

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO
FLORIDA RULE OF JUDICIAL
ADMINISTRATION 2.420 AND FLORIDA
RULES OF JUVENILE PROCEDURE—2020
JOINT FAST-TRACK REPORT**

CASE NO.: SC20-

**JOINT FAST-TRACK REPORT OF THE RULES OF JUDICIAL
ADMINISTRATION AND JUVENILE COURT RULES COMMITTEES**

Honorable Josephine Gagliardi, Chair of the Rules of Judicial Administration Committee (“RJA Committee”), Linda McGrady Berman, Chair of the Juvenile Court Rules Committee (“JCR Committee”), and Joshua E. Doyle, Executive Director of The Florida Bar, file this joint fast-track report, under Florida Rule of Judicial Administration 2.140(e).

All rule amendments have been approved by the full Committees and, as required by Rule 2.140(e), considered by the Board of Governors Executive Committee for approval. By a vote of 41-0, the RJAC approved amendments to Rule 2.420 (Public Access to and Protection of Judicial Branch Records). By a vote of 28-0, the JCR Committee approved the amendments to Rule 8.805 (Commencement of Proceedings), Rule 8.810 (Petition), Rule 8.815 (Counsel), Rule 8.820 (Hearing), Rule 8.830 (Transcripts), and Rule 8.835 (Confidentiality of Records), Form 8.987 (Petition for Judicial Waiver of Parental Consent to or Notice of and Consent to Termination of Pregnancy), Form 8.988 (Sworn Statement of True name and Pseudonym), Form 8.990 (Final Order Granting Petition for Judicial Waiver of Parental Consent to or Notice of and Consent to Termination of Pregnancy), Form 8.991 (Final Order Dismissing Petition for Judicial Waiver of Parent Consent to or Notice of and Consent to Termination of Pregnancy), and Form 8.992 (Minor’s Petition to Chief Judge to Require a Hearing on Her Petition for Judicial Waiver of Consent or Notice and Consent). The Board of Governors Executive Committee recommends approval of these amendments by a vote of 10-0-1. Also pursuant to 2.140(e), the amendments have not been published for comment prior to the filing of this report. The amendments to the Florida Rules of Juvenile Procedure are in reaction to SB 404. The proposed Rule of Judicial Administration amendment is in reaction to SB 406. (See Appendix C). The Committees recognize that the bills have not yet but presented to the Governor nor have been signed into law. However, the proposed amendments are being

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submitted to the court now as the effective date of the law is July 1, 2020. The rule and form amendments are shown in Appendix A in full text and the rule amendments are shown in Appendix C in two-column format.

PROPOSED RULE AMENDMENTS

RULE 2.420. PUBLIC ACCESS TO AND PROTECTION OF JUDICIAL BRANCH RECORDS

The RJA Committee proposed amending Florida Rule of Judicial Administration 2.420(d)(1)(B)(vii) in reaction to Senate Bill 406 that is amending section 390.01118, Florida Statutes. Specifically, this amendment defines as confidential and exempt from s. 24(a), Art. I of the State Constitution, “[a]ny information that can be used to identify a minor who is petitioning a circuit court for a judicial waiver, as provided in s. 390.01117, or the consent requirements under the Parental Consent for Abortion Act.” (Appendix B–12.)

As explained within the bill, this law was created “to keep confidential and exempt from public disclosure information contained in a court record which could be used to identify a minor who is petitioning the court for a waiver from the statutory requirement that a parent or legal guardian give consent before the minor may obtain an abortion.” (Appendix B–13.) This amendment is to protect the identity of the minor.

In reaction to this bill, the RJA Committee recommends Rule 2.420(d)(1)(B)(vii) be amended by adding a reference to a guardian, adding “or consent”, and adding a reference to the new law. Specifically, this subdivision would read:

(vii) Information that can be used to identify a minor petitioning for a waiver of parental or guardian notice or consent when seeking to terminate pregnancy. §§ 390.01116, 390.01118, Fla. Stat.

The RJA Committee would also like to alert the Court that Rule 2.420 is before the Court in *In re: Amendments to the Florida Rules of Judicial Administration—2020 Regular-Cycle Report*, SC20-165. In that case, it is recommended this rule be reorganized for better understanding by practitioners. If these cases intersect, the proposed amendment suggested within this case would be in Rule 2.420(b)(7) within SC20-165.

