

**IN THE SUPREME COURT OF FLORIDA**

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

**CASE NO.: SC12-**

**FLORIDA RULES OF JUVENILE PROCEDURE  
2012 LEGISLATIVE AMENDMENTS**

Hon. Daniel P. Dawson, Chair, Juvenile Court Rules Committee, and John F. Harkness, Jr., Executive Director, The Florida Bar, file this out-of-cycle report under *Fla. R. Jud. Admin.* 2.140(e) to amend the Florida Rules of Juvenile Procedure to conform to 2012 statutory amendments. The proposed amendments have been approved by the committee by the votes indicated below. The amendments have also been reviewed and approved by The Florida Bar Board of Governors by a vote of 33-0.

In his April 16, 2012, letter to Scott G. Hawkins, President, The Florida Bar, and John F. Harkness, Jr., Clerk of the Supreme Court Thomas D. Hall asked each rules of procedure committee to consider whether amendments to their rules were required by legislative amendments to the Florida Statutes. (*See* Appendix C.) The Juvenile Court Rules Committee has reviewed 2012 legislation and proposes the following amendments to the Rules of Juvenile Procedure.

Rule 8.201: Section 2, Ch. 2012-178, Laws of Florida, amended section 39.013(2), Florida Statutes, to add “when a petition for an injunction to prevent child abuse is filed” to situations when jurisdiction attaches and a dependency proceeding is commenced. A new subdivision (a)(4) has been added to the rule to reflect this change. This amendment passed the full committee by a vote of 24-0-0.

Rule 8.415: Chapter 2012-105, Laws of Fla., the Florida Safe Harbor Act, creates various provisions for children who have been sexually exploited. Section 5 of the Act creates section 39.524, Florida Statutes, Safe-harbor placement. Section 39.524(2), Florida Statutes, requires that the results of any safe-harbor placement assessment under section 39.524(1), Florida Statutes, be included in the next judicial review for the child. *Rule* 8.415(c) has been amended to include this information. This amendment passed the full committee by a vote of 23-1-0.

Rule 8.425: Section 12, Chapter 2012-178, Laws of Florida, amended section 39.621(1) as follows:

(1) Time is of the essence for permanency of children in the dependency system. A permanency hearing must be held no later than 12 months after the date the child was removed from the home or within no later than 30 days after a court determines that reasonable efforts to return a child to either parent are not required, whichever occurs first. The purpose of the permanency hearing is to determine when the child will achieve the permanency goal or whether modifying the current goal is in the best interest of the child. A permanency hearing must be held at least every 12 months for any child who continues to be supervised by ~~receive supervision from~~ the department or awaits adoption.

The language in *Rule 8.425(a)* has been amended to conform to this change. This amendment was passed by the full committee by a vote of 24-0-0.

Rule 8.500: Section 1 of Chapter 2012-81, Laws of Florida, amended section 39.802(4), Florida Statutes, by addition of subdivision (d), requiring that the petition for termination of parental rights include an allegation that the parent(s) “will be informed of the availability of private placement of the child with an adoption entity.” A new subdivision (b)(5) has been added to incorporate this language. The amendment passed the full committee by a vote of 22-1-0.

Rule 8.510: A new subdivision (a)(2)(B) has been added to incorporate the requirement that the parent(s) be advised of the availability of private placement of the child with an adoption entity. See § 1, Ch. 2012-81, Laws of Fla. The amendment passed the full committee by a vote of 22-2-0.

Form 8.980: A new item 2 under part B of the form has been added regarding advising the parent(s) of the availability of private placement of the child with an adoption entity. See § 1, Ch. 2012-81, Laws of Fla. A line has also been added in the signature block for addition of email address(es), in conformity with the requirement for email service. *See In re: Amendments to the Florida Rules of Judicial Administration, the Florida Rules of Civil Procedure, the Florida Probate Rules, the Florida Rules of Traffic Court, the Florida Small Claims Rules, the Florida Rules of Juvenile Procedure, the Florida Appellate Rules, and the Florida Family Law Rules of Procedure — E-mail Service Rule*, 37 Fla. L. Weekly S421 (Fla. 2012). The amendment passed the full committee by a vote of 23-1-0.

