

IN THE SUPREME COURT OF FLORIDA

CASE NOS.: SC05-1103 & SC04-2492

**IN RE: APROVAL OF APPLICATION FOR DETERMINATION OF
INDIGENT STATUS FORMS FOR USE BY CLERKS;
AMENDMENT TO FLORIDA RULE OF CRIMINAL PROCEDURE
3.984**

**IN RE: AMENDMENTS TO THE FLORIDA SUPREME COURT
APPROVED FAMILY LAW FORMS—DETERMINATION OF
INDIGENCE FORMS**

COMMENTS OF JUVENILE COURT RULES COMMITTEE

Alan Abramowitz, Chair, Juvenile Court Rules Committee, and John F. Harkness, Jr., Executive Director, The Florida Bar, file these comments on the indigence forms approved by the Court on June 30, 2005. Although the comment period set by the court expired August 30, 2005, the Court granted the Committee's motion for extension to comment on or before September 16, 2005, in its order dated September 8, 2005.

The Committee reconsidered these forms at its September 8, 2005, meeting and voted 19-3-4 to submit the following comments, which have also been e-filed.

The Committee believes that neither the civil indigence form nor the criminal indigence form is appropriate for use in dependency cases and termination of parental rights cases under chapter 39, Florida Statutes. Although dependency and termination of parental rights proceedings are usually considered civil in nature, the civil form does not contemplate appointment of counsel for indigent parents as is required by sections

39.013(9)(a), 39.402(5)(b)2, and 39.807(1)(a), Florida Statutes, and *Fla. R. Juv. P.* 8.320(a)(2) and 8.515(a)(2).

The criminal indigence form does contemplate appointment of counsel but in the form of a public defender, which is also not appropriate in dependency and termination of parental rights cases. The criminal indigence form also asks questions not appropriate in a dependency or termination of parental rights case, such as those regarding bail. Finally, the \$40 fee on the criminal indigence form is for appointment of a public defender, also not appropriate in dependency or termination of parental rights cases.

In recognition of the problems with these forms, the Juvenile Court Rules Committee has appointed a subcommittee to draft a suitable form for dependency and termination of parental rights proceedings. The subcommittee will report back to the full Committee at its January 2006 meeting. The Committee plans to then file the approved form with the court for its consideration.

CERTIFICATE OF SERVICE

I certify that a copy of these comments were provided by U.S. mail on
_____ to:

Hon. Thomas Howell Bateman, past Chair, Criminal Procedure Rules
Committee

George Tragos, Chair, Criminal Procedure Rules Committee

Henry H. Harnage, past Chair, Family Law Rules Committee

Hon. John Alexander, Chair, Family Law Rules Committee

Hon. Winifred J. Sharp, Chair, Rules of Judicial Administration
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Respectfully submitted _____.

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