) state the name, age, and sex of the child and, if the child's age is unknown, that the child is believed to be of an age which makes him or her subject to the jurisdiction of the court;

(B) include findings as provided by law;

(C) designate the place where the child is to be placed or the person or agency that will be responsible for this placement along with any special conditions found to be necessary;

(D) state the date and time where issued; and

(E) indicate when the child shall be released from the shelter or set a review of shelter hearing within the time limits provided by law.

(d) Release from Shelter Care. No child shall be released from shelter after a shelter order has been entered except on order of the court unless the shelter order authorizes release by the department.

RULE 8.660. PETITIONS

(a) Contents of Petition.

(1) Only those authorized by law may file a petition alleging that a child is in need of services. Each petition shall be entitled a petition for child(ren) in need of services and shall allege sufficient facts showing the child to be in need of services based upon applicable law.

(2) The petition shall contain allegations as to the identity and residence of the parents or custodians, if known.

(3) The petition shall identify the age, sex, and name of the child. Two or more children may be the subject of the same petition.

(4) More than one allegation of children in need of services may appear in the same petition, in separate counts.

(b) Verification. The petition shall be signed by the petitioner, stating under oath the petitioner's good faith. No objection to the petition on the grounds that it was not signed or verified, as herein provided, shall be entertained after a plea to the merits.

(c) Amendments. At any time before or during an adjudicatory hearing, an amended petition may be filed or the petition may be amended by motion. Amendments shall be freely permitted in the interest of justice and the welfare of the child. A continuance may be granted upon motion and a showing that the amendment prejudices or materially affects any party.

(d) Defects and Variances. No petition or any count thereof shall be dismissed, or any judgment vacated, on account of any

defect in the form of the petition or of misjoinder of counts. If the court is of the opinion that the petition is so vague, indistinct, and indefinite as to mislead the child, parent, or custodian and prejudice any of them in the preparation of a defense, the petitioner may be required to furnish a more definite statement.

(e) Voluntary Dismissal. At any time before entry of an order of adjudication, the child(ren) in need of services petition may be voluntarily dismissed by petitioner without leave of the court by serving a notice of dismissal on all parties or, if during a hearing, by so stating on the record. Unless otherwise stated, the dismissal shall be without prejudice.

RULE 8.665. ANSWERS, ARRAIGNMENTS, AND PREHEARING CONFERENCES

(a) Answers. The child, parent, or custodian of the child may enter an oral or written answer to the petition or remain silent. If the child remains silent or pleads evasively, or the parent, guardian, or legal custodian denies it, the court shall enter a denial of the petition. The court shall determine that any admission or consent to the petition is made voluntarily and with a full understanding of the nature of the allegations and the possible consequences of such admission or consent and that the parties have been advised of the right to be represented by counsel. The court shall incorporate these findings into its order in addition to findings of fact specifying the act or acts, by whom committed, and facts upon which the findings are based. If the answer admits the allegations of the petition it shall constitute consent to a predisposition study.

(b) Arraignment. If a written answer has not been filed by the child, parent, guardian, or legal custodian before the adjudicatory hearing, the court shall conduct a hearing to determine whether an admission, consent, or denial of the petition shall be entered and whether the parties are represented by counsel or are entitled to appointed counsel as provided by law. If an admission or consent is entered, the court shall proceed as set forth in rule 8.690. If a denial is entered, the court shall set an adjudicatory hearing within the period of time provided by law and appoint counsel when required.

(c) Withdrawal of Plea. The court may at any time before the beginning of a disposition hearing permit an admission of the allegations of the petition to be withdrawn and, if an adjudication has been entered thereon, set aside such adjudication. In the subsequent adjudicatory hearing the court shall disregard an admission that has been withdrawn.

(d) Prehearing Conference. Before the conduct of any adjudicatory hearing the court may set or the parties may request that a prehearing conference be held to determine the

order in which each party may present witnesses or evidence and the order in which cross-examination and argument shall occur. The court also may enter findings on the record of any stipulations entered into by the parties and consider any other matters which may aid in the conduct of the adjudicatory hearing.

RULE 8.670. MOTIONS

(a) Motions in General. An application to the court for an order shall be made by a motion which shall be in writing, unless made during a hearing; be signed by the party making the motion or by the party's attorney; state with particularity the grounds therefor; and set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in the written notice of the hearing of the motion.

(b) Motion to Dismiss. Any party may file a motion to dismiss any petition or other pleading, setting forth the grounds on which the motion is based. If a motion to dismiss is granted where a child is being detained under an order, the child may be continued in shelter under previous order of the court upon the representation that a new or amended petition will be filed.

(c) Motion to Sever. A motion may be made to sever 2 or more counts of a multicount petition or to sever the cases of 2 or more children alleged to be in need of services in the same petition. The court may grant motions for severance of jointly brought cases for good cause shown.

RULE 8.675. EXAMINATIONS, EVALUATION, AND TREATMENT

(a) Child. Mental or physical examination of a child may be obtained as provided by law.

(b) Parent, Guardian, or Other Person Requesting Custody. At any time after the filing of a petition, when the mental or physical condition, including the blood group, of a parent, guardian, or other person requesting custody of a child is in controversy, the court may order the person to submit to a physical or mental examination by a qualified professional. The order may be made only on good cause shown and on notice to the person as to the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made. The court may, on its own motion or the motion of any party, order a parent, guardian, or other person requesting custody of the child to undergo such evaluation, treatment, or counseling activities as authorized by law.

RULE 8.680. DISCOVERY

Discovery will be allowed only upon order of the court and as provided by rule 8.245.

RULE 8.685. ADJUDICATORY HEARINGS

(a) Hearing by Judge. The adjudicatory hearing shall be conducted by the judge without a jury utilizing the rules of evidence. At this hearing the court shall determine whether the allegations of the petition have been sustained.

(b) Examination of Witnesses. Any party shall have the right to examine or cross-examine the witnesses.

(c) Presence of Parties. All parties have the right to be present at all adjudicatory hearings. No party shall be excluded from the hearing unless so ordered by the court for disruptive behavior.

(d) Joint and Separate Hearings. When 2 or more children are alleged to be children in need of services, the hearing may be held simultaneously when the several children involved are related to each other or involved in the same case, unless the court orders separate hearings.

(e) Motion for Judgment of Dismissal. In all proceedings if at the close of the evidence for the petitioner the court is of the opinion that the evidence is insufficient as a matter of law to warrant a finding of child(ren) in need of services, it may, and on the motion of any party shall, enter an order dismissing the petition for insufficiency of evidence.

(f) Findings and Orders. If the court finds that the evidence supports the allegations of the petition, it may make a finding that the child is in need of services as provided by law. In all cases the court shall enter a written order specifying the facts upon which the findings are based. If the predisposition and other reports required by law are unavailable, or by order of the court, any portion of the disposition hearing may be reset within a reasonable time. If the case is continued the court may refer the case to appropriate agencies for additional study and recommendation. The court may order the child into a suitable placement under such reasonable conditions as the court may direct.

