

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO THE
FLORIDA RULES OF JUVENILE
PROCEDURE**

CASE NO:

**FAST-TRACK REPORT IN RESPONSE TO
2008 LEGISLATIVE CHANGES**

David N. Silverstein, Chair, Juvenile Court Rules Committee, and John F. Harkness, Jr., Executive Director, The Florida Bar, file this 2008 Fast-track report of the Juvenile Court Rules Committee under *Fla. R. Jud. Admin.* 2.140(f) and in response to the Chief Justice's letter of November 5, 2007 (see Appendix A). The proposed amendments have been reviewed by the Executive Committee of the Board of Governors of The Florida Bar and approved by a vote of 11-0. The voting record of the Committee on each proposal is shown below. Because this is a fast-track report, the proposed amendments have not been published in *The Florida Bar News* or posted on the Bar's website. The rule amendment is attached in both full-page (see Appendix B) and two-column (see Appendix C) format. The form amendments are attached in the full-page format (see Appendix B). The proposals are as follows:

Rule 8.225: Subdivision (c) has been amended to conform to amendments to section 39.502(17), Florida Statutes, by section 9 of HB 7077 (Chapter 2008-245, Laws of Florida). See Appendix D. The amendments require notice to foster or preadoptive parents of a proceeding or hearing. The statutory language has been incorporated into the rule. The committee vote was 23-0-0.

Forms 8.962 and 8.963: Section 11 of HB 7077 (Chapter 2008-245, Laws of Florida) (see Appendix E) modified section 39.504, Florida

Statutes, regarding provisions for injunctions entered pending disposition in dependency cases. The amended statute permits the court, Department of Children and Family Services, a law enforcement officer, the state attorney, or other responsible person to move the court for an injunction at any time after a protective investigation has been initiated, regardless of whether a shelter petition or dependency petition has been filed. The statute allows the court to order the respondent to refrain from abuse or acts of domestic violence. In domestic violence cases, the court may also award exclusive possession of the dwelling to the caregiver or exclude the alleged offender from the residence of the caregiver, award temporary custody of the child, and establish temporary support for the child. The statute was also amended to allow the injunction to remain in effect until modified or dissolved by the court. These amendments have been incorporated into the motion and the injunction forms. The forms have also been modified to incorporate suggestions received from the Office of the State Courts Administrator (see Appendix F), that the Committee was already considering at the time the statute was amended. The committee vote on *Form 8.962* was 28-0-3; the vote on *Form 8.963* was 17-0-2.

In *Form 8.963*, a correction has also been made in the descriptive information for the respondent. The sixth line should read: “Vehicle (make/model/year)” The “l” is missing in the word model in West’s *Florida Rules of Court – State* (2008) and should be included. See *In re Amendments to Florida Rules of Juvenile Procedure*, 725 So.2d 296, 332 (Fla. 1998).

Form 8.968: Section 10 of HB 7077 (Chapter 2008-245, Laws of Florida) (see Appendix G) amended section 39.503(6), Florida Statutes. The amended statute requires the department to include a search of at least one

electronic database specifically designed for location of persons when conducting a diligent search. The affidavit of diligent search form has been amended to include this requirement. The committee vote was 28-0-3.

Form 8.977: Section 2 of CS/HB 625 (Chapter 2008-122, Laws of Florida) (see Appendix H) created section 743.046, Florida Statutes, authorizing a youth in foster care to have the disabilities of nonage removed to allow the minor to secure residential utility services. The statute requires presentation of “an order from a court of competent jurisdiction” when securing these services. *Form 8.977* which authorizes a foster child to enter into a residential leasehold before the child’s 18th birthday has been amended to add authorization to secure utility services. The committee vote was 23-0-0.

The Committee respectfully asks the Court to amend the Florida Rules of Juvenile Procedure as outlined in this report.

Respectfully submitted _____.

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APPENDIX A



Supreme Court of Florida

500 South Duval Street
Tallahassee, Florida 32399-1925

R. FRED LEWIS
CHIEF JUSTICE
CHARLES T. WELLS
HARRY LEE ANSTEAD
BARBARA J. PARIENTE
PEGGY A. QUINCE
RAOUL G. CANTERO, III
KENNETH B. BELL
JUSTICES

THOMAS D. HALL
CLERK OF COURT

EDWARD DeCOSTE
MARSHAL

November 5, 2007

Mr. Steven L. Brannock
Chair, Appellate Court Rules Comm.
P.O. Box 1288
Tampa, Florida 33601-1288

Mr. Robert W. Mason
Chair, Juvenile Court Rules Comm.
Public Defender's Office
25 N. Market Street, Ste. 200
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1455 Court Street
Clearwater, Florida 33756-6161

The Honorable Amy B. Karan
Chair, Code & Rules of Evidence
Comm.
175 N.W. 1st Avenue, Suite 1919
Miami, Florida 33128-1845

The Honorable Robert T. Benton II
Chair, Rules of Judicial Admin. Comm.
First District Court of Appeal
301 S. Martin Luther King, Jr. Boulevard
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Mr. H. Scott Fingerhut
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Mr. Lloyd Alan Comiter
Chair, Small Claims Rules Committee
PMB 152
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Boca Raton, Florida 33434

Mr. Raymond T. McNeal
Chair, Family Law Rules Committee
2640 S.E. 45th Street
Ocala, Florida 34480

Mr. Thomas A. Cobitz
Chair, Traffic Court Rules Committee
7600 W. 20th Ave., Suite 220
Hialeah, FL 33016-1894

Rules Committee Chairs
November 5, 2007
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Re: Rule Amendments in Response to New Legislation

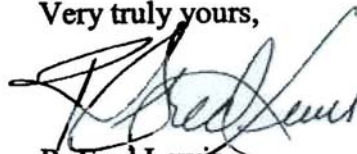
Dear Rules Committee Chairs:

In assisting the Court in exercising its constitutional responsibilities to adopt rules of procedure, the various Florida Bar rules committees are often called upon to consider whether rule amendments are necessary as a result of statutory changes. The purpose of this letter is to clarify how the Court would like your committees to operate when such changes occur.

First, the committee should make an independent determination as to whether a procedural rule change is needed in response to the new legislation. If the committee determines a rule change is necessary, the committee's proposal to the Court should not merely restate the legislation in the form of a rule. Rather, the committee should consider whether the rule should include any terms of the statute or whether the rule should be a pure procedural rule developed by the committee to implement the substantive provisions of the statute. If the committee believes the legislation contains procedures that are within the Court's purview, the committee should consider the appropriateness of the procedures and not feel constrained to automatically propose rule amendments that mirror the procedures suggested by the Legislature.

The Court thanks your committees for your continued assistance in responding to new legislation with well developed rules of procedure. If you have any questions, please do not hesitate to contact me.

