

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO THE FLORIDA
RULES OF JUVENILE PROCEDURE CASE NO.:**

**PETITION OF JUVENILE COURT RULES
COMMITTEE TO CREATE RULE 8.003**

Charles H. Davis, Chair, Juvenile Court Rules Committee, and John F. Harkness, Jr., Executive Director, The Florida Bar, file this petition under *Fla. R. Jud. Admin.* 2.140(f), to create *Fla. R. Juv. P.* 8.003, requiring use of *Fla. Fam. L. R. P. Form* 12.928, Cover Sheet for Family Court Cases, in cases under Part II, III, or IV of the Florida Rules of Juvenile Procedure.

On October 15, 2009, the Court issued an opinion in *In Re: Amendments to the Florida Rules of Civil Procedure -- Management of Cases Involving Complex Litigation*, 34 Fla. L. Weekly S576 (Fla. 2009). The opinion, in part, amended *Fla. Fam. L. R. P. Form* 12.928 and created *Rule* 12.100(a) to require use of the form in all cases coming under the Florida Family Law Rules of Procedure. In the opinion, the Court also requested that the Juvenile Court Rules Committee use its fast-track procedure to propose amendments to the Florida Rules of Juvenile Procedure to require use of the form in cases under the Juvenile Rules.

The Committee met by conference call on October 23, 2009, to consider this request. The Juvenile Rules are divided into separate parts for

delinquency, dependency, families and children in need of services, other proceedings (guardian advocates for drug-dependent newborns and judicial waiver of notice of termination of pregnancy), and forms. The Committee determined that the simplest way to produce the desired result was to create a new rule in the introductory section of the rules (now containing only *Fla. R. Juv. P.* 8.000, Scope and Purpose) that would apply to Part II, III, or IV of the rules. After discussion, the Committee adopted by a vote of 12-9, *Rule* 8.003, Family Law Cover Sheet:

RULE 8.003. FAMILY LAW COVER SHEET

The party opening or reopening a case under Part II, III, or IV of these rules shall file with the clerk of the circuit court Florida Family Law Rules of Procedure Form 12.928, Cover Sheet for Family Law Cases.

The proposal has been reviewed by the Executive Committee of The Florida Bar and approved by a vote of 8-1. Because this is a fast-track proposal, it has not been published in *The Florida Bar News* or posted on the Bar's website for comments.

The proposal is attached in both the full page (Appendix A) and two column (Appendix B) format. Because the vote was close, both the majority and minority views are provided below.

Majority View:

1. A cover sheet typically has been required in civil cases and not in criminal or delinquency cases. See *Fla. R. Civ. P. Form 1.997*.

2. In its opinion, the Court briefly outlines reasons for requiring the cover sheet in juvenile cases, given the relationship to family law cases. However, nothing in the opinion describes the usefulness of the cover sheet particularly in delinquency cases.

3. In the adult rules of criminal procedure there is no counterpart to a juvenile rule requiring a cover sheet in delinquency cases. No cover sheet is required in criminal cases and none should be required in delinquency cases.

4. Whenever the State Attorney files a delinquency case, the prosecutor initiates the case by filing a delinquency petition; there is no other pleading used to initiate a delinquency matter. Delinquency filings are easily identified and categorized without any additional documentation.

5. A requirement to file a cover sheet in delinquency cases would have a substantial, disproportionate, and unnecessary impact on each State Attorney. In every delinquency case, the plaintiff is the State Attorney in and for the circuit in which the delinquency case is filed. Thus, the cost of

initiating, investigating, preparing, and filing a cover sheet in every delinquency case would be borne solely by Florida's prosecutors. When *Form 12.900(h)*, Notice of Related Cases, is also required, the two-page cover sheet can quickly swell to ten or twelve pages and the costs of investigation and preparation will also rise dramatically.

6. The Clerk of the Juvenile Court is better equipped to inform the delinquency court of the existence of related cases.

7. Finally, and of most importance to some, delinquency cases already have foreshortened time limitations that create demands on the State Attorney to quickly investigate, promptly make filing decisions, and swiftly prosecute large juvenile caseloads. Any additional requirements at the filing stage should be imposed only on demonstration of a compelling interest.

Minority View: At issue was whether the Family Law Cover Sheet should apply to all cases under the Rules of Juvenile Procedure or whether it should not be required in delinquency proceedings. The minority's argument is as follows:

1. The Court has endorsed the implementation of a Unified Family Court throughout the circuit courts. See *In re: Report of the Family Court Steering Committee*, 794 So. 2d 518 (Fla. 2001). The cover sheet provides for coordination of a child's case throughout the Unified Family Court.

2. *Fla. R. Jud. Admin. 2.545(d)(1)* already requires a Notice of Related Cases be filed in “family cases” involving the same child. Therefore, there is no additional burden to the State Attorney to file a cover sheet as the cover sheet seeks similar information. The definition of “family cases” includes juvenile delinquency cases. *Rule 2.545(d)(2)*. Such a notice is only filed “if related cases are known or reasonably ascertainable.”

3. The proposed cover sheet requires notification of related cases to the “best of [the attorney’s] knowledge.” The cover sheet could be amended should the attorney subsequently discover a related case or a Notice of Related Cases could be filed.

4. It is not uncommon for a child to be involved in both the delinquency and dependency systems. The cover sheet provides an important link of these systems concerning the child. The Department of Children and Families already reports related cases on the Uniform Child Custody Jurisdiction and Enforcement Act Affidavit, *Fla. Sup. Ct. App. Fam. L. Form 12.902(d)*. The delinquency system should likewise be required to report to provide linkage of the systems to better serve and support the child.

The Committee respectfully requests that the Court amend the Florida Rules of Juvenile Procedure as shown in this report.

Respectfully submitted _____ .

CHARLES HUGH DAVIS
Chair
Juvenile Court Rules Committee
P. O. Box 1362
Green Cove Springs, FL 32202-3429
904/284-6319
FLORIDA BAR NO.: 84832

JOHN F. HARKNESS, JR.
Executive Director
The Florida Bar
651 E. Jefferson St.
Tallahassee, FL 32399-2300
850/561-5600
FLORIDA BAR NO.: 123390

APPENDIX A

RULE 8.003. FAMILY LAW COVER SHEET

The party opening or reopening a case under Part II, III, or IV of these rules shall file with the clerk of the circuit court Florida Family Law Rules of Procedure Form 12.928, Cover Sheet for Family Law Cases.

APPENDIX B

Proposed rule

RULE 8.003. FAMILY LAW COVER SHEET

The party opening or reopening a case under Part II, III, or IV of these rules shall file with the clerk of the circuit court Florida Family Law Rules of Procedure Form 12.928, Cover Sheet for Family Law Cases.

Reasons for change

New rule created at Court's request to require use of Cover Sheet for Family Law Cases in juvenile proceedings under Parts II (dependency), III (families and children in need of services), and IV (other proceedings) of the Rules of Juvenile Procedure.