RULE 8.690. DISPOSITION HEARINGS

(a) Information Available to Court. At the disposition hearing the court, after establishing compliance with the dispositional considerations, determinations, and discussions required by law, may receive any relevant and material evidence helpful in determining the proper disposition to be made. It shall include written reports required by law and may include evaluations of the child or the parent or custodian that may be obtained and that are relevant and material. Such evidence may be received by the court and may be relied upon to the extent of its probative value even though not competent in an adjudicatory hearing.

(b) Disclosure to Parties. All parties shall be entitled to disclosure of all information in all reports submitted to the court.

(c) Orders of Disposition. The court shall in its written order of disposition include:

(1) the placement or custody of the child;

(2) special conditions of placement and visitation;

(3) evaluation, counseling, treatment activities, and other actions to be taken by the parties where ordered;

(4) supervising or monitoring agencies and continuation or discharge of the guardian ad litem, where appropriate;

(5) the period of time or date for subsequent case review where required by law; and

(6) such other requirements deemed necessary to protect the health, safety, and well-being of the child.

(d) Foster Care. If the court places the child in foster care, subsequent proceedings shall be governed by part IIC of these rules.

RULE 8.695. POSTDISPOSITION RELIEF

(a) Modification of Placement. A child who has been placed in the child's own home, in the home of a relative, or in some other place under the supervision of the Department of Health and Rehabilitative Services may be brought before the court by the parent, guardian, or any interested person on a motion for modification of placement. Upon notice to all parties the court shall conduct a hearing and 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) Motion for Termination of Supervision or Jurisdiction. Any party requesting termination of agency supervision or the jurisdiction of the court, or both, shall do so by motion. The court shall hear all parties present and enter an order terminating supervision or terminating jurisdiction and supervision or continuing them as previously ordered. The court shall not terminate jurisdiction unless the child is returned to the parent or placed with a legal guardian.

PART III IV. OTHER PROCEEDINGS

A. INTRODUCTORY RULES

RULE ~~8-8808~~8.700. SCOPE AND PURPOSE

These rules shall govern the procedures in the circuit court in the exercise of its jurisdiction relating to juveniles as may be required by law.

They are intended to provide a just, speedy, and efficient determination of the procedures covered by them and shall be construed to secure simplicity in procedure and fairness in administration.

They shall be known as the Florida Rules of Juvenile Procedure and may be cited as Fla. R. Juv. P.

When appropriate the use of singular nouns and pronouns shall be construed to include the plural and the use of plural nouns and pronouns shall be construed to include the singular. ~~The use of male pronouns shall be construed in the universal sense of both male and female.~~

B. GUARDIAN ADVOCATES FOR DRUG-DEPENDENT NEWBORNS

RULE ~~8-8818~~8.705. COMMENCEMENT OF PROCEEDINGS

(a) Petition to be Filed. All proceedings under this part shall be initiated by the filing of a petition for the appointment of a guardian advocate.

(b) File to be Opened. Upon commencement of any proceeding, the clerk shall open a file and assign a case number.

RULE ~~8-8828~~8.710. PARTIES

(a) Definitions. For the purpose of these rules the terms "party" and "parties" shall include the petitioner, the child, the parent, the guardian ad litem where appointed, the custodian, and every person upon whom service of summons is required by law.

(b) Other Parties. The state attorney's office or the Department of Health and Rehabilitative Services may become a party upon notice to all other parties and notice to the court. The court may add additional parties.

RULE ~~8-8838~~8.715. GUARDIAN AD LITEM

[No change in text]

RULE ~~8-8848~~8.720. PROCESS AND SERVICE

(a)--(a)(2) [No change]

(3) The summons shall require the person on whom it is served to appear for a hearing at a time and place specified.

Except in cases of medical emergency, the time of hearing shall not be less than ~~twenty-four~~ (24) hours after service of the summons. The summons shall be directed to and shall be served upon the parents. It shall not be necessary to the validity of the proceedings that the parents be present if their identity or presence is unknown after a diligent search and inquiry have been made; if they have become residents of a state other than this state; or if they evade service or ignore summons, but in this event the person who made the search and inquiry shall file a certificate of those facts.

(b) [No change]

RULE ~~8-8858~~.725. PETITION

(a)--(a)(2) [No change]

(3) The petition shall identify the age, sex, and name of the child. Two (2) or more children may be the subject of the same petition.

(b) Voluntary Dismissal. The petitioner without leave of the court, at any time prior to the entry of the order, may request a voluntary dismissal of the petition by serving a notice of request for dismissal on all parties or, if during a hearing, by so stating on the record. The petition shall be dismissed and the court loses jurisdiction unless another party adopts the petition within ~~forty-eight~~ (48) hours. Unless otherwise stated, the dismissal shall be without prejudice.

RULE ~~8-8868~~.730. HEARING

[No change in text]

RULE ~~8-8878~~.735. REVIEW AND REMOVAL

(a) Review by Court. The court may review the appointment of a guardian advocate at any time but shall review the appointment within the time limits as provided by law.

(b) Reauthorization or Removal. The reauthorization or removal of the guardian advocate shall be governed as provided by law.

PART V. FORMS

FOR USE WITH THE RULES OF JUVENILE PROCEDURE

The following forms are sufficient for the matters that are covered by them. So long as the substance is expressed without prolixity, the forms may be varied to meet the facts of a particular case. Captions, verifications, and certificates of

service, except for the designation of the paper, are omitted from most forms. A general form of caption is the first form. General forms for these are provided at the beginning of the forms.

Publisher's Note

The Florida Supreme Court per curiam opinion of December 24, 1980 (393 So.2d 1077) in which the forms appear provides: "Nothing in the Forms shall be deemed to be a part of these Rules."

Committee Note: These forms have been updated to conform to revisions to chapter 39, Florida Statutes, and the Florida Rules of Juvenile Procedure. As the court has stated before, the forms are not intended to be part of the rules and are provided for convenience only.

A. GENERAL FORMS

FORM 8.901. [No change]

FORM 8.902. VERIFICATION

STATE OF FLORIDA

COUNTY OF

Before me, the undersigned authority, personally appeared(name)....., who, being sworn, says the ... (document)... is filed in good faith and on information, knowledge, and belief is true.

Sworn to and subscribed before me this day of, 19....

(Title)

Committee note: The above verification should be added to petitions and motions as required by law.

FORM 8.903. CERTIFICATE OF SERVICE

I certify that a copy of(document).... has been furnished to(name(s))..... by ...U.S. mail/hand delivery.... this day of, 19....

(Title)

Committee note: The above may be added to petitions, orders, and other forms as required.