Very truly yours,



R. Fred Lewis

RFL/dm/mb

cc: Mr. John F. Harkness, Jr., Executive Director, The Florida Bar
Mr. Thomas D. Hall, Clerk of Court
Ms. Laura Rush, General Counsel
Ms. Deborah J. Meyer, Director of Central Staff
Bar Staff Liaisons to Rules Committees

APPENDIX B

RULE 8.225. PROCESS, DILIGENT SEARCHES, AND SERVICE OF PLEADINGS AND PAPERS

(a) Summons and Subpoenas.

(1) Summons. Upon the filing of a dependency 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 not less than 72 hours after service of the summons. A copy of the petition shall be attached to the summons.

(2) Subpoenas. Subpoenas for testimony before the court, for production of tangible evidence, and for taking depositions shall be issued by the clerk of the court, the court on its own motion, or any attorney of record for a party. Subpoenas may be served within the state by any person over 18 years of age who is not a party to the proceeding. In dependency and termination of parental rights proceedings, subpoenas may also be served by authorized agents of the department or the guardian ad litem. Except as otherwise required by this rule, the procedure for issuance of a subpoena by an attorney of record in a proceeding shall be as provided in the Florida Rules of Civil Procedure.

(3) Service of Summons and Other Process to Persons Residing in the State. The summons and other process shall be served upon all parties other than the petitioner as required by law. The summons and other process may be served by authorized agents of the department or the guardian ad litem.

(A) Service by publication shall not be required for dependency hearings and shall be required only for service of summons in a termination of parental rights proceeding for parents whose identities are known but whose whereabouts cannot be determined despite a diligent search. Service by publication in these circumstances shall be considered valid service.

(B) The failure to serve a party or give notice to a participant in a dependency hearing shall not affect the validity of an order of adjudication or disposition if the court finds that the petitioner has completed a diligent search that failed to ascertain the identity or location of that party.

(C) Personal appearance of any person in a hearing before the court eliminates the requirement for serving process upon that person.

(4) Service of Summons and Other Process to Persons Residing Outside of the State in Dependency Proceedings.

(A) Service of the summons and other process on parents, parties, participants, petitioners, or persons outside this state shall be in a manner reasonably calculated to give actual notice, and may be made:

(i) by personal delivery outside this state in a manner prescribed for service of process within this state;

(ii) in a manner prescribed by the law of the place in which service is made for service of process in that place in an action in any of its courts of general jurisdiction;

(iii) by any form of mail addressed to the person to be served and requesting a receipt; or

(iv) as directed by the court. Service by publication shall not be required for dependency hearings.

(B) Notice under this rule shall be served, mailed, delivered, or last published at least 20 days before any hearing in this state.

(C) Proof of service outside this state may be made by affidavit of the person who made the service or in the manner prescribed by the law of this state, the order pursuant to which the service is made, or the law of the place in which the service is made. If service is made by mail, proof may be in a receipt signed by the addressee or other evidence of delivery to the addressee.

(D) Personal appearance of any person in a hearing before the court eliminates the requirement for serving process upon that person.

(b) Paternity Inquiry and Diligent Search.

(1) **Identity Unknown.** If the identity of a parent is unknown, and a petition for dependency, shelter care, or termination of parental rights is filed, the court shall conduct the inquiry required by law. The information required by law may be submitted to the court in the form of a sworn affidavit executed by a person having personal knowledge of the facts.

(2) **Location Unknown.** If the location of a parent is unknown and that parent has not filed a permanent address designation with the court, the petitioner shall undertake a diligent search as required by law.

(3) **Affidavit of Diligent Search.** If the location of a parent is unknown after the diligent search has been completed, the petitioner shall file with the court an affidavit of diligent search executed by the person who made the search and inquiry.

(4) **Continuing Duty.** After filing an affidavit of diligent search in a dependency or termination of parental rights proceeding, the petitioner, and, if the court requires, the department, are under a continuing duty to search for and attempt to serve the parent whose location is unknown until excused from further diligent search by the court. The department shall report on the results of the continuing search at each court hearing until the person is located or until further search is excused by the court.

(5) **Effect of Paternity Inquiry and Diligent Search.**

(A) Failure to serve parents whose identity or residence is unknown shall not affect the validity of an order of adjudication or disposition if the court finds the petitioner has completed a diligent search.

(B) If the court inquiry fails to identify any person as a parent or prospective parent, the court shall so find and may proceed without further notice.

(C) If the inquiry, diligent search, or subsequent search identifies and locates any person who may be a parent or prospective parent, the court shall require notice of the hearing to be provided to that person. That person must then be given an opportunity to become a party to the

proceedings by completing a sworn affidavit of parenthood and filing it with the court or the department.

(c) Notice and Service of Pleadings and Papers.

(1) Notice of Arraignment Hearings in Dependency

Cases. Notice of the arraignment hearing must be served on all parties with the summons and petition. The document containing the notice to appear in a dependency arraignment hearing must contain, in type at least as large as the balance of the document, the following or substantially similar language: “FAILURE TO PERSONALLY APPEAR AT THE ARRAIGNMENT HEARING CONSTITUTES CONSENT TO THE ADJUDICATION OF THIS CHILD (OR THESE CHILDREN) AS A DEPENDENT CHILD (OR CHILDREN) AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD (OR THESE CHILDREN).” Any preadoptive parents of the children and all participants, including the child’s foster parents and relative caregivers, must be notified of the arraignment hearing.

(2) Notice of Assessment of Child Support.

Other than as part of a disposition order, if the court, on its own motion or at the request of any party, seeks to impose or enforce a child support obligation on any parent, all parties and participants are entitled to reasonable notice that child support will be addressed at a future hearing.

(3) Notice of Hearings to Participants and Parties Whose Identity or Address are Known.

Any preadoptive parents, all participants, including foster parents and relative caregivers, and parties whose identity and address are known must be notified of all proceedings and hearings subsequent to the initial hearing, unless otherwise provided by law. Notice to parents in proceedings involving shelter hearings and hearings resulting from medical emergencies must be that which is most likely to result in actual notice. It is the duty of the petitioner or moving party to notify any preadoptive parents, all participants, including foster parents and relative caretakers, and parties known to the petitioner or moving party of all hearings subsequent to the initial hearing, except hearings which must be noticed by the court. Additional notice is not required if notice was provided to the parties in writing by the court or is contained in prior court orders and those orders were provided to the participant or party. All foster or preadoptive parents must be provided at least 72 hours notice, verbally or in

writing, of all proceedings or hearings relating to children in their care or children they are seeking to adopt to ensure the ability to provide input to the court.

(4) Service of Pleadings, Orders, and Papers. Unless the court orders otherwise, every pleading, order, and paper filed in the action after the initial petition, shall be served on each party or the party's attorney. Nothing herein shall be construed to require that a plea be in writing or that an application for witness subpoena be served.

(5) Method of Service. When service is required or permitted to be made upon a party or participant represented by an attorney, service shall be made upon the attorney unless service upon the party or participant is ordered by the court.

(A) Service is excused if the identity or residence of the party or participant is unknown and a diligent search for that person has been completed in accordance with law.

(B) Service upon the attorney shall be made by delivering a copy to the attorney or by mailing it to the attorney's last known address.

