

IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENTS TO THE FLORIDA

RULES OF JUVENILE PROCEDURE

CASE NO.:SC09-2195

**COMMENT OF MARY LYNN POWELL, CHIEF OF THE JUVENILE
DIVISION, OFFICE OF THE STATE ATTORNEY, 15TH JUDICIAL
CIRCUIT, PALM BEACH COUNTY, FLORIDA, TO THE AMENDMENTS
TO THE FLORIDA RULES OF JUVENILE PROCEDURE, PROPOSED
FLA.R.JUV.P. 8.003**

Mary Lynn Powell, Chief of the Juvenile Division of the Office of the State Attorney, 15th Judicial Circuit, Palm Beach County, Florida, on behalf of State Attorney Michael F. McAuliffe, submits the following comments to Proposed Fla.R.Juv.P. 8.003:

I support the proposed Juvenile Rule that specifically eliminates juvenile delinquency cases from the requirement to attach a Cover Sheet for Family Court Cases (hereinafter referred to as Cover Sheet), and Notice of Related Cases to the thousands of Juvenile delinquency petitions filed by the State Attorneys statewide.

Criminal Nature of Delinquency Court

Unlike the other categories of cases that fall within Family Court's umbrella involving intra-family matters (i.e. dissolution of marriage, child support, termination of parental rights, CINS/FINS etc.), delinquency court is substantively

and procedurally modeled after the criminal court and focuses on the juvenile offender in conjunction with public safety and the victim's constitutional and statutory rights. This is underscored by the fact that all juvenile delinquency adjudications are scored under the adult criminal punishment code as any other adult criminal conviction and all criminal due process safeguards must be ensured. The majority of delinquency cases involve victims who are not related to the juvenile's family. In delinquency court we must address the rights/needs of the juvenile as well as the rights/needs of the victim(s). In balancing public safety interests, what is deemed best in a delinquency case may be contrary to the family interests.

State of Florida as Petitioner

Because delinquency cases are so criminal in nature the statutes require the State to be the petitioner on behalf of the citizens. Florida Statute 985.318(1) states:

All proceedings seeking a finding that a child has committed a delinquent act or violation of law shall be initiated by the state by the filing of a petition for delinquency by the state attorney.

A rule that requires a Cover Sheet and notice of all cases that relate to the party/petitioner in a delinquency case would require a listing on each petition of every other delinquency case filed by the state. This would serve no purpose.

In addition, if State Attorneys were required to file this Cover Sheet and attach a Notice of Related Cases on every juvenile delinquency petition it would result in a major and negative fiscal impact upon our offices. It would increase the workload without a corresponding increase in the resources in order to comply with the purpose of the Cover Sheet. Thousands of delinquency petitions are filed by each office and each would require research of numerous civil and family court computer systems to fulfill this requirement.

Stated Purpose of Rule

The proposed rule and Cover Sheet, if applicable to juvenile delinquency, would require the party/petitioner opening or reopening a case to file a Cover Sheet which also includes a notice of all related cases. The Cover Sheet instructions state that the purpose of filing the form is so the clerk of the circuit court can report judicial workload data pursuant to Florida Statute 25.075. It is further stated on the instructions to the Cover Sheet that “The petitioner must **file** this cover sheet with the first pleading or motion filed to open or reopen a case in all domestic and juvenile cases.” The Cover Sheet instructions further state that the form must be filed in “III. (O) Juvenile Delinquency-all matters relating to juvenile delinquency pursuant to Chapter 985, Florida Statutes.”

Since the purpose of the Cover Sheet is so the clerk of the circuit court can tabulate judicial workload data, requiring it in delinquency cases is not a valid way in which to collect such data. The court will not achieve accurate data collection because there are many access points into the delinquency system in which the filing of a Cover Sheet would not be required. Florida Statute 985.0301(2) (2010) states:

The jurisdiction of the court shall attach to the child and the case when a summons is served upon the child and a parent or legal or actual custodian or guardian of the child, or when the child is taken into custody with or without service of summons and before or after the filing of a petition, whichever occurs first, and thereafter the court may control the child and the case in accordance with this chapter. (emphasis added.)

The court would therefore obtain jurisdiction over a child once law enforcement has taken the child into custody and filed an affidavit with the clerk of court. At that point a case will have been opened. However, since the law enforcement agency is not a party/petitioner to the delinquency proceeding it would be exempt from the requirement to file a Cover Sheet. Consequently, these cases would not be included in the data collection.

Additionally, when a child commits a delinquent act in a jurisdiction in which they do not live, or where they will not be living at the time of disposition, the circuit court in that jurisdiction is authorized by statute to transfer the

disposition of the case to the jurisdiction in which the child lives or will be living.

Florida Statute 985.0301(4)(a) states:

Petitions alleging delinquency shall be filed in the county where the delinquent act or violation of law occurred, but the circuit court for that county may transfer the case to the circuit court of the circuit in which the child resides or will reside at the time of detention or placement for dispositional purposes...

Once a case is ordered to be transferred for disposition, the clerk of the sending jurisdiction forwards the transfer order and related documents to the clerk of the receiving jurisdiction. At that point the clerk in the receiving jurisdiction opens a delinquency case based on the transfer order. Consequently, we have another instance where a non-party/non-petitioner would be opening a delinquency case and not be required to file the Cover Sheet. These cases also would not be included in the data collection.

Based on the foregoing, along with the comments of the Majority View of the Juvenile Rules Committee, I recommend this Court approve Proposed FLA.R.JUV.P. 8.003 as submitted.

Dated: January 29, 2010

Respectfully Submitted,

MICHAEL F. MCAULIFFE
STATE ATTORNEY

BY: _____

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CERTIFICATE OF SERVICE

I HEREBY certify that a copy of the foregoing Comment of Mary Lynn Powell, Chief of the Juvenile Division, Office Of The State Attorney, 15TH Judicial Circuit, Palm Beach County, Florida, was furnished by U.S. Mail to Charles Hugh Davis, State Attorney's Office, Fourth Circuit, Chair Juvenile Court Rules Committee, 220 E Bay Street, Jacksonville, FL 32202-3429 on January 29, 2010.

MARY LYNN POWELL
Assistant State Attorney
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CERTIFICATE OF COMPLIANCE

I HEREBY certify that this document complies with the font requirements of Rule 9.210(a)(2) of the Florida Rules of Appellate Procedure.

MARY LYNN POWELL
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