~~FORM 8.904 [Detention Petition][Deleted]~~

FORM 8.902904. AFFIDAVIT FOR ORDER TO TAKE INTO CUSTODY
AFFIDAVIT

STATE OF FLORIDA

COUNTY OF

Before me, the undersigned authority, personally appeared affiant, who, being sworn, made the following allegations of facts:..... and requested that the court issue an order to take into custody the below-...named/described... child(ren)

Name(s)

Age(s).....Sex

Date(s) of birth

Race.....

Address

Identifying description

Parent/Custodian.....

Address.....

Affiant

Address

~~Sworn to and subscribed before me this day of, 19....~~

Title

FORM 8.903905. ORDER TO TAKE INTO CUSTODY

ORDER TO TAKE INTO CUSTODY

TO:

A ...verified petition/affidavit... having been filed in this case, alleging facts which under existing law are determined to be sufficient to authorize taking into custody the below-named/ identified... ..child/children..., believed to be of an age subject to the juvenile jurisdiction of the circuit court; therefore

You are commanded to take the following . . . child/children . . . into custody:

Names(s)

Age(s) Sex

Date(s) of birth

Race

Address

Identifying description

Parent/Custodian

Address

For the following reasons:
.....

Upon taking the ...child/children... into custody, you will deliver ...him/her/them... to
to be held pending a ...detention/ shelter... hearing or upon further order of this court.

ORDERED in the circuit court in and for County, Florida, this ... day of, 19....

Circuit Judge

RETURN

This order to take into custody was executed at m. on the ... day of, 19..., by the undersigned.

(Title)

RETURN TO ISSUING COURT UPON THE CHILD'S 19TH BIRTHDAY.

RELEASE ORDER

The court now finding that the above-named....child/children
...., previously....placed in shelter care/detained...., should
be released.

It is ADJUDGED:

1. That shall be released immediately
to.....

2. It is FURTHER ADJUDGED that
.....
.....

ORDERED in the circuit court in and for
County, Florida, on theday of,
19....

Circuit Judge

CERTIFICATE

I certify that copy hereof has been furnished to:
..... by....mail/delivery....this
.....
day of, 19....

(Title)

TRANSFER ORDER

This case being before this court for consideration of
transfer to a court having juvenile jurisdiction in another
county, the court finds:

1. That on the day of, 19....,
following a hearing on the petition of, the
court....entered an order of adjudication/withheld adjudication/
accepted a plan of proposed treatment, training, or conduct....

2. That it would be to the best interest of the above-named
....child/children.... that this case be transferred to the
circuit court of another county because:

3. That a dispositional order was/was not made in this case.

It is recommended to the receiving court that:

It is ADJUDGED:

1. That the jurisdiction of this court in this case and of thechild/children....involved is transferred to the circuit court in and for County, Florida, of the Judicial Circuit, for any and all proceedings deemed necessary.

2. That within five days from the date of this order the clerk of this court shall forward a certified copy of this order of transfer, and of all other orders entered by this court in the interest of the saidchild/children...., to:

- (a) Clerk of the receiving court.
(b) State attorney of the receiving court.
(c)

ORDERED in the circuit court in and for County, Florida, thisday of, 19....

Circuit Judge
CERTIFICATE

I certify that a certified copy hereof together with certified copies of all other orders required has been furnished to the officials named in the above order and to bythis.....day of, 19....

....., Clerk of Circuit Court
....., County, Florida

By D.C.

2. That within five days from the date of this order the clerk of this court shall forward a certified copy of:

- (a) The order of transfer, which shall include but not be limited to:
(i) Specific offense that the child was found to have committed;

- (ii) Degree of offense;
- (iii) Name of parent/custodian to be summoned;
- (iv) Address at which the child should be summoned for disposition;
- (v) Name and address of the victim; and
- (vi) Whether the child was represented by counsel;
- (b) A certified copy of the delinquency petition;
- (c) A copy of the juvenile referral or complaint; and
- (d) Any reports and all previous orders including orders appointing counsel entered by the court in the interest of that child.

These documents shall be forwarded to the clerk of the receiving court; state attorney of the receiving court; public defender of the receiving court, if counsel previously has been appointed; and

ORDERED in the circuit court in and for County, Florida, thisday of, 19....

Circuit Judge

FORM 8.910908. SUMMONS ~~RULE 8.120~~

SUMMONS

STATE OF FLORIDA

TO a child/children and
..... parent(s)/custodian.....:

Whereas a petition under oath has been filed in this court alleging the above-namedchild/children to be under the laws of the State of Florida, a copy of which was attached hereto;

Now, therefore, this is to command you to appear before the Honorable, Circuit Judge, atm., on theday of, 19.....at the county courthouse ofCounty, at, Florida, and there be in attendance at the hearing of the said petition. Theparent(s)/custodian..... is/are..... required to produce thechild/children..... at said time and place unless thechild/children.... is/are

in detention or shelter care at said time.

~~Herein fail not under penalty of contempt of this court. You may be held in contempt of court if you fail to appear.~~

WITNESS my hand and seal of this court at
County, Florida, this day of,
19.....

....., Clerk of Circuit Court

..... County, Florida

By: _____ D.C.

FORM 8.911909. PLAN FOR TREATMENT, TRAINING, OR CONDUCT

[No change in text]

[Delete certificate]

FORM 8.911. UNIFORM CHILD CUSTODY JURISDICTION ACT AFFIDAVIT

UNIFORM CHILD CUSTODY JURISDICTION

ACT AFFIDAVIT

1. In the past five years the child resided at the following addresses with the following persons:

...(dates)... (address).....
 (custodian).....
 (present address).....

...(dates) (address).....
 (custodian).....
 (present address).....

2. Affiant...has/has not...participated as a party or witness in other litigation concerning the custody of the child in this or any other state. Specifically, the name of the other case(s) and affiant's involvement were
.....

3. Affiant...does/does not...have any information of any custody proceeding concerning the child pending in this or any other state. Specifically, the name of any other custody case and the location of its court are
.....

4. Affiant ...does/does not... know of any person(s) who ...is/is not... a party to this proceeding and who has physical custody of the child or claims to have custody or visitation rights with respect to the child.

....(name)..... (address).....

Affiant

FORM 8.912 [ORDER OF ADJUDICATION - DELINQUENCY][DELETED]

FORM 8.912. PETITION TO SHOW CAUSE

PETITION BY AFFIDAVIT FOR ORDER TO SHOW CAUSE

1. This is a proceeding for an order to show why the below-named witness,, should not be held in contempt of court.

2. Petitioner is(title)....

3. A subpoena was duly served on(name)....., at(time)..... by(name)..... who was then and there authorized to serve said subpoena. A copy of the receipt evidencing service is attached and incorporated by reference. Said(name)..... did not appear on(date)....., at(time)..... in reponse to that subpoena and to this date has not appeared.

WHEREFORE, the undersigned does respectfully request the court to issue an order to direct(name).... to appear before the court to show cause why(name)..... should not be held in contempt of court.