(C) Delivery of a copy within this rule shall mean:

(i) handing it to the attorney;

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

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

(iv) transmitting it by facsimile to the attorney's or party's office with a cover sheet containing the sender's name, firm, address, telephone number, and facsimile number, the number of pages transmitted, and the recipient's facsimile number. When service is made by facsimile, a copy shall also be served by any other method permitted by this rule. Facsimile service occurs when transmission is complete.

(D) If the party or participant is not represented by an attorney, service of all pleadings or papers shall be upon the party or participant. Service may be made by mail to the party's or participant's permanent mailing address, if one has been provided to the court; to the last known address, if a permanent mailing address has not been provided to the court; or by leaving it at their usual place of abode with some person of their family above 15 years of age and informing such person of the contents.

(E) Service by mail shall be complete upon mailing.

(6) **Filing.** The filing of pleadings and other papers with the court as required by these rules shall be made by filing the original with the clerk of the court either before service or immediately thereafter. The court may permit the papers to be filed with it, in which event the filing date shall be noted thereon and the papers shall be transmitted to the office of the clerk.

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

“I certify that a copy/copies has/have been furnished to (insert names or names) by (delivery) (mail) (fax) on (date).

Title”

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

FORM 8.962. MOTION FOR INJUNCTION

VERIFIED MOTION FOR CHAPTER 39 INJUNCTION FOR PROTECTION AGAINST ANY ACT OF CHILD ABUSE OR DOMESTIC VIOLENCE

1. ~~.....(Name and address)..... requests this Court, pursuant to section 39.504, Florida Statutes, to issue, untilthe cause is disposed/....., an injunction requiring(name and address of person against whom injunction is requested)..... to do the following: Movant () Department of Children and Family Services () law enforcement officer () state attorney () responsible person () the court on its own motion,(name).....,(address)....., requests this court under section 39.504, Florida Statutes, to issue an injunction against Respondent,(name).....,(address).....~~

1. The minor child(ren) subject to this request is/are:

<u>Name</u>	<u>Birth date</u>
.....
.....
.....
.....

2. Reasonable cause for the issuance of an injunction exists based on the following(evidence of child abuse or domestic violence and/or recent overt act(s) or failure(s) to act that provide a basis that there is a reasonable likelihood that such abuse or offense will occur).....

3. Respondent,(name)..... was noticed of the hearing on this motion on(date).....

..... Movant requests that an injunction be issued without notice to Respondent because the children are in imminent danger in that(explain why there would be immediate danger and irreparable harm if Respondent is given notice).....

4. Respondent,(name and address)..... can be identified by the following:

Race Gender: _____ Male Female
Birth date Ht. Wt.
Eye color Hair color
Distinguishing marks or scars
Vehicle: make, model, and year color
Tag number

Wherefore, Movant requests that the court enter an injunction under Chapter 39, Florida Statutes, to protect the minor child(ren) against any act of abuse or domestic violence and order Respondent to do the following:

..... a. Refrain from further ~~child abuse or unlawful sexual activity with~~(name(s) of child(ren))..... of the minor child(ren) or exposure of the minor child(ren) to acts of domestic violence.

..... b. ~~Obtain counseling as arranged by the Department of Children and Family Services or as specified below~~Participate in a specialized treatment program including

..... c. Have ~~no~~ limited contact with(child(ren)'s name(s))..... except(list acceptable contact provisions).....the child(ren) as follows:

..... Supervised visitation with the child(ren). The visitation shall be supervised at all times by the department or an adult approved by the department or the court. The visitation shall occur on a schedule agreed by the parties and at the department's office, a supervised visitation center, or another place agreed by the parties. The frequency of the visitation shall be

..... No contact with the child(ren) at home, school, work, or wherever the child(ren) may be found except as otherwise provided by this motion.

..... d. Pay \$..... ~~support for the child(ren) and/or family~~() weekly () bi-weekly () monthly temporary support for the () child(ren) () family members.

..... e. Pay the costs of medical, psychiatric, and psychological treatment for () the child(ren) () family members incurred as a result of the offenses described in this motion.

..... f. Vacate the home in which(child(ren)'s name(s))..... reside(s) and not return until further order of the court.

..... g. Due to any domestic violence described in this motion, Movant also request the court to:

..... Award exclusive use and possession of the dwelling to the caregiver,(name).....

..... Exclude Respondent from the residence,(address)..... of the caregiver,(name).....

..... Award temporary custody of the child(ren) to the caregiver,(name).....

..... Other requests

..... OTHER CONDITIONS:

2. Reasonable cause for the issuance of an injunction exists based on the following:

3. (Name and address of person against whom injunction is requested).... was noticed of the hearing on this motion on(date).....

..... This injunction is being issued without notice because(child(ren)'s name(s)).... is/are in imminent danger, in that

4.(Name and address of person against whom injunction is requested).... can be identified by the following:

- Race: Gender: Male Female
- Date of Birth:
- Height: Weight: Eye Color:
- Hair Color:
- Distinguishing marks and/or scars
- Vehicle (make/model/year):
- Color:
- Tag Number:

I certify that a copy of this document was mailed faxed and mailed hand delivered to the person(s) listed below on(date).... or was not delivered to the person(s) listed below because

Other party or his/her attorney:

Name:

Address:

Fax Number:

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this verified motion and that punishment for knowingly making a false statement includes fines and/or imprisonment.

.....Moving Party.....

STATE OF FLORIDA

COUNTY OF

Sworn to or affirmed and signed before me on(date).... by(name)....

NOTARY PUBLIC OR DEPUTY CLERK

Print, type, or stamp name of notary or clerk

..... Personally known

..... Produced identification

_____ Type of identification produced

If the party filing this motion is represented by an attorney, the attorney must complete the following:

I, the undersigned attorney for Movant hereby certify that the following efforts have been made to give notice:(efforts made or if none made, state why).....

.....(attorney's name).....

.....(address and phone number).....

.....(Florida Bar number).....

FORM 8.963. INJUNCTION ORDER

ORDER ON VERIFIED MOTION FOR
CHAPTER 39 INJUNCTION

THIS CAUSE came before this court on(date)....., pursuant to section 39.504, Florida Statutes. Present before the court were(name(s)).....; and the court having reviewed the verified motion, heard testimony and argument, and being otherwise fully advised in the premises finds:

1. That this court has jurisdiction to issue an injunction in this cause.
2. The minor children subject to this request are:

<u>Name</u>	<u>Birth date</u>
.....
.....
.....
.....

23. (Name and address of person(s) against whom injunction is requested).... was noticed of the hearing on this motion ondate.....

.... This injunction is being issued without notice because(child(ren)'s name(s)).... is/are in imminent danger, in that(explain why there would be immediate and irreparable harm if the other party is given notice).....