The proposed amendments are attached in both the full page (*see* Appendix A) and two-column (*see* Appendix B) formats. Chapters 2012-81, 2012-105, and 2012-178, Laws of Florida, are attached as Appendices D, E, and F.

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

Respectfully submitted \_\_\_\_\_.

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Chair  
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I certify that this report complies with the font requirements of *Fla. R. App. P. 9.100(l)* and that the attached rules have been read against *West's Florida Rules of Court — State (2012)*.

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# **APPENDIX A**

**RULE 8.201. COMMENCEMENT OF PROCEEDINGS**

**(a) Commencement of Proceedings.** Proceedings are commenced when:

(1) an initial shelter petition is filed;

(2) a petition alleging dependency is filed; ~~or~~

(3) a petition for termination of parental rights is filed; or

(4) a petition for an injunction to prevent child abuse under chapter 39, Florida Statutes, is filed.

**(b) File to Be Opened.** Upon commencement of any dependency or termination of parental rights proceeding, the clerk shall open a file and assign a case number.

## **RULE 8.415. JUDICIAL REVIEW OF DEPENDENCY CASES**

(a) **Required Review.** All dependent children shall have their status reviewed as provided by law.

(b) **Scheduling Hearings.**

(1) **Initial Review Hearing.** The court shall determine when the first review hearing shall be held and the clerk of the court shall immediately schedule the review hearing. In no case shall the hearing be scheduled for later than 6 months from the date of removal from the home or 90 days from the disposition or case plan approval hearing, whichever comes first. In every case, the court must conduct a judicial review at least every 6 months.

(2) **Subsequent Review Hearings.** At each judicial review hearing, the court shall schedule the next judicial review hearing which shall be conducted within 6 months. The clerk of the court, at the judicial review hearing, shall provide the parties with written notice of the date, time, and location of the next judicial review hearing.

(c) **Report.** In all cases, the department or its agent shall prepare a report to the court. The report shall contain facts showing the court to have jurisdiction of the cause as a dependency case. It shall contain information as to the identity and residence of the parent, if known, and the legal custodian, the dates of the original dependency adjudication and any subsequent judicial review proceedings, the results of any safe-harbor placement assessment including the status of the child's placement, and a request for one or more of the following forms of relief:

- (1) that the child's placement be changed;
- (2) that the case plan be continued to permit the parents or social service agency to complete the tasks assigned to them in the agreement; or
- (3) that proceedings be instituted to terminate parental rights and legally free the child for adoption.

(d) **Service.** A copy of the report containing recommendations and, if not previously provided by the court, a notice of review hearing shall be served on all persons who are required by law to be served at least 72 hours before the judicial review hearing.



(e) **Information Available to Court.** At the judicial review hearing the court may receive any relevant and material evidence pertinent to the cause. This shall include written reports required by law and may include, but shall not be limited to, any psychiatric or psychological evaluations of the child or parent, caregiver, or legal custodian that may be obtained and that are material and relevant. This evidence may be received by the court and relied on to the extent of its probative value, even though it may not be competent in an adjudicatory hearing.

(f) **Court Action.**

(1) The court shall hold a hearing to review the compliance of the parties with the case plan and to determine what assigned tasks were and were not accomplished and the reasons for any nonachievement.

(2) If the court finds that the parents have substantially complied with the case plan, the court shall return the child to the custody of the parents if the court is satisfied that reunification will not be detrimental to the child's safety, well-being, or physical, mental, or emotional health.

(3) If the court finds that the social service agency has not complied with its obligations, the court may find the social service agency to be in contempt, shall order the social service agency to submit its plan for compliance with the case plan, and shall require the social service agency to show why the child could not be safely returned to the home of the parents. If the court finds that the child could not be safely returned to the parents, it shall extend the case plan for a period of not more than 6 months to allow the social service agency to comply with its obligations under the case plan.

(4) At any judicial review held under section 39.701(6), Florida Statutes, if, in the opinion of the court, the department has not complied with its obligations as specified in the written case plan or in the provision of independent living services as required by sections 39.701(6) and 409.1451, Florida Statutes, the court shall issue a show cause order. If cause is shown for failure to comply, the court shall give the department 30 days within which to comply and, on failure to comply with this or any subsequent order, the court may hold the department in contempt.