Petitioner

FORM 8.913. ORDER TO SHOW CAUSE

ORDER TO SHOW CAUSE

This cause came on to be heard on the petition for order to show cause directed to(name)..... for failure

.....
(specify)..... on(date).....(See attached affidavit.)

NOW, THEREFORE, you,(name)....., are hereby ORDERED to appear before this court located at, on(date)....., at(time)....., to show cause why you should not be held in contempt of this court, for your failure to(specify).....

DONE AND ORDERED this day of....., 19...., at,, County, Florida.

Circuit Judge

~~FORM 8.915. [ORDER OF DISPOSITION][DELETED]~~

~~FORM 8.921. [SURRENDER, CONSENT, AND WAIVER OF NOTICE][DELETED]~~

~~FORM 8.923. [PETITION FOR INVOLUNTARY PERMANENT COMMITMENT][DELETED]~~

~~FORM 8.924. [PETITION FOR PERMANENT COMMITMENT SUBSEQUENT TO ADJUDICATION][DELETED]~~

~~FORM 8.925. [SUMMONS AND NOTICE OF PETITION FOR PERMANENT COMMITMENT][DELETED]~~

~~FORM 8.926. [JUDGMENT OF PERMANENT COMMITMENT BASED ON SURRENDER][DELETED]~~

~~FORM 8.927. [JUDGMENT OF PERMANENT COMMITMENT INVOLUNTARY][DELETED]~~

B. DELINQUENCY FORMS

~~FORM 8.930. AFFIDAVIT OF DILIGENT SEARCH AND INQUIRY~~

[Delete entire form]

FORM 8.930. JUVENILE NOTICE TO APPEAR

JUVENILE NOTICE TO APPEAR

DATE..... AGENCY.....

CASE NO.

PARENT, ADULT RELATIVE, LEGAL GUARDIAN

.....(name).....

I am the(relationship to child).... of(child's name)..... and promise to ensure that the child appears on(date)..... at(time).... at(location)..... to appear in court. I also promise immediately to notify the office of the state attorney at ...(telephone number).... and the clerk of the court at ...(telephone number)... of any change in the child's address.

Signature of Parent/Adult Relative/Legal

Guardian

.....(address).....

....(telephone number).....

.....(date).....

.....(address and telephone number of child, if different
.....)

I,(child's name)....., understand that I have been charged with a law violation(offense(s))..... and that I am being released at this time to the custody of(parent, adult relative, or legal guardian's name).....

I promise to appear on(date)..... at ...(time).... at(location)..... to appear in court, and to appear as required for any additional conferences or appearances scheduled by HRS or the court. I understand that my failure to appear shall result in a custody order being issued and that I will be picked up and taken to detention.

Child's Signature

Date.....

Arresting officer.....

Releasing officer or HRS
counselor authorizing release

HRS intake telephone number.....

ATTACH TO ARREST AFFIDAVIT

~~FORM 8.931 [COMMITMENT TO THE DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES][DELETED]~~

FORM 8.908931. DELINQUENCY PETITION

PETITION

Your petitioner respectfully represents that whose date(s) of birth ...is/are... and who reside(s) at is/are... delinquent ~~or dependent~~ and that this court has jurisdiction of this cause because of the following allegations of facts:

.....
.....
..

That the parents or custodians are:

.....
Mother	Residence
.....
Father	Residence
.....
Custodian	Residence

WHEREFORE, your petitioner requests process may issue to bring the above-named parties before the court on a day and time designated to be dealt with according to law.

Dated:

Petitioner

~~STATE OF FLORIDA~~

~~COUNTY OF~~

~~Before me, the undersigned authority, personally appeared the petitioner who, being sworn, says the petition is filed in good faith and on information, knowledge and belief is true.~~

~~Sworn to and subscribed before me thisday of, 19.....~~

(Title)

FORM 8.928932. APPLICATION FOR COUNSEL, ~~AFFIDAVIT~~ AND ORDER

APPLICATION FOR COUNSEL, ~~AFFIDAVIT~~ AND ORDER

STATE OF FLORIDA

COUNTY OF

Before me, the undersigned authority, personally appeared affiant, who being duly sworn says:

1. That I understand a delinquency complaint has been made against me and, being advised of my right to an attorney, now request appointment of counsel.

2. Being without sufficient funds, property or assets of any kind, I will be deprived of my right to representation unless I am adjudged insolvent and counsel appointed to represent me.

3. That I have been informed that a lien for the value of the legal services rendered to me by the public defender may be imposed by law on any property I now or may hereafter have in this state.

Dated:

Affiant Child

~~SWORN TO AND SUBSCRIBED~~ before me the day of
....., 19.....

(Title)

STATEMENT OF PARENT(S)

The undersigned are informed and understand that liability for cost of representation of this child by the public defender can be assessed against the parent(s) by court order in an amount not to exceed the amount provided by law.

Parent

Parent

ORDER

The court finds that this child is indigent, as defined by law, and is desirous of counsel; it is, therefore,

ORDERED

1. That this child is declared to be insolvent.

2. That, Public Defender for the Judicial Circuit, State of Florida, is hereby appointed as counsel to represent this child in all matters in defense of the delinquency complaint herein made.

DONE AND ORDERED in the circuit court in and for
..... County, Florida, this day of,
19.....

Circuit Judge

FORM 8.929933. WAIVER OF COUNSEL

[No change in text]

FORM 8.917934. ORDER TO DETERMINE MENTAL CONDITION

[No change in text]

FORM 8.918935. ORDER OF INCOMPETENCY

[No change in text]

FORM 8.918936. ORDER OF COMPETENCY

[No change in text]

FORM 8.937. DEMAND FOR VOLUNTARY WAIVER

DEMAND FOR VOLUNTARY WAIVER OF JURISDICTION

The child files this demand for voluntary waiver of jurisdiction pursuant to rule 8.105, Florida Rules of Juvenile Procedure, and shows that the child desires the court to waive jurisdiction and certify the case for trial in adult court as if the child were an adult to face adult punishments or penalties.

Date.....

Child

Parent/Legal Guardian

FORM 8.938. ORDER OF VOLUNTARY WAIVER

VOLUNTARY WAIVER ORDER

Upon the demand for voluntary waiver filed by the child, it is hereby ORDERED AND ADJUDGED as follows:

1. A demand for voluntary waiver of jurisdiction was filed by the child and parent/legal guardian on ...(date)...
2. The court waives jurisdiction to try the child pursuant to chapter 39, Florida Statutes.
3. The above cause is certified for trial as if the child were an adult.

4. A certified copy of this order shall be furnished to the clerk of the court having jurisdiction to try the child as an adult and to the prosecuting officer of said child.

5. The child shall be forthwith delivered to the sheriff of the county in which the court that is to try the child is located. Bond is set at \$.....