34. Reasonable cause for the issuance of an injunction does does not exists based on the following:

45.(Name and address of person against whom injunction is requested).... can be identified by the following:

Race: Gender: Male Female
 Date of Birth:
 Height: Weight: Eye Color:
 Hair Color:
 Distinguishing marks and/or scars:
 Vehicle (make/model/year):
 Color:
 Tag Number:

THEREFORE, based upon the foregoing findings, it is hereby ORDERED AND ADJUDGED that:

1. This court grants denies the motion for injunction.

~~12. Untildisposition of this cause/ ().....(date)...../further order of this court () modified or dissolved by this court....., Respondent,(name and address of person against whom injunction is requested).... shall:~~

.... Refrain from further child abuse or unlawful sexual activity with(name(s) of the child(ren))....of the minor child(ren) or exposure of the child(ren) to acts of domestic violence.

~~..... Obtain counseling as arranged by the Department of Children and Family Services or as follows:- Participate in a specialized treatment program including~~

~~..... Have no contact with(child(ren)'s name(s))..... except(list acceptable contact provisions).....Have limited contact with the minor child(ren) as follows:~~

~~..... Supervised visitation with the child(ren). The visitation shall be supervised at all times by the Department or an adult approved by the Department or the court. The visitation shall occur on a schedule agreed by the parties and at the Department's office, a supervised visitation center, or another place agreed by the parties. The frequency of the visitation shall be~~

~~..... No contact with the child(ren) at home, school, work, or wherever the child(ren) may be found, except as otherwise provided in this order.~~

~~..... Vacate the home in which(child(ren)'s name(s))..... reside(s) and not return until further order of the court.~~

~~..... Other conditions~~

~~..... Pay \$..... support for the child(ren) and/or family() weekly, () bi-weekly () monthly temporary support for the () child(ren) () family members.~~

~~..... Pay the costs of medical, psychiatric, and psychological treatment for () the children () family members incurred as a result of the offenses described in the verified motion.~~

~~..... Vacate the home in which(child(ren)'s name(s))..... reside(s) and not return until further order of the court.~~

~~..... OTHER CONDITIONS:~~

3. Due to any domestic violence, the court hereby

~~..... Awards the exclusive use and possession of the dwelling,(address)..... to the caregiver(name)..... or exclude Respondent from the residence of the caregiver.~~

~~..... Awards temporary custody of the child(ren) to the caregiver,(name).....~~

24. This court retains jurisdiction over this cause to enter any further orders that may be deemed necessary for the best interest and welfare of the minor child(ren).

35. All prior orders not inconsistent with the present Order shall remain in full force and effect.

DONE AND ORDERED on(date).....

Circuit Judge

Copies furnished to:

COMMENT: If injunction is issued ex parte, include the following:

NOTICE OF HEARING

The Juvenile Court hereby gives notice of hearing in the above styled cause on(date)..... at a.m./p.m., before(judge)....., at(location)..... or as soon thereafter as counsel can be heard.

In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Office of the Court Administrator no later than 7 days before the proceeding at(telephone number).....

PLEASE BE GOVERNED ACCORDINGLY.

FORM 8.968. AFFIDAVIT OF DILIGENT SEARCH

AFFIDAVIT OF DILIGENT SEARCH

STATE OF FLORIDA
COUNTY OF

BEFORE ME, the undersigned authority, personally appeared(name)....., affiant, who, being first duly sworn, deposes and says thathe/she..... made a diligent search and inquiry to determine the residence of(name)....., theparent/prospective parent..... of(name(s) of child(ren))....., and the results are as follows:

1. Affiant has received the name of the(parent/prospective parent)..... from(name).....

2. Affiant has had no face-to-face contact with(name of parent/prospective parent).....

3. On(date)..... affiant telephoned information at(name)..... and was informed that there was no listing for(name of parent/prospective parent).....

4. On(date)..... affiant searched the(city)..... telephone directory and was unable to locate a listing for(name of parent/prospective parent).....

5. On(date)..... affiant sent a certified letter, return receipt requested, to(address)....., a last known address of(name of parent/prospective parent)..... On(date)..... affiant received the unclaimed receipt by return mail.

6. On(date)..... affiant visited(address)....., the last known address of(name of parent/prospective parent)....., and was informed by(name)..... that(name of parent/prospective parent)..... no longer resides there.

7. Affiant has made inquiries of all relatives of(name of parent/prospective parent)..... of the child, including the other parent, made known to me by the petitioner and(name)..... The names, addresses, and telephone numbers of those relatives contacted are: None of the relatives contacted know the current residence or whereabouts of(name of parent/prospective parent).....

8. Affiant has made inquiries of all offices of program areas, including but not limited to mental health, of the Department of Children and Family Services likely to have information about(name of parent/prospective parent)..... The names, addresses, and/or telephone numbers of those offices are: No one in any of these offices knows the current residence or address of(name of parent/prospective parent).....

9. Affiant has made inquiries of other state and federal agencies likely to have information about(name of parent/prospective parent)..... The names, addresses, and/or telephone numbers of those agencies: No one in any of these agencies knows the current residence or whereabouts of(name of parent/prospective parent).....

10. Affiant has made inquiries of appropriate utility and postal providers. The names, addresses, and/or telephone numbers of those providers are: None of those providers know the current residence or whereabouts of(name of parent/prospective parent).....

11. Affiant has made inquiries of appropriate law enforcement agencies. The names, addresses, and/or telephone numbers of those agencies are: (Name of parent/prospective parent)..... is not known to any of these agencies.

12. Affiant has made inquiries of the federal armed services, including the United States Army, Navy, Air Force, Marine Corps, and National Guard.(Name of parent/prospective parent)..... is not currently a member of these services.

13. Affiant has made inquiries of all the hospitals in the area. The names, addresses, and/or telephone numbers of those hospitals are: (Name of parent/prospective parent)..... is not currently a patient at, nor hashe/she..... recently been admitted to, these hospitals.

14. Affiant has conducted a thorough search of at least one electronic database specifically designed for locating persons including(name of database)..... No information regarding(name of parent/prospective parent)..... was found in this electronic database.

145.(Name of parent/prospective parent)..... is/is not..... over 18 years of age.

156. Affiant is unable to determine the residence or whereabouts of(name of parent/prospective parent)..... and thus cannot personally serve process uponhim/her.....

Affiant

Before me, the undersigned authority, personally appeared(name)....., the petitioner in this action, whois personally known to me/produced(document)..... as identification....., and who affirms that the allegations are filed in good faith and are true and correct to the best of petitioner's knowledge.

SWORN TO AND SUBSCRIBED before me(date).....

NOTARY PUBLIC

Name:

Commission No.:

My commission expires:

OR

Verification (see Form 8.902)

FORM 8.977.

ORDER AUTHORIZING CHILD TO ENTER INTO RESIDENTIAL LEASEHOLD AND SECURE UTILITY SERVICES BEFORE THE CHILD'S 18TH BIRTHDAY

ORDER AUTHORIZING CHILD TO ENTER INTO RESIDENTIAL LEASEHOLD AND TO SECURE RESIDENTIAL UTILITY SERVICES BEFORE THE CHILD'S 18TH BIRTHDAY

THIS CAUSE came before the court to remove the disabilities of nonage of(name)....., for the purposes of entering into a residential leasehold and to secure residential utility services. ¶The court being fully advised in the premises FINDS as follows:

.....(Name)..... is 17 years of age, meets the requirements of sections 743.045 and 743.046, Florida Statutes, and is entitled to the benefits of ~~that~~those statutes.

