

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENT TO
FLORIDA RULES OF CRIMINAL
PROCEDURE – RULE 3.992(a)**

Case No.: 2011-

PETITION TO AMEND FLORIDA RULE OF CRIMINAL PROCEDURE
3.992(a)

COMES NOW, Judge Kevin Emas, the Chair of the Criminal Courts Steering Committee, pursuant to Fla. R. Jud. Admin. 2.140(a), files this petition to amend Fla. R. Crim. P. 3.992(a).

Section 921.0024(4) Fla. Stat. (2010) requires the Department of Corrections (DOC), in consultation with the state attorneys, public defenders, and OSCA, to develop and submit for approval, a revised Criminal Punishment Code scoresheet, as necessary.

DOC consulted with all relevant parties. (See letter from DOC to the Chief Justice in Appendix A.) According to DOC, one prosecutor recommended that the goldenrod part of the form be deleted. As outlined in the letter in Appendix A, DOC does not agree with that recommendation because the goldenrod copy is the one provided to DOC along with the judgment and sentence. DOC does, however, recommend one change to the current scoresheet. Specifically, Fla. Stats. sections 921.0026(2)(m) and 948.01(7)(a) were amended during the last legislative session

to allow a person who scores 60 points or less to enter a post-adjudicatory drug court program, if the sentencing judge makes certain findings. Prior to these amendments, a judge could not place a defendant into a post-adjudicatory drug court program if the defendant scored more than 52 points. (The new statutes are contained in Appendix B.) Accordingly, DOC's suggestion is to add language in the middle "Sentence Computation" box to inform everyone of the change in eligibility. This single sentence is the only recommended change.

Two final notes: 1) DOC modified the language from the original proposal that was outlined in the letter to the Chief Justice. DOC's final proposal is set forth in Appendix C and is underlined. This change in language led to a delay for which DOC and undersigned apologize. 2) The proposed amended scoresheet has not been published in *The Florida Bar News*.

Respectfully submitted this _____ day of July, 2011.

Judge Kevin Emas
Chair of the Criminal Courts Steering Committee
Fla. Bar #353566
Third District Court of Appeal
2001 SW 117th Avenue
Miami, Florida 33175

CERTIFICATE OF FONT SIZE AND SERVICE

I hereby certify that this petition has been prepared using Times New Roman 14 point font and has been sent by U.S. mail to Ms. Shari Britton, Department of

Corrections, 501 South Calhoun Street, Tallahassee, Florida, 32399-2500, and to
Judge Donald Scaglione, Chair, Florida Rules of Criminal Procedure Committee,
20 North Main Street, Room 359, Brooksville, Florida, 34601-2817, this _____
day of July, 2011.

Judge Kevin Emas
Fla. Bar. #353566