DONE AND ORDERED in chambers at,
.....(date).....

Circuit Judge

FORM 8.939. MOTION FOR INVOLUNTARY WAIVER

MOTION FOR INVOLUNTARY WAIVER

The State of Florida, having considered the recommendation of the intake officer, petitions the court to waive jurisdiction pursuant to rule 8.105, Florida Rules of Juvenile Procedure, and shows:

The child was 14 or more years of age at the alleged time of commission of the violation of law for which the child is charged.

[Add the following paragraph, if applicable]

The child has been previously adjudicated delinquent for a violent crime against a person, to wit ...(offense)..., and is currently charged with a second or subsequent such offense.

Wherefore, the State of Florida requests the court to conduct a hearing on this motion for the purpose of determining whether the court should waive its jurisdiction and certify the case to the appropriate court for trial as if the child were an adult.

Petitioner

FORM 8.940. MOTION TO COMPILE REPORT

MOTION TO COMPILE REPORT

The State of Florida, having filed a petition for involuntary waiver, moves the court for an order requiring the department to prepare a study and report to the court, in writing, considering the following relevant factors:

1. The seriousness of the alleged offense to the community and whether the protection of the community is best served by transferring the child for adult sanctions.

2. Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.

3. Whether the alleged offense was against persons or against property.

4. The prosecutive merit of the report, affidavit, or complaint.

5. The desirability of trial and disposition of the entire offense in one court when the child's associates in the alleged crime are adults or children who are to be tried as adults who will be or have been charged with a crime.

6. The sophistication and maturity of the child.

7. The record and previous history of the child including:

a. Previous contact with the department, other law enforcement agencies, and the courts;

b. Prior periods of probation or community control;

c. Prior adjudications that the child committed a delinquent act or violation of law, greater weight being given if the child previously had been found by a court to have committed a delinquent act involving an offense classified as a felony or had twice previously been found to have committed a delinquent act involving an offense classified as a misdemeanor; and

d. Prior commitments to institutions.

8. The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child, if found to have committed the alleged offense, by the use of procedures, services, and facilities currently available to the court.

WHEREFORE, the State of Florida requests an order directing the department to prepare a study and report in writing prior to the waiver hearing.

Petitioner

FORM 8.941. ORDER TO COMPILE REPORT

ORDER TO COMPILE REPORT

Upon the motion of the State of Florida, the department shall prepare a study and report to the court, in writing, considering the following relevant factors:

1. The seriousness of the alleged offense to the community and whether the protection of the community is best served by transferring the child for adult sanctions.

2. Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.

3. Whether the alleged offense was against persons or against property.

4. The prosecutive merit of the report, affidavit, or complaint.

5. The desirability of trial and disposition of the entire offense in one court when the child's associates in the alleged crime are adults or children who are to be tried as adults who will be or have been charged with a crime.

6. The sophistication and maturity of the child.

7. The record and previous history of the child including:

a. Previous contact with the department, other law enforcement agencies, and the courts;

b. Prior periods of probation or community control;

c. Prior adjudications that the child committed a delinquent act or violation of law, greater weight being given if the child had been previously been found by a court to have committed a delinquent act involving an offense classified as a felony or had twice previously been found to have committed a delinquent act involving an offense classified as a misdemeanor; and

d. Prior commitments to institutions.

8. The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child, if found to have committed the alleged offense, by the use of procedures, services, and facilities currently available to the court.

DONE AND ORDERED in chambers at,
Florida,(date).....

Circuit Judge

[Delete entire form]

FORM 8.942. ORDER OF INVOLUNTARY WAIVER

ORDER OF INVOLUNTARY WAIVER

A petition was filed in this cause on(date)..... Prior to the adjudicatory hearing on the petition, the State of Florida filed a motion requesting that the court waive its jurisdiction and certify the case to the appropriate court for trial as if the child were an adult. This cause came before the court on the motion.

The following were present(names)..... with(name)....., representing the State of Florida and(name)....., representing the Department of Health and Rehabilitative Services.

The court heard the evidence presented by the the State of Florida and the child to determine whether the jurisdiction of this court should be waived and the case certified to the appropriate court for trial as if the child were an adult. The court finds that it is in the public interest that the jurisdiction of this court be waived and that the case be certified to the appropriate court having jurisdiction to try an adult who is charged with a like offense based on the following findings of fact:

- 1. Age of child
- 2. Seriousness of alleged offense
.....
- 3. Manner of commission of offense
.....
- 4. Nature of offense (person or property)
.....
- 5. Prosecutive merit of report, affidavit, or complaint
.....
- 6. Desirability of trial and disposition of entire offense in one court
- 7. Sophistication and maturity of the child
.....

8. Record and previous history of the child
.....

9. Prospects for adequate protection of the public and
rehabilitation of child

IT IS ADJUDGED that the jurisdiction of this court is waived
and that this case is transferred to the(court).....
for trial as if the child were an adult.

The child shall be held by the sheriff of this county unless a
bond in the amount of \$..... is posted. The child shall appear
before(court)..... on the ... day of, 19...
to answer the State of Florida on the foregoing charges.

DONE AND ORDERED in chambers at, Florida,
this day of, 19...

Circuit Judge

FORM 8.946. PETITION FOR SERIOUS OR HABITUAL JUVENILE OFFENDER
PLACEMENT

PETITION FOR SERIOUS OR HABITUAL
JUVENILE OFFENDER PLACEMENT

Comes now the State of Florida, by and through the undersigned
assistant state attorney, and petitions the court for serious or
habitual juvenile offender placement. In support thereof, we
would show:

1. That the child, who was not less than 14 years of age at
the time of the commission of the current offense and who was
adjudicated and has been committed in this proceeding, meets the
criteria in subsection 39.01(46), Florida Statutes, for serious
or habitual juvenile offender placement in that said child was:

.... Adjudicated or had adjudication withheld on the current
offense for a capital, life, or first-degree felony
involving the infliction or threatened infliction of serious
physical harm to another person.

.... Adjudicated or had adjudication withheld on the current
offense for a capital, life, first-, or second-degree felony
offense and has been the subject of at least three separate
prior adjudications or adjudications withheld for capital,
life, first-, or second-degree felony offenses, or third-
degree felony offenses involving the use of a weapon within
the preceding 24 months.

.... Adjudicated or had adjudication withheld on the current offense, which may include any felony, and has been the subject of at least four separate, nonrelated prior adjudications or adjudications withheld for any felony offense within the preceeding 36 months.

2. Placement in a serious or habitual juvenile offender program is required for the protection of the public and would best serve the needs of this juvenile.

WHEREFORE, as this child meets the serious or habitual juvenile offender program criteria, the state respectfully requests this court to enter an order placing the child in a serious or habitual juvenile offender program.

Date:.....