THEREFORE, based on these findings of fact, it is ORDERED AND ADJUDGED that the disabilities of nonage of(name)..... are hereby removed for the purposes of entering a residential leasehold and securing residential utility services.(Name)..... is hereby authorized to make and execute contracts, releases, and all other instruments necessary for the purposes of entering into a residential leasehold and securing residential utility services. The contracts or other instruments made by(name)..... for the purposes of entering into a residential leasehold and securing residential utility services shall have the same effect as though they were the obligations of a person who is not a minor.

ORDERED at, Florida, on(date).....

Circuit Judge

Copies to:

APPENDIX C

Proposed rule

Reasons for change

RULE 8.225. PROCESS, DILIGENT SEARCHES, AND SERVICE OF PLEADINGS AND PAPERS

(a) [No change]

(b) [No change]

(c) **Notice and Service of Pleadings and Papers.**

(1) **Notice of Arraignment Hearings in Dependency Cases.** Notice of the arraignment hearing must be served on all parties with the summons and petition. The document containing the notice to appear in a dependency arraignment hearing must contain, in type at least as large as the balance of the document, the following or substantially similar language: “FAILURE TO PERSONALLY APPEAR AT THE ARRAIGNMENT HEARING CONSTITUTES CONSENT TO THE ADJUDICATION OF THIS CHILD (OR THESE CHILDREN) AS A DEPENDENT CHILD (OR CHILDREN) AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD (OR THESE CHILDREN).” Any preadoptive parents of the children and all participants, including the child’s foster parents and relative caregivers, must be notified of the arraignment hearing.

Amended to conform to amendments to section 39.502(17), Florida Statutes, by section 9 of HB 7077.

(2) [No change]

(3) Notice of Hearings to Participants and Parties Whose Identity or Address are Known. Any preadoptive parents, all participants, including foster parents and relative caregivers, and parties whose identity and address are known must be notified of all proceedings and hearings subsequent to the initial hearing, unless otherwise provided by law. Notice to parents in proceedings involving shelter hearings and hearings resulting from medical emergencies must be that which is most likely to result in actual notice. It is the duty of the petitioner or moving party to notify any preadoptive parents, all participants, including foster parents and relative caretakers, and parties known to the petitioner or moving party of all hearings subsequent to the initial hearing, except hearings which must be noticed by the court. Additional notice is not required if notice was provided to the parties in writing by the court or is contained in prior court orders and those orders were provided to the participant or party.

Amended to conform to amendments to section 39.502(17), Florida Statutes, by section 9 of HB 7077.

(4) [No change]

(5) [No change]

(6) [No change]

(7) [No change]

APPENDIX D

Section 9. Subsection (17) of section 39.502, Florida Statutes, is amended to read:

634

635 39.502 Notice, process, and service.--

636 (17) The parent or legal custodian of the child, the
637 attorney for the department, the guardian ad litem, the foster
638 or preadoptive parents, and all other parties and participants
639 shall be given reasonable notice of all proceedings and hearings
640 provided for under this part. All foster or preadoptive parents
641 must be provided with at least 72 hours' notice, verbally or in
642 writing, of all proceedings or hearings relating to children in
643 their care or children they are seeking to adopt to ensure the
644 ability to provide input to the court.

APPENDIX E

663 Section 11. Section 39.504, Florida Statutes, is amended
664 to read:

665 39.504 Injunction pending disposition of petition;
666 penalty.--

667 (1)~~(a)~~ At any time after a protective investigation has
668 been initiated pursuant to part III of this chapter ~~When a~~
669 ~~petition for shelter placement or a petition for dependency has~~
670 ~~been filed or when a child has been taken into custody and~~
671 ~~reasonable cause, as defined in paragraph (b), exists, the~~
672 court, upon the request of the department, a law enforcement
673 officer, the state attorney, or other responsible person, or
674 upon its own motion, may, if there is reasonable cause, shall
675 ~~have the authority to~~ issue an injunction to prevent any act of
676 child abuse ~~or any unlawful sexual offense involving a child.~~

677 ~~(b)~~ Reasonable cause for the issuance of an injunction
678 exists if there is evidence of child abuse ~~or an unlawful sexual~~
679 ~~offense involving a child~~ or if there is a reasonable likelihood
680 of such abuse ~~or offense~~ occurring based upon a recent overt act
681 or failure to act.

682 (2) Notice shall be provided to the parties as set forth
683 in the Florida Rules of Juvenile Procedure, unless the child is
684 reported to be in imminent danger, in which case the court may
685 issue an injunction immediately. A judge may issue an emergency
686 injunction pursuant to this section without notice ~~if at times~~
687 ~~when~~ the court is closed for the transaction of judicial
688 business. ~~If~~ ~~When such~~ an immediate injunction is issued, the
689 court must shall hold a hearing on the next day of judicial
690 business ~~either~~ to dissolve the injunction or to continue or
691 modify it in accordance with ~~the other provisions of this~~
692 section.

693 (3)~~(a)~~ If ~~In every instance in which~~ an injunction is
694 issued under this section, the primary purpose of the injunction
695 must be shall be primarily to protect and promote the best
696 interests of the child, taking the preservation of the child's
697 immediate family into consideration. ~~The effective period of the~~
698 ~~injunction shall be determined by the court, except that the~~
699 ~~injunction will expire at the time of the disposition of the~~
700 ~~petition for shelter placement or dependency.~~

701 ~~(a)~~~~(b)~~ The injunction shall apply to the alleged or actual
702 offender in a case of child abuse or acts of domestic violence
703 ~~an unlawful sexual offense involving a child.~~ The conditions of
704 the injunction shall be determined by the court, which
705 conditions may include ordering the alleged or actual offender
706 to:

707 1. Refrain from further abuse or acts of domestic violence

- 708 ~~unlawful sexual activity involving a child.~~
709 2. Participate in a specialized treatment program.
710 3. Limit contact or communication with the child victim,
711 other children in the home, or any other child.
712 4. Refrain from contacting the child at home, school,
713 work, or wherever the child may be found.
714 5. Have limited or supervised visitation with the child.
715 6. Pay temporary support for the child or other family
716 members; the costs of medical, psychiatric, and psychological
717 treatment for the child ~~victim~~ incurred as a result of the
718 offenses; and similar costs for other family members.
719 7. Vacate the home in which the child resides.

720 ~~(b)(e)~~ If the intent of the injunction is to protect the
721 child from domestic violence, the conditions may also include:

722 1. Awarding the exclusive use and possession of the
723 dwelling to the caregiver or excluding the alleged or actual
724 offender from the residence of the caregiver.

725 2. Awarding temporary custody of the child to the
726 caregiver.

