

FAMILY COURT STEERING COMMITTEE REQUEST FOR SUPREME COURT ACTION

Mission: Support and assist Florida courts in developing and implementing the Florida Supreme Court's Family Court Initiative and make recommendations to the Court pursuant to the Chief Justice's Administrative Order.

Liaison: Justice Barbara Pariente
Staff Contact(s): Jo Haynes Suhr
Deborah Lacombe
Date of Last Meeting: May 16-17, 2002

Chair: The Honorable Raymond T. McNeal

COMMITTEE RECOMMENDATIONS REQUIRING ACTION BY THE CHIEF JUSTICE AND/OR SUPREME COURT:

*RECOMMENDATION/
REPORT:* Rule 12.610 should be amended to clarify the proper role of alternative dispute resolution techniques in domestic violence injunction cases.

BRIEF SUMMARY: The FCSC became aware that some circuits are using alternative case resolution models designed to "facilitate" entry of an injunction for protection against domestic violence without a hearing on the petition. The FCSC believes that a hearing on the petition is required by both section 741.30, Florida Statutes, and this rule. The FCSC is concerned that many of the agreed injunctions are entered without finding that domestic violence occurred or imminent danger of domestic violence exists. If the injunction is entered without this finding, the remedies available under Chapter 741, such as statewide enforceability, the surrender of firearms and authorization for law enforcement agencies to use their arrest powers, are unavailable. The failure to make this finding also impacts the applicability federal and state firearms provisions and the ability to afford the injunction full faith and credit in other jurisdictions. Further, the FCSC believes that these models, by avoiding a hearing and eliminating the required findings, compromise the integrity of the process, jeopardize safety of victims, and are contrary to established public policy.

SUPREME COURT

*ACTION(S) REQUESTED
BY THE COMMITTEE:* The Court should publish the Committee's proposed rule for comment and consider the proposed amendments to rule 12.610, as contained in the Committee's petition.

PROPOSED IMPLE- MENTATION STEP(S):

As demonstrated in the attached report of the Domestic Violence Subcommittee, the Committee actively solicited, and received, numerous comments on the proposed rule. Therefore, the time frame for submitting comments in this case should not be extended.

POTENTIAL IMPACT ON OTHER ENTITIES:

If the rule is adopted, certain circuits, including the 12th, 16th and 20th, will have to modify those aspects of their facilitation processes that are inconsistent with the new rule.