RULE 8.805. COMMENCEMENT OF PROCEEDINGS

The JCR Committee proposes amending Florida Rule of Juvenile Procedure 8.805(a) (Petition to be Filed) and (e) (Fees and Costs) to address legislative changes to section 390.01114, Florida Statutes, as amended by section 2, SB 404.

The legislative changes to section 390.01114, Florida Statutes, now require parental consent to a termination of pregnancy procedure performed on a minor. The statute previously only required notice to the parent. (*See Appendix C 2-6.*)

In subdivision (a), in response to these legislative changes, and to conform with them, the JCR Committee proposes adding “consent or” and “and consent to” to encompass the two separate matters for which a pregnant minor may seek judicial waiver: (1) waiver of consent and (2) waiver of notice and consent.

In subdivisions (d)(2) and (d)(3), the Committee proposes adding commas for grammar.

In subdivision (e), in response to these legislative changes, and to conform with them, the JCR Committee proposes adding “consent or” to encompass the two separate matters for which a pregnant minor may seek judicial waiver: (1) waiver of consent and (2) waiver of notice and consent.

RULE 8.810. PETITION

The JCR Committee proposes amending Florida Rule of Juvenile Procedure 8.810 to address legislative changes to section 390.01114, Florida Statutes, as amended by section 2, SB 404.

The legislative changes to section 390.01114, Florida Statutes, now require parental consent to a termination of pregnancy procedure performed on a minor. The statute previously only required notice to the parent. (*See Appendix C 2-6.*)

In subdivision (c), in response to these legislative changes, and to conform with them, the JCR Committee proposes adding “consent or” and “and consent” to encompass the two separate matters for which a pregnant minor may seek judicial waiver: (1) waiver of consent and (2) waiver of notice and consent.

In subdivision (d), in response to these legislative changes, and to conform with them, the JCR Committee proposes adding “consent from or” and “and consent from” to encompass the two separate matters a pregnant minor may seek

judicial waiver: (1) waiver of consent and (2) waiver of notice and consent.

In subdivision (e)(2), the JCR Committee proposes adding “legal” prior to “guardian” and “s” to “interest” for greater clarity and consistency with the existing statute.

In subdivision (e)(3), in response to these legislative changes, and to conform with them, the JCR Committee proposes beginning the sentence with “Consent from or” and adding “to and consent from the” to encompass the two separate matters for which a pregnant minor may seek judicial waiver: (1) waiver of consent and (2) waiver of notice and consent. In addition, the JCR Committee proposes, making the “n” in “notification” lower case and deleting “of a” for grammar. Last, in this subdivision, the JCR Committee proposes adding “legal” prior to “guardian” and “s” to “interest” for greater clarity and consistency with the existing statute.

RULE 8.815. COUNSEL

The JCR Committee proposes amending Florida Rule of Juvenile Procedure 8.815 to address legislative changes to section 390.01114, Florida Statutes, as amended by section 2, SB 404.

The legislative changes to section 390.01114, Florida Statutes, renumbered the provisions regarding right to counsel as section 39.01114(6)(a), Florida Statutes, and adds a new sentence regarding the timing of appointment of counsel. (*See Appendix C 6.*)

In response to this legislative change, and to conform with it, JCR Committee proposes replacing “section 390.01114(4)(a), Florida Statutes” with “law” and adding a new sentence regarding the timing of appointment of counsel.

RULE 8.820. HEARING

The JCR Committee proposes amending Florida Rule of Juvenile Procedure 8.820(a) (Hearing by Judge), (c) (Burdens or Proof), (d) (Time Limits), and (e) (Confidentiality of Hearings) to address legislative changes to section 390.01114, Florida Statutes, as amended by section 2, SB 404.

The legislative changes to section 390.01114, Florida Statutes, now require parental consent to a termination of pregnancy procedure performed on a minor. The statute previously only required notice to the parent. (*See Appendix C 2-6.*)

The legislative changes to section 390.01114, Florida Statutes, renumbered the provisions regarding time limits as section 39.01114(6)(b) and confidentiality to 390.01114(6)(f), Florida Statutes. (See Appendix C 7 and 9). In section 390.01114(6)(3), Florida Statutes, legislative changes add a new sentence regarding where the hearings should be held. (See Appendix C 6.)