727 3. Establishing temporary support for the child. At any
728 time prior to the disposition of the petition, the alleged or
729 actual offender may offer the court evidence of changed
730 circumstances as a ground to dissolve or modify the injunction.
731

732 This paragraph does not preclude the adult victim of domestic
733 violence from seeking protection under s. 741.30.

734 (c) The terms of the injunction shall remain in effect
735 until modified or dissolved by the court. The petitioner,
736 respondent, or caregiver may move at any time to modify or
737 dissolve the injunction. The injunction is valid and enforceable
738 in all counties in the state.

739 (4) Service of process on the respondent shall be carried
740 out pursuant to s. 741.30. The department shall deliver a copy
741 of any injunction issued pursuant to this section ~~shall be~~
742 ~~delivered~~ to the protected party; or to a parent, ~~or~~ caregiver,
743 or individual acting in the place of a parent who is not the
744 respondent, ~~and to any law enforcement agency having~~
745 jurisdiction to enforce such injunction. Law enforcement
746 officers may exercise their arrest powers as provided in s.
747 901.15(6) to enforce the terms of the injunction. ~~Upon delivery~~
748 ~~of the injunction to the appropriate law enforcement agency, the~~
749 ~~agency shall have the duty and responsibility to enforce the~~
750 ~~injunction.~~

751 (5) Any person who fails to comply with an injunction
752 issued pursuant to this section ~~commits is guilty of~~ a
753 misdemeanor of the first degree, punishable as provided in s.
754 775.082 or s. 775.083.

APPENDIX F



"Avron Bernstein"
<bernsteina@flcourts.org>
05/30/2006 02:33 PM

To <esloyer@flabar.org>
cc "Dana Dowling" <dowlingd@flcourts.org>, "Rose Patterson"
<PattersR@flcourts.org>
bcc
Subject FW: Question

Ms. Sloyer, per our discussion, attached are the injunction forms to be included on the June agenda for the Juvenile Rules Committee. There are 3 of them along with a brief explanatory memo. Please let me know if you have any questions.

From: Dana Dowling
Sent: Tuesday, May 30, 2006 2:10 PM
To: Avron Bernstein
Cc: Rose Patterson
Subject: Question

Avron,

I just spoke to Nathan about the process of getting the Proposed Chapter 39 Injunction Forms approved and he recommended that we try to get it on the Juvenile Rules Committee's agenda at the bar convention. Are you attending the bar convention this year. Have you worked with their committee chair? Holler at me when you get a chance.

Thanks!

Dana L. Dowling
Senior Attorney, Office of Court Improvement
Office of the State Courts Administrator
Supreme Court Building
500 South Duval Street
Tallahassee, Florida 32399-1900
Ph: 850.414.8389
Fax: 850.414.1505



memo.doc



Coverpage.doc



Chapter 39 Motion for Injunction.doc



Chapter 39 Injunction Order Ex-Parte (Without Notice).doc

M E M O R A N D U M

TO: Kimberly Musgrove-Hoffman
FROM: Dana L. Dowling, Senior Attorney, Office of Court Improvement
DATE: May 30, 2006
SUBJECT: Stop Grant #LN 0045 Deliverable: Proposed Chapter 39 Injunction Forms.

In accordance with the requirements of our Stop Grant contract #LN0045, the final draft of the Proposed Chapter 39 Injunction Forms are attached. Please find enclosed the following three proposed forms that are in accordance with section 39.504, Florida Statutes; and include the language under Florida Rules of Juvenile Procedure 8.962 and 8.963:

1. **VERIFIED MOTION FOR CHAPTER 39 INJUNCTION FOR PROTECTION AGAINST ANY ACT OF CHILD ABUSE OR ANY UNLAWFUL SEXUAL OFFENSE INVOLVING THE MINOR CHILD(REN)**
2. **CHAPTER 39 INJUNCTION FOR PROTECTION AGAINST ANY ACT OF CHILD ABUSE OR UNLAWFUL SEXUAL OFFENSE INVOLVING THE MINOR CHILD(REN) (EX PARTE)**
3. **CHAPTER 39 INJUNCTION FOR PROTECTION AGAINST ANY ACT OF CHILD ABUSE OR ANY UNLAWFUL SEXUAL OFFENSE INVOLVING THE MINOR CHILD(REN) (AFTER NOTICE)**

Please feel free to contact me at 850.414.8389 or dowlingd@flcourts.org if you have any questions or need further information.

CC: Rose Patterson, Chief Office of Court Improvement

**Proposed Chapter 39
Injunction Forms for Florida
Protecting Children**



June 2006
Office of the State Courts Administrator

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No.: _____
Division: _____

In the Interest of

_____, a child/children

**VERIFIED MOTION FOR CHAPTER 39 INJUNCTION FOR PROTECTION AGAINST
ANY ACT OF CHILD ABUSE OR ANY UNLAWFUL SEXUAL OFFENSE
INVOLVING THE MINOR CHILD(REN)**

Movant; () the department, () law enforcement officer, () state attorney, () responsible person, or () court, on its own motion, {name of individual, officer, attorney, or judge} _____, who lives/works at {address} _____, requests this Court, pursuant to section 39.504, Florida Statutes, to issue, until () {date} _____ or () the disposition of the petition for shelter placement or dependency, an injunction requiring the Respondent {name and address of person against whom injunction is requested} _____ to do the following:

Movant believes that it is in the best interest of the minor child(ren) that the Court order the Respondent to do the following:

/ all that apply]

- ___ a. Refrain from further abuse or unlawful sexual activity with the minor child(ren) subject to this request. The minor child(ren) subject to this request is/are:

Name	Birth date
_____	_____
_____	_____
_____	_____

- b. Obtain counseling as arranged by the Department of Children and Family Services or as specified below.
c. Have no contact with the child(ren) listed above, who are subject to this request, except for the following acceptable contact: _____

- d. Pay {specific monetary amount} \$ _____ () weekly, () bi-weekly, or () monthly support for the child(ren) and/or family.
e. Vacate the home in which the child(ren) listed above, who are subject to this request, reside(s) and not return until further order of the Court.
f. OTHER CONDITIONS: _____

2. Reasonable cause for the issuance of an injunction exists based on the following: *{evidence of child abuse or an unlawful sexual offense involving a child(ren) and/or recent overt act(s) or failure(s) to act that would provide a basis to believe that there is a reasonable likelihood that such abuse or offense will occur}*

3. [/ one that applies]

____ Respondent *{name and address of person against whom injunction is requested}* _____ was noticed of the hearing on this motion on *{date}* _____

Movant requests that this injunction is be issued without notice to Respondent because *{child(ren)=s name(s)}* _____ is/are in imminent danger, in that *{why there would be immediate and irreparable harm if the other party is given notice}* _____

4. Respondent *{name and address of person against whom injunction is requested}* _____ can be identified by the following:

Race: _ Gender: ____ Male ____ Female
DOB: ____ Ht.: ____ Wt.: ____
Eye Color: ____ Hair Color: ____
Distinguishing marks or scars: ____

Vehicle (make/model/year) _____
_____, Color: _____ Tag number: _____

WHEREFORE, the Movant requests that the Court enter an injunction, under Chapter 39, Florida Statutes, to protect the minor child(ren) against any act of abuse or unlawful sexual offense and order the Respondent to do the following:

[/ all that apply]

- a. Refrain from further abuse or unlawful sexual activity with the child or child(ren) listed above;
- b. Obtain counseling as arranged by the Department of Children and Family Services or other services requested above by the Movant;
- c. Have no contact with the child(ren) listed above except for in the acceptable manner as requested above by the Movant;
- d. Pay support for the child(ren) and/or family;
- e. Vacate the home in which the child(ren) reside(s) and not return until further order of the Court;

f. Follow the other conditions requested above by the Movant

I certify that a copy of this document was [/ one only] () mailed () faxed and mailed () hand delivered to the person(s) listed below on {date} _____ or () was not delivered to the person(s) listed below because _____.