(5) When a child is returned to the parents, the court shall not terminate its jurisdiction over the child until 6 months after the return. Based on a report of the department and any other relevant factors, the court shall then determine whether jurisdiction should be continued or terminated. If its jurisdiction is to be terminated, it shall enter an order to that effect.

(6) When a child has not been returned to the parent, but has been permanently committed to the department for subsequent adoption, the court shall continue to hold judicial review hearings on the status of the child at least every 6 months until the adoption is finalized. These hearings shall be held in accordance with these rules.

(7) If a youth in the legal custody of the department immediately before his or her 18th birthday petitions the court at any time before his or her 19th birthday requesting the court's continued jurisdiction, the court may retain or reinstate jurisdiction for a period of time not to continue beyond the date of the youth's 19th birthday. This continued jurisdiction is for the purpose of determining whether appropriate aftercare support, Road-to-Independence Scholarship, transitional support, mental health, and developmental disability services have been provided to the youth.

(8) If a petition for special immigrant juvenile status and an application for adjustment of status have been filed on behalf of a foster child and the petition and application have not been granted by the time the child reaches 18 years of age, the court may retain jurisdiction solely for the purpose of allowing the continued consideration of the petition and application by federal authorities. Review hearings shall be set solely for the purpose of determining the status of the petition and application. The court's jurisdiction shall terminate on the final decision of the federal authorities, or on the immigrant child's 22nd birthday, whichever occurs first.

(9) The court shall enter a written order on the conclusion of the review hearing including a statement of the facts, those findings it was directed to determine by law, a determination of the future course of the proceedings, and the date, time, and place of the next hearing.

**(g) Administrative Review.** The department, under a formal agreement with the court in particular cases, may conduct administrative reviews instead of judicial reviews for children in out-of-home placement. Notice must be provided to all parties. An administrative review may not be substituted for the first judicial

review or any subsequent 6-month review. Any party may petition the court for a judicial review as provided by law.

**(h) Concurrent Planning.**

(1) At the initial judicial review hearing, the court shall make findings regarding the likelihood of the child's reunification with the parent or legal custodian within 12 months after the removal of the child from the home.

(2) If the court makes a written finding that it is not likely that the child will be reunified with the parent or legal custodian within 12 months after the child was removed from the home, the department must file a motion to amend the case plan and declare that it will use concurrent planning for the case plan.

(3) The department must file the motion to amend the case plan no later than 10 business days after receiving the written finding of the court and attach the proposed amended case plan to the motion.

(4) If concurrent planning is already being used, the case plan must document the efforts the department is making to complete the concurrent goal.

**Committee Notes**

**1991 Adoption.** The rule allows for certain forms of relief pertinent to foster care review. It allows the court to order commencement of a termination of parental rights proceeding if the parents are not in compliance. The court is also permitted to extend or modify the plan.

**RULE 8.425. PERMANENCY HEARINGS**

**(a) Required Review.** A permanency hearing must be held no later than 12 months after the date the child was removed from the home or ~~no later than~~ within 30 days after a court determines that reasonable efforts to return a child to either parent are not required, whichever occurs first. A permanency hearing must be held at least every 12 months for any child who continues to ~~receive supervision from~~ be supervised by the department or awaits adoption.

**(b) Determinations at Hearing.**

(1) The court shall determine

(A) whether the current permanency goal for the child is appropriate or should be changed;

(B) when the child will achieve one of the permanency goals;  
and

(C) whether the department has made reasonable efforts to finalize the permanency plan currently in effect.

(2) The court shall approve a permanency goal for the child as provided by law choosing from the following options, listed in order of preference:

(A) reunification;

(B) adoption, if a petition for termination of parental rights has been or will be filed;

(C) permanent guardianship of a dependent child under section 39.6221, Florida Statutes;

(D) permanent placement with a fit and willing relative under section 39.6231, Florida Statutes; or

(E) placement in another planned permanent living arrangement under section 39.6241, Florida Statutes.

(3) The best interest of the child is the primary consideration in determining the permanency goal. The court must also consider the reasonable preference of the child if the court has found the child to be of sufficient intelligence, understanding, and experience to express a preference and any recommendation of the guardian ad litem.