In subdivision (a), in response to legislative changes, and to conform with them, committee proposes deleting “of parental notice of termination of pregnancy” to encompass the two separate matters for which a pregnant minor may seek judicial waiver: (1) waiver of consent and (2) waiver of notice and consent.

In subdivision (c)(2), the JCR Committee proposes adding “legal” prior to “guardian” and “s” to “interest” for greater clarity and consistency with the existing statute.

In subdivision (c)(3), in response to legislative changes, and to conform with them, the JCR Committee proposes adding “consent from or” and “to and consent from” to encompass the two separate matters for which a pregnant minor may seek judicial waiver: (1) waiver of consent and (2) waiver of notice and consent. In this subdivision, the JCR Committee proposes deleting “of” for grammar. Last, the committee proposes adding “legal” prior to “guardian” for greater clarity and consistency with the existing statute.

In subdivision (d), in response to legislative changes, and to conform with them, JCR Committee proposes replacing “section 390.01114(4)(b), Florida Statutes” with “law.”

In subdivision (e), in response to legislative changes, and to conform with them, JCR Committee proposes replacing “sections 390.01114(4)(e) and 390.01116, Florida Statutes” with “law.” Also, in response to legislative changes and to conform with them, the JCR Committee proposes adding a new sentence regarding where the hearings should be held.

RULE 8.830. TRANSCRIPTS

The JCR Committee proposes amending Florida Rule of Juvenile Procedure 8.830 to address legislative changes to section 390.01114, Florida Statutes, as amended by section 2, SB 404.

The legislative changes to section 390.01114, Florida Statutes, renumbered the provisions regarding transcripts as section 39.01114(6)(e), Florida Statutes.

In response to legislative changes, and to conform with them, JCR Committee proposes replacing “section 390.01114(4)(e), Florida Statutes” with “law.”

RULE 8.835. CONFIDENTIALITY OF RECORDS

The JCR Committee proposes amending Florida Rule of Juvenile Procedure 8.835 for consistency with the other amendments made in this report.

Although no changes to section 390.01116, Florida Statutes, were made by SB 404, JCR Committee proposes that “section 390.01116, Florida Statutes” be replaced with “law” for consistency.

In addition, JCR Committee recommends adding a comma to the end of subdivision (a) for grammar.

**FORM 8.987. PETITION FOR JUDICIAL WAIVER OF PARENTAL
CONSENT TO OR NOTICE OF AND CONSENT TO
TERMINATION OF PREGNANCY**

The JCR Committee proposes amending Florida Rule of Juvenile Procedure 8.987 to address legislative changes to section 390.01114, Florida Statutes, as amended by section 2, SB 404.

The legislative changes to section 390.01114, Florida Statutes, now require parental consent to a termination of pregnancy procedure performed on a minor. The statute previously only required notice to the parent. (*See Appendix C 2-6.*)

In response to legislative changes, and to conform with them, JCR Committee proposes modifications to the rule title, the petition title, to paragraph 3 adding “parental” and “or consent” and to paragraph 4 adding additional check boxes for consent, notice, and consent and notice to encompass the two separate matters for which a pregnant minor may seek judicial waiver: (1) waiver of consent and (2) waiver of notice and consent.

In paragraph (4) and paragraph (5), the JCR Committee proposes adding “legal” prior to “guardian” several times and in paragraph (4) adding “s” to “interest” for greater clarity and consistency with the existing statute.

FORM 8.988. SWORN STATEMENT OF TRUE NAME AND PSEUDONYM

The JCR Committee proposes amending Florida Rule of Juvenile Procedure 8.988 to address legislative changes to section 390.01114, Florida Statutes, as amended by section 2, SB 404.

The legislative changes to section 390.01114, Florida Statutes, now require parental consent to a termination of pregnancy procedure performed on a minor. The statute previously only required notice to the parent. (*See Appendix C 2-6.*)

To paragraph (3), in response to legislative changes, and to conform with them, JCR Committee proposes adding “Consent to or Consent to and” to encompass the two separate matters a pregnant minor may seek judicial waiver: (1) waiver of consent and (2) waiver of notice and consent.

FORM 8.990. FINAL ORDER GRANTING PETITION FOR JUDICIAL WAIVER OF PARENTAL CONSENT TO OR NOTICE OF AND CONSENT TO TERMINATION OF PREGNANCY

The JCR Committee proposes amending Florida Rule of Juvenile Procedure 8.990 to address legislative changes to section 390.01114, Florida Statutes, as amended by section 2, SB 404.