Assistant State Attorney

FORM 8.947. DISPOSITION ORDER--DELINQUENCY

DISPOSITION ORDER

Based on the petition filed on(date)....., the child, (name)....., being duly represented by(name)....., attorney of record, and having previously

....Been found guilty at an adjudicatory hearing of the following:

....Entered a plea of guilty/nolo contendere to the following:

<u>COUNT</u>	<u>OFFENSE</u>	<u>STATUTE NUMBER</u>	<u>DEGREE OF OFFENSE</u>
<u>.....</u>	<u>.....</u>	<u>.....</u>	<u>.....</u>
<u>.....</u>	<u>.....</u>	<u>.....</u>	<u>.....</u>

The predisposition study prepared by the Department of Health and Rehabilitative Services was received and considered, as was all other relevant and material evidence offered, and no cause having been shown why the disposition should not be entered at this time, it is the ORDER OF THE COURT that:

....Adjudication of delinquency is withheld.

....The child is adjudicated delinquent.

The child is hereby:

.... Placed on community control under the supervision of
.....(program)..... with the following conditions
.....

.... Placed on community control under the supervision of the
Department of Health and Rehabilitative Services with the
following conditions

.... Committed to the Department of Health and Rehabilitative
Services and upon release to be placed on community control
under the following conditions

Placement Alternatives

Pursuant to subsection 39.09(3)(e), Florida Statutes,
placement is recommended in the following order:

1.
2.
3.
4.

.... The child meets the serious or habitual juvenile offender
program criteria as set forth in subsection 39.05, Florida
Statutes, and shall be placed in such program as required by
law.

This court ...does/does not... retain jurisdiction over
discharge from commitment.

The removal of this child from detention and placement of the
child into a commitment program shall occur within five days,
excluding Saturdays, Sundays, and legal holidays.

The placement is for an indeterminate period but no longer
than:

.... The child's nineteenth birthday.

.... The maximum sentence allowable by law allowing days
credit for time spent in detention or incarceration before this
date.

.... Until otherwise released and discharged, whichever occurs
first.

Provisions Of Community Control

It is FURTHER ORDERED that the child shall comply with the
following sanctions:

1. Remain at liberty without violating any laws.
2. Attend school every day, each class assigned, unless excused by school authorities, abiding by all rules and regulations of school authorities relating to conduct and citizenship in and around school grounds and while coming to and leaving school, or maintain full/part-time employment.
3. Cooperate fully and maintain contact with your counselor as directed.
4. Not change place of residence without prior knowledge and consent of counselor.
5. Not use intoxicants, nor visit places where intoxicants, drugs, or other dangerous substances are sold, dispensed, or used.
6. Obeys the reasonable demands of parents or guardians.

Special Provisions

(Check those applicable)

- Abide by a curfew:.....
- Pay restitution as follows:.....
- Participate in counseling as directed.
- Perform hours community service work.
- Have no contact with the victim in this case.
- Participate in a tour of an adult correctional facility.
- Write a letter of apology to the victim in this case.
- Write an essay on
- Other:.....
-

The parties are advised that an appeal is authorized by law within 30 days from the date of this order.

FINGERPRINTS OF CHILD

Fingerprints taken by:

...name and title...

DONE AND ORDERED in open court at(city).....,
..... County, Florida,(date).....

I HEREBY CERTIFY that the above fingerprints are the fingerprints of the child,(name)....., and that they were placed hereon by said child in my presence in open court this date.

Circuit Judge

FORM 9.920948. PETITION FOR REVOCATION OF COMMUNITY CONTROL PROGRAM

[No change in form]
[Delete verification]

C. DEPENDENCY FORMS

FORM 8.960. DETENTION PETITION

DETENTION PETITION

COMES NOW, your petitioner,(name)....., and respectfully represents that(name of child)....., whose date of birth is, 19..., and who resides at(address)....., or, if the child's name is unknown an identifying description for the child is a dependent child, and your petitioner moves the court for the entry of an order placing the child in shelter and as grounds for the order would show:

1. There is probable cause that the child is a dependent child within the intent and meaning of chapter 39, Florida Statutes, in that the child is either abused, abandoned, or neglected because

2. A detention order is necessary

.... To protect the child because

.... Because the child has no parent, legal custodian, or responsible adult relative to provide supervision and care for the child in that

3. It would be in the best interest of the child that the child be placed in shelter.

4. The provision of appropriate and available services by the Department of Health and Rehabilitative Services will not eliminate the need for placement in shelter because

WHEREFORE, your petitioner prays that the court will enter an order granting the detention petition and

.... Placing the child in shelter at
..... pending further order of the court.

.... Placing the child with a responsible adult relative,
....(name)....., whose address is,
pending further order of the court.

.... Placing the child in shelter at
....., permitting the Department of Health
and Rehabilitative Services to release the child to the
parent(s) or a responsible adult relative when appropriate.

.... Requiring the parent(s) or legal custodian of the child to
contribute a reasonable sum of money as determined by the court
for the care and support of the child.

.... Requiring the Department of Health and Rehabilitative
Services to provide emergency medical services by qualified
medical personnel for the child as needed.

Petitioner Title.....

Sibling case names (if any)

.....

FORM 8.961. DETENTION ORDER

DETENTION ORDER

Name.....

Address.....

Date of birth.....Sex....

Taken into custody: Date.....Time...

There is probable cause to believe that the child is
dependent.

There is need for:

.... Shelter, because a determination has been made that the
provision of appropriate and available services will not
eliminate the need for placement.

.... To protect the child.

.... There is no responsible parent, adult relative, or legal custodian to whom the child may be released.

.... The department has made a reasonable effort to prevent or eliminate the need for the removal of the child from the home by

.... The department's first contact with the child or ...his/her... family occurred during an emergency.

.... The child(ren) ...is/are... committed to the temporary legal custody of ...the Department of Health and Rehabilitative Services/...(specify).....

.... The child(ren) ...is/are... placed in the temporary legal custody of...(adult relative).../...(other, specify)...

.... The Department of Health and Rehabilitative Services is authorized to provide medical services and emergency major surgery as deemed necessary.

.... The special conditions of supervision, placement, visitation, evaluation, counseling, or treatment imposed by the court are

.... The person or entity responsible for monitoring services to the child(ren) or family is

.... The guardian ad litem shall

.... The case shall be reviewed

.... Other:

ORDERED at, Florida, on(date).....

Circuit Judge

FORM 8.962. MOTION FOR INJUNCTION

MOTION

COMES NOW,(name)..... and hereby requests this court, pursuant to subsection 39.4055, Florida Statutes, to issue, until the cause is disposed, an injunction requiring(name)..... to do the following:

.... Refrain from abuse or unlawful sexual activity with the above named child(ren).

.... Obtain counseling as arranged by the Department of Health and Rehabilitative Services or as specified below.

.... Have no contact with the child except as provided below.

.... Pay \$..... support for the child(ren) and/or family.

.... Vacate the home in which the child(ren) reside(s) and not return.

