

RULE 8.013. DETENTION PETITION AND ORDER

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

(b) Additional Requirements for Supervised Release Detention.

(1) All motions to extend detention as provided by law must be in writing and filed with the court.

(2) For a child who is placed on supervised release detention care prior to an adjudicatory hearing the court must conduct a hearing within 15 days after the 60th day. Upon written findings as provided by law, the court may order the child to continue on supervised release detention until the adjudicatory hearing is completed.

(c) Additional Requirements for Secure Detention.

(1) All motions to extend detention as provided by law must be in writing and filed with the court.

Reasons for Change

“Shall” is changed to “must” to conform to this Court’s style guide in the pending case *In re: Amendments to Florida Rule Of Juvenile Procedure 8.013*, case number SC22-1462, filed November 1, 2022.

Amendments conform the rule to legislation, Chapter 2022-181, Laws of Florida. Chapter 2022-181, Laws of Florida, modifies sections 985.24 and 985.26, Florida Statutes, to authorize the court to extend secure detention care and supervised release detention based on a totality of the circumstances, including preservation of public safety.

(2) A written motion to extend secure detention must be heard before the expiration of the current period to determine the need for continued secure detention care. If the child meets the criteria for continued secure detention as provided by law, the court may order the child to continue secure detention upon the required written findings. The court must order that the adjudicatory hearing commence as soon as reasonably possible.

Conforms to legislation.

(3) Any child held more than 60 days in secure detention must be brought before the court for an adjudicatory hearing within 72 hours of the expiration of the 60-day period, excluding Saturdays, Sundays and legal holidays unless extended as permitted by law. The court must prioritize that child for an adjudicatory hearing ahead of every other case where a child is not in secure detention or where a child has been in secure detention less than 60 days.

Conforms to legislation.

(bd) Petition. The detention petition ~~shall~~must:

“Shall” is changed to “must” to conform to this Court’s style guide in the pending case *In re: Amendments to Florida Rule Of Juvenile Procedure 8.013*, case number SC22-1462, filed November 1, 2022.

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

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

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

(4) state 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) be signed by an authorized agent of the Department of Juvenile Justice or by the state attorney or assistant state attorney; and

(7) state the conditions, if any, being requested that are necessary to preserve public safety or to ensure the child's safety or appearance in court.

(ee) Order. The detention order ~~shall~~must:

(1) be in writing;

Conforms to legislation.

“Shall” is changed to “must” to conform to this Court’s style guide in the pending case *In re: Amendments to Florida Rule Of Juvenile Procedure 8.013*, case number SC22-1462, filed November 1, 2022.

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

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

(4) order that the child ~~shall~~must be held in detention and state the reasons therefor, or, if appropriate, order that the child be released from detention and returned to his or her nonresidential commitment program;

(5) make a finding that probable cause exists that the child is delinquent 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 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 24 hours;

(6) If the child is being detained on an offense that is classified as an act of domestic violence for 48 hours as provided by law, the detention order must include specific written findings that:

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Pending in *In re: Amendments to Florida Rule Of Juvenile Procedure 8.013*, case number

and

(A) respite care for the child is not available;

(B) it is necessary to place the child in secure detention in order to protect the victim from injury.

(~~6~~7) designate the place where the child is to be detained or the person or agency that will be responsible for the detention and state any special conditions found to be necessary;

(~~7~~8) 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;

(~~8~~9) direct that the child be released no later than 5:00 p.m. on the last day of the specified statutory detention period, unless a continuance has been granted to the state or the child for cause; and

(~~9~~10) be signed by the court with the title of office.

SC22-1462, filed November 1, 2022.

Pending in *In re: Amendments to Florida Rule Of Juvenile Procedure 8.013*, case number SC22-1462, filed November 1, 2022.

RULE 8.350. PLACEMENT OF CHILD INTO RESIDENTIAL TREATMENT CENTER AFTER ADJUDICATION OF DEPENDENCY PROGRAM

(a) Placement.