Other party or his/her attorney:

Name: _____
Address: _____
City, State, Zip: _____
Fax Number: _____

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this verified motion and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Dated: _____

Signature of Party
Printed Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
Fax Number: _____

**STATE OF FLORIDA
COUNTY OF**

Sworn to or affirmed and signed before me on _____ by _____

NOTARY PUBLIC or DEPUTY CLERK

[Print, type, or stamp commissioned name of notary or clerk.]

Personally known
Produced identification
Type of identification produced

If the party filing this motion is represented by an attorney, the attorney must complete the following:

I, the undersigned attorney for the movant, hereby certify in that the following efforts have been made to give notice. {if no efforts have been made, why} _____

Signature

Florida Bar Number

Printed Name

IF A NONLAWYER HELPED YOU FILL OUT THIS FORM, HE/SHE MUST FILL IN THE BLANKS BELOW:

[N fill in all blanks] I, {full legal name and trade name of nonlawyer} _____
_____, a nonlawyer, located at {street} _____, {city} _____.

{state} _____, *{phone}* _____, helped *{name}* _____
who is the [**one** only] ___ petitioner **or** ___ respondent, fill out this form.

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No. _____
Division: _____

In the Interest of

_____, a child/children

**CHAPTER 39 INJUNCTION FOR PROTECTION AGAINST ANY ACT OF CHILD ABUSE OR
UNLAWFUL SEXUAL OFFENSE INVOLVING THE MINOR CHILD(REN)
(EX PARTE)**

NOTICE OF HEARING

Because this Chapter 39 Injunction for Protection Against Any Act of Child Abuse or Unlawful Sexual Offense has been issued, pursuant to section 39.504, Florida Statutes, without prior notice to Respondent, the Court hereby gives notice of hearing, Petitioner and Respondent are instructed that they are scheduled to appear before {judge} _____ regarding this matter on {date; the next day of judicial business following the issuance of this ex-parte injunction} _____, at {time} _____ a.m./p.m., at {room name/number, location, address, city} _____ or soon thereafter as counsel can be heard.

In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Office of the Court Administrator at (_____) _____

FINDINGS

This Court has jurisdiction to issue an injunction in this cause.

2. The minor child(ren) subject to this request is/are:

Name	Birth date
_____	_____
_____	_____
_____	_____

This injunction is being issued with out notice because the child(ren) listed above is/are in imminent danger in that _____

4. Reasonable cause for the issuance of an injunction exists based on the following: _____

Respondent {name and address of person against whom injunction is requested} _____ can be identified by the following: _____

Race: _____ Gender: _____ Male _____ Female
DOB: _____ Ht.: _____ Wt.: _____
Eye Color: _____ Hair Color: _____
Distinguishing marks or scars:

Vehicle (make/model/year) . _____, _____,
_____, Color: _____ Tag number: _____

THEREFORE, based upon the findings, it is hereby **ORDERED AND ADJUDGED** that:

1. [/ the applicable language]
Until () disposition of this cause, () {date determined by the Court} _____, or ()
further order of this Court, the respondent {name and address of person against whom injunction is
requested} _____ shall:

[/ all that apply]

- a. Refrain from further abuse or unlawful sexual activity with the child or child(ren) listed above;
- b. Obtain counseling as arranged by the Department of Children and Family Services or other services requested above by the petitioner;
- c. Have no contact with the child(ren) listed above except for in the following acceptable manner: _____

- d. Pay \$ _____ () per week () bi monthly, or () per month in support for the child(ren) and/or family.
- e. Vacate the home in which the child(ren) reside(s) and not return until further order of the Court.
- f. Abide by the additional conditions listed below:

- 2. This Court retains jurisdiction over this cause to enter any further orders that may be deemed necessary for the best interest and welfare of the minor child(ren).
- 3. All prior orders not inconsistent with the present Order shall remain in full force and effect.

DONE AND ORDERED on {date} _____, {time} _____

CIRCUIT JUDGE

Copies furnished to:
____ Parent's Attorney
____ DCF
____ DOR

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No.: _____
Division: _____

In the Interest of

_____, a child/children

**CHAPTER 39 INJUNCTION FOR PROTECTION AGAINST ANY ACT OF CHILD
ABUSE OR ANY UNLAWFUL SEXUAL OFFENSE INVOLVING THE MINOR CHILD(REN)
(AFTER NOTICE)**

THIS CAUSE came before this Court on {date} _____, pursuant to section 39.504,
Florida Statutes. Present before the Court were {names} _____,
_____ and the Court having heard testimony and argument and being otherwise fully advised in the premises
finds:

That this Court has jurisdiction to issue an injunction in this cause.

2. The minor child(ren) subject to this request is/are:

Name

Birth date

3. Respondent {name and address of person(s) against whom injunction is requested}

_____ was noticed of the
hearing on this verified motion for a Chapter 39 Injunction on {date} _____

4. Reasonable cause for the issuance of an injunction exists based on the following: _____

5. Respondent {name and address of person against whom injunction is requested} _____
_____ can be identified by the following:

Race: _____ Gender: _____ Male _____ Female
DOB: _____ Ht.: _____ Wt.: _____
Eye Color: _____ Hair Color: _____
Distinguishing marks or scars

Vehicle (make/model/year): _____
_____, Color: _____ Tag number: _____

THEREFORE, based upon the findings, it is hereby ORDERED AND ADJUDGED that:

1. [/ the applicable language]
Until () disposition of this cause, () {date determined by the Court} _____, or
() further order of this Court, the Respondent {name of person against whom injunction is
requested} _____ shall:

[/ all that apply]

- a. Refrain from further abuse or unlawful sexual activity with the child or child(ren) listed above;
- b. Obtain counseling as arranged by the Department of Children and Family Services or other services requested above by the petitioner;
- c. Have no contact with the child(ren) listed above except for in the following acceptable manner: _____

- d. Pay \$ _____ () per week, () bi-monthly, or () monthly in support for the child(ren) and/or family.
- e. Vacate the home in which the child(ren) reside(s) and not return until further order of the Court.
- f. Abide by the additional conditions listed below: _____

2. This Court retains jurisdiction over this cause to enter any further orders that may be deemed necessary for the best interest and welfare of the minor child(ren).