OTHER CONDITIONS

.....

In support of the above, the movant would show

.....

.....

.....(name).....

FORM 8.963. INJUNCTION ORDER

ORDER

THIS CAUSE coming on to be heard before me, and the court being advised in the premises, it is

ORDERED AND ADJUDGED that(name).... do the following:

.... Refrain from abuse or unlawful sexual activity with the above mentioned child(ren).

.... Obtain counseling as arranged by the Department of Health and Rehabilitative Services or as specified below.

.... Have no contact with the child(ren) except as provided below.

.... Pay \$..... support for the child(ren) and/or family.

.... Vacate the home in which the child(ren) reside(s) and not return.

OTHER CONDITIONS:.....

DONE AND ORDERED this day of, 19... in, Florida.

Circuit Judge

FORM 8.964. DEPENDENCY PETITION

DEPENDENCY PETITION

COMES NOW(name).... and requests that the court find
....(child)...., whose date of birth is, a
dependent child. As grounds petitioner alleges:

1. The parents or custodians are:

....(name).....(address).....
Mother

....(name)..... (address).....
Father

....(name)..... (address).....
Legal Custodian

2. The child is in the care, custody, and control of
....(name).... or was at the time the dependent status arose.
An affidavit pursuant to the Uniform Child Custody Jurisdiction
Act is attached.

3. On or ...about/between...(date(s))....:

.....

Petitioner

FORM 8.913965. ORDER OF ADJUDICATION ORDER--DEPENDENCY

ORDER OF

ADJUDICATION ORDER

This cause was heard on the petition filed,
19.... The following were present:
with attorney(s), and
representing the, Department of
Health and Rehabilitative Services.

....., the parent(s)/children
.....,admitted/denied/entered a plea of nolo contendere
tothe allegations of the petition.

The court having considered all the evidence adduced finds
....by clear and convincing evidence/by a preponderance of the
evidence.... the ...child/children... ..was/were... at the time
the acts or omissions for which ...he/she/they... are alleged
to be dependent occurredyears of age. The
court further finds the following brief statement of facts to be
true:

.....

.....
..

It is ADJUDGED that:

(alternatives: use either (1) or (2) and (3) or (4) as appropriate)

___(1) The court withholds an adjudication of dependency.

___(2) The court adjudicates the....child/children.... to be dependent.

___(3) Thechild/children.....is/are.... placed in the temporary custody ofpending a predisposition study and a disposition hearing.

___(4) The court, having considered the predisposition study prepared by the, Department of Health and Rehabilitative Services and presented to the court immediately after the adjudicatory hearing, makes the following disposition:

ORDERED at,.....County, Florida, on 19....

Circuit Judge

CERTIFICATE

~~I certify that a copy of the foregoing order has been furnished to:by mail/delivery.... this day of, 19.....~~

Title

FORM 8.966. DISPOSITION ORDER--DEPENDENCY

DISPOSITION ORDER

A petition was filed in this court alleging (name(s)),..... age(s) to be dependent. Present before the court were

The court finds the child(ren) ...is/ are...dependent/not dependent... because of these facts:

THE COURT DOES:

.... Adjudicate the child(ren) to be dependent.

.... Withhold adjudication of dependency.

FURTHERMORE, THE COURT ORDERS THAT:

.... Reasonable efforts to prevent or eliminate the need for removal of the child(ren) have been made and that continuation of the child(ren) in ...his/her/their... own home would be contrary to the welfare of the child(ren).

.... The child(ren) ...is/are... placed with(name and relationship to child)..... under the protective supervision of the Department of Health and Rehabilitative Services.

.... The child(ren) ...is/are... committed to the temporary legal custody of ...the Department of Health and Rehabilitative Services/...(specify).....

.... The child(ren) ...is/are... placed in the temporary legal custody of ...(adult relative).../...(other, specify)...

.... The Department of Health and Rehabilitative Services is authorized to provide medical services and emergency major surgery as deemed necessary.

.... The special conditions of supervision, placement, visitation, evaluation, counseling, or treatment imposed by the court are

.... The person or entity responsible for monitoring services to the child(ren) or family is

.... The guardian ad litem shall

.... The case shall be reviewed

.... Other:

ORDERED AT, Florida, on(date).....

Circuit Judge

Copies to:

FORM 8.967. ORDER ON PERFORMANCE AGREEMENT OR PERMANENT PLACEMENT PLAN REVIEW

ORDER ON ...PERFORMANCE AGREEMENT/PERMANENT PLACEMENT PLAN... REVIEW

The court having reviewed the ...performance agreement/permanent placement plan... filed ...(date)... in the above-styled cause, finds:

The ...agreement/plan... ..is/is not... consistent with previous orders of the court placing the child(ren) in care.

The ...agreement/plan... ..is/isnot... consistent with the requirements for the contents of a(n) ...agreement/plan...

In involuntary placement, the parents ...were/were not... notified of their right to counsel at each stage of the dependency proceeding.

The parents ...were/were not... advised of their right to receive assistance from any other person in the preparation of a performance agreement.

The ...agreement/plan... ..is/is not... meaningful and designed to address the facts and circumstances for involuntary or voluntary placement.

FURTHERMORE, THE COURT ORDERS THAT

.... The ...agreement/plan... is accepted and all parties are ordered subject to its provisions.

.... The ...agreement/plan... is rejected because
.....

.... The ...agreement/plan... is accepted subject to the following modifications:

.... An amended ...agreement/plan... shall be submitted to the Court for review and approval by(date).....

DONE AND ORDERED AT, Florida,(date).....

Circuit Judge

Copies to:

D. TERMINATION OF PARENTAL RIGHTS FORMS

FORM 8.922980. PETITION FOR PERMANENT COMMITMENT BASED ON SURRENDER TERMINATION OF PARENTAL RIGHTS BASED ON VOLUNTARY RELINQUISHMENT

PETITION FOR
~~PERMANENT COMMITMENT BASED ON SURRENDER~~

IN THE CIRCUIT COURT, IN AND FORCOUNTY,
FLORIDA CASE NO., DIVISION

~~IN THE INTEREST OF:~~

....., a child

Born:

The petitioner,, of(agency)....., respectfully represents that:(name)....., born theday of 19..... atCounty, State of; whose mother's name is and her residence is; and whosenatural/lawful..... father isand his residence is; is a dependent child because said child has been surrendered for the purpose of adoption by, who placed said child on or about, 19....., with said(agency)..... and who by duly executed written instrument surrendered said child to(agency) for adoption and waived notice of this hearing, said surrender and waiver being made a part hereof. That no guardian has been appointed by any court for said child.

That said child is found living or domiciled in County, Florida.

WHEREFORE, the petitioner requests that process issue to bring the parties herein before this court; that said child be adjudged by this court to be dependent; that an order be entered in this cause for the welfare of said child termination of parental rights; and that said child be permanently committed to placed in the custody of(agency)..... for subsequent adoption.