The legislative changes to section 390.01114, Florida Statutes, now require parental consent to a termination of pregnancy procedure performed on a minor. The statute previously only required notice to the parent. (*See Appendix C 2-6.*)

In response to legislative changes, and to conform with them, JCR Committee proposes modifications to the rule title, the order title, to the first and last paragraph of the findings section, and the first paragraph of the ordered and adjudged section to encompass the two separate matters for which a pregnant minor may seek judicial waiver: (1) waiver of consent and (2) waiver of notice and consent.

In the second paragraph of the ordered and adjudged section, the JCR Committee proposes adding “legal” prior to “guardian” several times for greater clarity and consistency with the existing statute. In the third paragraph of the ordered and adjudged section, the JCR Committee proposes that “section

390.01116, Florida Statutes” be replaced with “law” for consistency with the other amendments made in response to legislation.

FORM 8.991. FINAL ORDER DISMISSING PETITION FOR JUDICIAL WAIVER OF PARENTAL CONSENT TO OR NOTICE OF AND CONSENT TO TERMINATION OF PREGNANCY

The JCR Committee proposes amending Florida Rule of Juvenile Procedure 8.991 to address legislative changes to section 390.01114, Florida Statutes, as amended by section 2, SB 404.

The legislative changes to section 390.01114, Florida Statutes, now require parental consent to a termination of pregnancy procedure performed on a minor. The statute previously only required notice to the parent. (*See Appendix C 2-6.*)

In response to legislative changes, and to conform with them, JCR Committee proposes modifications to the rule title, the order title, to the first and last paragraph of the findings section, and the first and last paragraph of the ordered and adjudged section to encompass the two separate matters for which a pregnant minor may seek judicial waiver: (1) waiver of consent and (2) waiver of notice and consent.

Last, in the second and third paragraphs, JCR Committee proposes that “section 39.01114, Florida Statutes” and “sections 390.01114 and 390.01116, Florida Statutes” be replaced with “law” for consistency with the other amendments made in response to legislation.

FORM 8.992. MINOR’S PETITION TO CHIEF JUDGE TO REQUIRE A HEARING ON HER PETITION FOR JUDICIAL WAIVER OF CONSENT OR NOTICE AND CONSENT

The JCR Committee proposes amending Florida Rule of Juvenile Procedure 8.992 to address legislative changes to section 390.01114, Florida Statutes, as amended by section 2, SB 404.

The legislative changes to section 390.01114, Florida Statutes, now require parental consent to a termination of pregnancy procedure performed on a minor. The statute previously only required notice to the parent. (*See Appendix C 2-6.*)

In response to legislative changes, and to conform with them, JCR Committee proposes modifications to the rule title, the petition title, and the first paragraph of the petition to encompass the two separate matters for which a pregnant minor may seek judicial waiver: (1) waiver of consent and (2) waiver of notice and consent.

Thus, for the reasons described above, the JCR Committee and RJA Committee respectfully requests that the Court amend Rule 2.420 (Public Access to and Protection of Judicial Branch Records), Rule 8.805 (Commencement of Proceedings), Rule 8.810 (Petition), Rule 8.815 (Counsel), Rule 8.820 (Hearing), Rule 8.830 (Transcripts), and Rule 8.835 (Confidentiality of Records), Form 8.987 (Petition for Judicial Waiver of Parental Consent to or Notice of and Consent to Termination of Pregnancy), Form 8.988 (Sworn Statement of True name and Pseudonym), Form 8.990 (Final Order Granting Petition for Judicial Waiver of Parental Consent to or Notice of and Consent to Termination of Pregnancy), Form 8.991 (Final Order Dismissing Petition for Judicial Waiver of Parent Consent to or Notice of and Consent to Termination of Pregnancy), and Form 8.992 (Minor's Petition to Chief Judge to Require a Hearing on Her Petition for Judicial Waiver of Consent or Notice and Consent).

Respectfully submitted on June 17, 2020.

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CERTIFICATE OF COMPLIANCE

I certify that these rules were read against Thomson Reuters' *Florida Rules of Court—State* (2019 Revised Edition).

I certify that this report was prepared in compliance with the font requirements of Florida Rule of Appellate Procedure 9.210(a)(2).

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