(1) *Treatment Center Program Defined.* Any reference in this rule to a residential treatment ~~center program~~ is to a placement for observation, diagnosis, or treatment of an emotional disturbance in a residential treatment center or facility licensed under section 394.875, Florida Statutes, for residential mental health treatment. Any reference to ~~hospital is to~~ a hospital licensed under chapter 395, Florida Statutes, ~~for residential mental health treatment.~~ This rule does not apply to placement under sections 394.463 or 394.467, Florida Statutes.

(2) *Basis for Placement.* The placement of any child ~~who has been adjudicated dependent for residential mental health treatment shall~~ must be as provided by law.

(3) *Assessment by Qualified Evaluator.* Whenever the department believes that a child in its legal custody may require placement in a residential treatment ~~center or hospital~~ program, the department ~~shall~~ must

Amendments are in response to legislation, Chapter Law 2022-55, Laws of Florida. Chapter 2022-55, Laws of Florida, modifies section 39.407(6), Florida Statutes, to change terminology from “residential treatment center” to “residential treatment program.”

Conforms to legislation. Staff change of “shall” to “must” conforms to this Court’s style guide.

Terminology change to “program” conforms to

arrange to have the child assessed by a qualified evaluator as provided by law and ~~shall~~must file notice of this with the court and all parties. ~~Upon~~On the filing of this notice by the department, the court ~~shall~~must appoint a guardian ad litem for the child, if one has not already been appointed, and ~~shall~~must also appoint an attorney for the child. All appointments ~~pursuant to~~under this rule ~~shall~~must conform to the provisions of rule 8.231. Both the guardian ad litem and attorney ~~shall~~must meet the child and ~~shall~~must have the opportunity to discuss the child's suitability for residential treatment with the qualified evaluator conducting the assessment. ~~Upon~~On the completion of the evaluator's written assessment, the department ~~shall~~must provide a copy to the court and to all parties within 5 days after the department's receipt of the assessment. The guardian ad litem ~~shall~~must also provide a written report to the court and to all parties indicating the guardian ad litem's recommendation as to the child's placement in residential treatment and the child's wishes.

(4) *Motion for Placement.* If the department seeks to place the child in a residential treatment center or ~~hospital~~program, the department ~~shall~~must immediately file a motion for placement of the child with the court. This motion ~~shall~~must include a statement as to why the child is suitable for this placement and why less restrictive

legislation. Staff changes of "shall" to "must"; "on" to "upon" and "pursuant to" to "under" conform to this Court's style guide.

Addition of "5 days of receipt" conforms to legislation.

Change of terminology to "program" conforms to legislation. Staff changes of "shall" to "must" conform to this Court's style guide.

alternatives are not appropriate and also ~~shall~~must include the written findings of the qualified evaluator. The motion ~~shall~~must state whether all parties, including the child, are in agreement. Copies of the motion must be served on the child’s attorney and all parties and participants.

(5) *Immediate Placement.* If the evaluator’s written assessment indicates that the child requires immediate placement in a residential treatment ~~center or hospital~~program and that such placement cannot wait for a hearing, then the department may place the child pending a hearing, unless the court orders otherwise.

(6) *Guardian ad Litem.* The guardian ad litem must be represented by an attorney at all proceedings under this rule, unless the guardian ad litem is acting as an attorney.

(7) *Status Hearing.* ~~Upon~~On the filing of a motion for placement, the court ~~shall~~must set the matter for a status hearing within 48 hours, excluding weekends and holidays. The department ~~shall~~must timely provide notice of the date, time, and place of the hearing to all parties and participants.

Change of terminology to “program” conforms to legislation.

Staff changes of “upon” to “on” and “shall” to “must” conform to this Court’s style guide.

(8) *Notice of Hearing.* The child’s attorney or guardian ad litem ~~shall~~must notify the child of the date, time, and place and communication technology information for the hearing. No hearing ~~shall~~may proceed without the presence of the child’s attorney. The guardian ad litem may be excused by the court for good cause shown.

(9) *Disagreement with Placement.* If no party disagrees with the department’s motion at the status hearing, then the motion for placement may be approved by the court. However, if any party, including the child, disagrees, then the court ~~shall~~must set the matter for hearing within 10 working days.