Petitioner

~~STATE OF FLORIDA~~

~~COUNTY OF~~

~~The above-named petitioner being by me first duly sworn, deposes and says: that the allegations of the foregoing petition by said person subscribed are true, according to said person's information and belief.~~

~~Sworn to and subscribed before me thisday of, 19.....~~

Title

FORM 8.981. PETITION FOR INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

PETITION FOR TERMINATION
OF PARENTAL RIGHTS

Petitioner,(name)....., petitions this court for the entry of an order terminating parental rights and permanently committing the child(ren) to for the purpose of subsequent adoption and in support thereof respectfully shows the court:

1.(name)....., a ...male/female... child, was born on ...(date)..., in ...(city)....., County, State of

2. A certified copy of the child(ren)'s birth certificate(s) is attached.

OR

2. A certified copy of the child(ren)'s birth certificate(s) has been requested of the appropriate agency and will be filed when the department receives it.

3. The child is now living and residing in County, Florida, and is in the custody of ...(specify)...

4. An affidavit pursuant to the Uniform Child Custody Jurisdiction Act is attached to this petition.

5. A guardian ad litem has been appointed for the child(ren), whose name and address are

OR

5. A guardian ad litem has not been appointed for the child(ren) and the petitioner requests that one be appointed for these proceedings.

6. The parents, legal custodian, or relative(s) of the child(ren) are:

The child(ren)'s mother is(name)....., whose address is

The child(ren)'s father is(name)....., whose address is

The child(ren)'s legal custodian is(name)....., whose address is

7. It now appears to be manifestly in the best interest of the child(ren) that an order terminating parental rights and permanently committing the child(ren) be entered for the following reasons:

.....

.....

(a) The child(ren) ...was/were... adjudicated dependent pursuant to section 39.409, Florida Statutes.

(b) A disposition order was entered pursuant to section 39.41, Florida Statutes.

(c) The parents were informed of their right to counsel in the dependency proceeding pursuant to the Florida Rules of Juvenile Procedure.

(d) A ...performance agreement/permanent placement plan... as defined in section 39.01, Florida Statutes, has been offered to the parents.

(e) The child(ren)'s parents have failed upon expiration of ...a performance agreement entered into/a permanent placement plan submitted to and approved by the court... to substantially comply with the ...agreement/plan.... This failure is not the result of conditions beyond their control and includes

.....
.....

WHEREFORE, petitioner requests the court to take jurisdiction of the parties and the subject matter, set the advisory hearing within the required time, enter an order terminating parental rights and placing the child in the custody of for subsequent adoption, and grant any other appropriate relief.

Dated this day of, 19....

Petitioner

FORM 8.982. ADJUDICATION ORDER

ADJUDICATION ORDER

This cause came before the court for an adjudicatory hearing on the petition of All parties and their counsel were present at the hearing.

In addition to the testimony of those present, the court considered all documents admitted in evidence.

Upon all the evidence presented, after resolving all conflicts, the court finds by clear and convincing evidence that:

1. The child(ren) ...was/were... adjudicated dependent pursuant to section 39.409, Florida Statutes;

2. An order of disposition pursuant to section 39.41, Florida Statutes, was entered by this court;

3. The elements of section 39.464, Florida Statutes, have been met;

4. The parents were informed of their right to counsel in the dependency proceeding;

After the filing of the petition to terminate parental rightsthe court appointed counsel for the parents/the parents were informed of their right to counsel including the right of an indigent person to be represented by court appointed counsel.....;

5. A....performance agreement/permanent placement plan..., as defined in section 39.01, Florida Statutes, was offered to the parents;

6. The parents have failed to substantially comply with the ...plan/ agreement...

IT IS THEREFORE ORDERED that a dispositional hearing in accordance with section 39.469, Florida Statutes, is scheduled for(date)... at ...(time)....

DONE AND ORDERED in chambers at,..... County, Florida,(date).....

Circuit Judge

FORM 8.983. JUDGMENT OF INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

JUDGMENT OF INVOLUNTARY
TERMINATION OF PARENTAL RIGHTS

This cause came before the court for a disposition hearing on the petition of for termination of parental rights. The court, having heard the testimony and received the evidence, finds the facts upon which the decision to terminate parental rights was based are

Upon the foregoing, the court finds that it is manifestly in the best interest of the child(ren) to terminate parental rights and place the child(ren) in the custody of(agency)..... for subsequent adoption.

IT IS ORDERED that the parental rights of(name(s))..... to the subject child(ren) ...is/are... terminated, and

IT IS, FURTHER, ORDERED that the child(ren) ...is/are... hereby adjudged to be a dependent child(ren); that the

child(ren) ...is/are... hereby placed in the custody of
.....(agency)..... for subsequent ADOPTION.

ORDERED at, County, Florida,
.....(date).....

Circuit Judge

FORM 8.984. JUDGMENT OF VOLUNTARY TERMINATION OF PARENTAL RIGHTS

JUDGMENT OF VOLUNTARY TERMINATION OF PARENTAL RIGHTS

This cause came on to be heard on the petition of
.....(name)..... for termination of parental rights. The court
having heard the testimony and received the evidence finds by
clear and convincing evidence as follows:

1. The subject child(ren), (name(s))....., born
.....(date(s))....., verification of which being filed herein,
...is/are... within the jurisdiction of this court.

2. The subject child(ren) remain(s) dependent.
...he/she/they... ..has/have... been surrendered by
(name(s)).....,(relationship).... of said child(ren), who
placed the child(ren) on or about(date).... with
....(agency)..... and waived notice of this hearing, said waiver
being filed herein. The court finds this placement to be
voluntary.

3. It is manifestly in the best interest of the child(ren) to
terminate ...his/her... parental rights and to place the
child(ren) in the custody of(agency)..... for
subsequent adoption.

IT IS ORDERED that the parental rights of
.....(name(s))..... to the subject child(ren) are terminated,
and

IT IS, FURTHER, ORDERED that the child(ren) ...is/are...
hereby adjudged to be dependent and ...is/are... hereby placed
in the custody of(agency) for subsequent
ADOPTION.

ORDERED at, County, Florida,
.....(date).....

Circuit Judge

Original Proceeding - Florida Rules of Juvenile Procedure

Jeanne D. Howard, Chairman, West Palm Beach, Florida; Daniel Dawson, Vice Chairman, Orlando, Florida and John F. Harkness, Jr., Executive Director, of The Florida Bar, Tallahassee, Florida,

for Petitioner, The Juvenile Court Rules Committee

Louis O. Frost, Jr., Public Defender and Ward L. Metzger, Assistant Public Defender, Juvenile Court Coordinator, Fourth Judicial Circuit, Jacksonville, Florida; and Anthony C. Musto, Chairman, Florida Rules of Judicial Administration Committee, Coral Gables, Florida,

for Respondents