3. All prior orders not inconsistent with the present Order shall remain in full force and effect.

DONE AND ORDERED on _____ .

CIRCUIT JUDGE

- Copies furnished to:
- ___ Parent's Attorney
 - ___ DCF
 - ___ DOR
 - ___ GAL

APPENDIX G

645 Section 10. Subsection (6) of section 39.503, Florida
646 Statutes, is amended to read:

647 39.503 Identity or location of parent unknown; special
648 procedures.--

649 (6) The diligent search required by subsection (5) must
650 include, at a minimum, inquiries of all relatives of the parent
651 or prospective parent made known to the petitioner, inquiries of
652 all offices of program areas of the department likely to have
653 information about the parent or prospective parent, inquiries of
654 other state and federal agencies likely to have information
655 about the parent or prospective parent, inquiries of appropriate
656 utility and postal providers, a thorough search of at least one
657 electronic database specifically designed for locating persons.
658 and inquiries of appropriate law enforcement agencies. Pursuant
659 to s. 453 of the Social Security Act, 42 U.S.C. s. 653(c)(4),
660 the department, as the state agency administering Titles IV-B
661 and IV-E of the act, shall be provided access to the federal and
662 state parent locator service for diligent search activities.

APPENDIX H

A bill to be entitled

2 An act relating to independent living transition services;
3 amending s. 409.1451, F.S.; providing for family foster
4 homes, residential child-caring agencies, or other
5 authorized caregivers to be included in the development of
6 plans for activities for certain children; requiring
7 specified information to be included in a report to the
8 Legislature by the Independent Living Services Advisory
9 Council; creating s. 743.046, F.S.; providing for removal
10 of disabilities of certain minors for purposes of securing
11 utility services; providing an effective date.
12

13 Be It Enacted by the Legislature of the State of Florida:
14

15 Section 1. Paragraph (a) of subsection (3) of section
16 409.1451, Florida Statutes, is amended, and paragraph (e) is
17 added to subsection (7) of that section, to read:

18 409.1451 Independent living transition services.--

19 (3) PREPARATION FOR INDEPENDENT LIVING.--

20 (a) It is the intent of the Legislature for the Department
21 of Children and Family Services to assist older children in
22 foster care and young adults who exit foster care at age 18 in
23 making the transition to independent living and self-sufficiency
24 as adults. The department shall provide such children and young
25 adults with opportunities to participate in life skills
26 activities in their foster families and communities which are
27 reasonable and appropriate for their respective ages or for any
28 special needs they may have and shall provide them with services
29 to build life skills and increase their ability to live
30 independently and become self-sufficient. To support the
31 provision of opportunities for participation in age-appropriate
32 life skills activities, the department shall:

33 1. Develop a list of age-appropriate activities and
34 responsibilities to be offered to all children involved in
35 independent living transition services and their foster parents.

36 2. Provide training for staff and foster parents to
37 address the issues of older children in foster care in
38 transitioning to adulthood, which shall include information on
39 high school completion, grant applications, vocational school
40 opportunities, supporting education and employment
41 opportunities, and opportunities to participate in appropriate
42 daily activities.

43 3. Develop procedures to maximize the authority of foster
44 parents, family foster homes, residential child-caring agencies,

45 or other authorized caregivers to approve participation in age-
46 appropriate activities of children in their care. The age-
47 appropriate activities and the authority of the foster parent,
48 family foster home, residential child-caring agency, or
49 caregiver shall be developed into a written plan that the foster
50 parent, family foster home, residential child-caring agency, or
51 caregiver, the child, and the case manager all develop together,
52 sign, and follow. This plan must include specific goals and
53 objectives and be reviewed and updated no less than quarterly.
54 Foster parents, family foster homes, residential child-caring
55 agencies, or other authorized caregivers who have developed a
56 written plan as described in this subparagraph shall not be held
57 responsible under administrative rules or laws pertaining to
58 state licensure or have their licensure status in any manner
59 jeopardized as a result of the actions of a child engaged in the
60 approved age-appropriate activities specified in the written
61 plan.

62 4. Provide opportunities for older children in foster care
63 to interact with mentors.

64 5. Develop and implement procedures for older children to
65 directly access and manage the personal allowance they receive
66 from the department in order to learn responsibility and
67 participate in age-appropriate life skills activities to the
68 extent feasible.

69 6. Make a good faith effort to fully explain, prior to
70 execution of any signature, if required, any document, report,
71 form, or other record, whether written or electronic, presented
72 to a child or young adult pursuant to this chapter and allow for
73 the recipient to ask any appropriate questions necessary to
74 fully understand the document. It shall be the responsibility of
75 the person presenting the document to the child or young adult
76 to comply with this subparagraph.

77 (7) INDEPENDENT LIVING SERVICES ADVISORY COUNCIL.--The
78 Secretary of Children and Family Services shall establish the
79 Independent Living Services Advisory Council for the purpose of
80 reviewing and making recommendations concerning the
81 implementation and operation of the independent living
82 transition services. This advisory council shall continue to
83 function as specified in this subsection until the Legislature
84 determines that the advisory council can no longer provide a
85 valuable contribution to the department's efforts to achieve the
86 goals of the independent living transition services.

87 (e) The advisory council report required under paragraph
88 (b) to be submitted to the substantive committees of the Senate
89 and the House of Representatives by December 31, 2008, shall
90 include an analysis of the system of independent living
91 transition services for young adults who attain 18 years of age

92 while in foster care prior to completing high school or its
93 equivalent and recommendations for department or legislative
94 action. The council shall assess and report on the most
95 effective method of assisting these young adults to complete
96 high school or its equivalent by examining the practices of
97 other states.

98 Section 2. Section 743.046, Florida Statutes, is created
99 to read:

100 743.046 Removal of disabilities of minors; executing
101 agreements for utility services.--For the sole purpose of
102 ensuring that a youth in foster care will be able to secure
103 utility services at a residential property upon the youth's 18th
104 birthday, the disability of nonage of minors is removed for all
105 youth who have reached 17 years of age, have been adjudicated
106 dependent, and are in the legal custody of the Department of
107 Children and Family Services through foster care or subsidized
108 independent living. These youth are authorized to make and
109 execute contracts, agreements, releases, and all other
110 instruments necessary for the purpose of securing utility
111 services at a residential property upon the youth's 18th
112 birthday. The contracts or other agreements made by the youth
113 shall have the same effect as though they were the obligations
114 of persons who were not minors. A youth seeking to enter into
115 such contracts or agreements or execute other necessary
116 instruments that are incidental to securing utility services
117 must present an order from a court of competent jurisdiction
118 removing the disabilities of nonage of the minor under this
119 section.

120 Section 3. This act shall take effect July 1, 2008.

I certify that these rules and forms were read against West's *Florida Rules of Court – State* (2008).

Ellen H. Sloyer, Associate Editor
Legal Publications
The Florida Bar