(10) *Presence of Child.* The child ~~shall~~must be present at the hearing unless the court determines ~~pursuant to~~under subdivision (c) that a court appearance is not in the child’s best interest. In such circumstances, the child ~~shall~~must be provided the opportunity to express his or her views to the court by a method deemed appropriate by the court.

(11) *Hearing on Placement.*

Staff changes of “shall” to “must” and “may” conform to this Court’s style guide.

Staff change of “shall” to “must” conforms to this Court’s style guide.

Staff changes of “shall” to “must” and “pursuant to” to “under” conform to this Court’s style guide.

<p>(A) At the hearing, the court shall<u>must</u> consider, at a minimum, all of the following:</p> <p>(i) based on an independent assessment of the child, the recommendation of a department representative or authorized agent that the residential treatment or hospitalization is in the child’s best interest and a showing that the placement is the least restrictive available alternative;</p> <p>(ii) the recommendation of the guardian ad litem;</p> <p>(iii) the written findings of the evaluation and suitability assessment prepared by a qualified evaluator; and</p> <p>(iv) the views regarding placement in residential treatment that the child expresses to the court.</p> <p>(B) All parties shall<u>must</u> be permitted to present evidence and witnesses concerning the suitability of the placement.</p> <p>(C) If the court determines that the child is not suitable for residential treatment, the court shall<u>must</u> order the department to place the child in the least</p>	<p>Staff change of “shall” to “must” conforms to this Court’s style guide.</p> <p>Terminology change to omit “hospitalization” conforms to legislation.</p> <p>Staff change of “shall” to “must” conforms to this Court’s style guide.</p> <p>Staff change of “shall” to “must” conforms to this Court’s style guide.</p>
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restrictive setting that is best suited to meet the child's needs.

(b) Continuing Residential Placement Reviews.

(1) The court ~~shall~~must conduct a hearing to review the status of the child's residential treatment plan no later than 60 days after the child's admission to the residential treatment program. An independent review of the child's progress toward achieving the goals and objectives of the treatment plan must be completed by a qualified evaluator and submitted to the court, the child's attorney, and all parties in writing at least 72 hours before the 60-day review hearing.

(2) Review hearings ~~shall~~must be conducted every 3 months thereafter, until the child is placed in a less restrictive setting. At each 3-month review hearing, if the child is not represented by an attorney, the court ~~shall~~must appoint counsel. At the 3-month review hearing the court ~~shall~~must determine whether the child disagrees with continued placement.

(3) If the court determines at any hearing that the child is not suitable for continued residential treatment, the court ~~shall~~must order the department to place the child

Bar staff found a discrepancy with Thomson Reuters' *Florida Rules of Court* and notified the publisher of the error. The word "reviews" is singular in Thomson Reuters. When the rule was adopted in *Amendment to the Rules of Juvenile Procedure, Fla. R. Juv. P. 8.360, 842 So.2d 763* (Fla. 2003), the word "reviews" was plural. In the order amending the rule in 2015, there is an error in which the "s" was dropped without being deliberately stricken, which Thomson Reuters appears to have adopted, in *In re Amendments to the Fla. Rules of Juvenile Procedure, 158 So.3d 523* (Fla. 2015). In the most recent amendment, the

in the least restrictive setting that is best suited to meet the child's needs.

(c) Presence of Child. The child ~~shall~~must be present at all court hearings unless the court finds that the child's mental or physical condition is such that a court appearance is not in the child's best interest. In such circumstances, the child ~~shall~~must be provided the opportunity to express his or her views to the court by a method deemed appropriate by the court.

(d) Standard of Proof. At the hearing, the court ~~shall~~must determine whether the evidence supporting involuntary commitment of a dependent child to a residential ~~mental health treatment facility~~treatment program is clear and convincing.

typo appears to be corrected and the subdivision title is plural, *In re: Amendments to the Fla. Rules of Juvenile Procedure*, 286 So.3d 82 (Fla. 2019).

Staff change of "shall" to "must" conforms to this Court's style guide.

Terminology change to "treatment program" conforms to legislation.