(c) **Case Plan.** The case plan must list the tasks necessary to finalize the permanency placement and shall be amended at the permanency hearing if necessary. If a concurrent case plan is in place, the court shall approve a single goal that is in the child's best interest.

(d) **Permanency Order.**

(1) The findings of the court regarding reasonable efforts to finalize the permanency plan must be explicitly documented, made on a case-by-case basis, and stated in the court order.

(2) The court shall enter an order approving the permanency goal for the child.

(3) If the court approves a permanency goal of permanent guardianship of a dependent child, placement with a fit and willing relative, or another planned permanent living arrangement, the court shall make findings as to why this permanent placement is established without adoption of the child to follow. The department and the guardian ad litem must provide the court with a recommended list and description of services needed by the child, such as independent living services and medical, dental, educational, or psychological referrals, and a recommended list and description of services needed by his or her caregiver.

(4) If the court establishes a permanent guardianship for the child, the court's written order shall

(A) transfer parental rights with respect to the child relating to protection, education, care and control of the person, custody of the person, and decision-making on behalf of the child to the permanent guardian;

(B) list the circumstances or reasons why the child's parents are not fit to care for the child and why reunification is not possible by referring to

specific findings of fact made in its order adjudicating the child dependent or by making separate findings of fact;

(C) state the reasons why a permanent guardianship is being established instead of adoption;

(D) specify the frequency and nature of visitation or contact between the child and his or her parents, siblings, and grandparents; and

(E) require that the permanent guardian not return the child to the physical care and custody of the person from whom the child was removed without the approval of the court.

(5) The court shall retain jurisdiction over the case and the child shall remain in the custody of the permanent guardian unless the order creating the permanent guardianship is modified by the court. The court shall discontinue regular review hearings and relieve the department of the responsibility for supervising the placement of the child. Notwithstanding the retention of jurisdiction, the placement shall be considered permanency for the child.

(6) If the court permanently places a child with a fit and willing relative, the court's written order shall

(A) list the circumstances or reasons why reunification is not possible by referring to specific findings of fact made in its order adjudicating the child dependent or by making separate findings of fact;

(B) state the reasons why permanent placement with a fit and willing relative is being established instead of adoption;

(C) specify the frequency and nature of visitation or contact between the child and his or her parents, siblings, and grandparents; and

(D) require that the relative not return the child to the physical care and custody of the person from whom the child was removed without the approval of the court.

(7) If the court establishes another planned permanent living arrangement as the child's permanency option:

(A) The court must find that a more permanent placement, such as adoption, permanent guardianship, or placement with a fit and willing relative, is not in the best interests of the child.

(B) The department shall document reasons why the placement will endure and how the proposed arrangement will be more stable and secure than ordinary foster care.

(C) The court must find that the health, safety, and well-being of the child will not be jeopardized by such an arrangement.

(D) The court must find that compelling reasons exist to show that placement in another planned permanent living arrangement is the most appropriate permanency goal.

**(e) Entry of Separate Order Establishing Permanency.** If the court permanently places a child in a permanent guardianship or with a fit and willing relative, the court shall enter a separate order establishing the authority of the permanent guardian or relative to care for the child, reciting that individual's powers and authority with respect to the child, and providing any other information the court deems proper which can be provided to persons who are not parties to the proceeding as necessary, notwithstanding the confidentiality provisions of Chapter 39, Florida Statutes.

**(f) Recommendations for Sustaining Permanency.** If the court approves a goal of placement with a fit and willing relative or another planned permanent living arrangement, the department and the guardian ad litem must provide the court with a recommended list and description of services needed by the child, and a recommended list and description of services needed by his or her caregiver.

## **RULE 8.500. PETITION**

### **(a) Initiation of Proceedings.**

(1) All proceedings seeking the termination of parental rights to a child shall be initiated by the filing of an original petition in the pending dependency action, if any.

(2) A petition for termination of parental rights may be filed at any time by the department, the guardian ad litem, or any person having knowledge of the facts. Each petition shall be titled a petition for termination of parental rights.

(3) When provided by law, a separate petition for dependency need not be filed.

### **(b) Contents.**

(1) The petition shall contain allegations as to the identity and residence of the parents, if known.

(2) The petition shall identify the age, sex, and name of the child. Two or more children may be the subject of the same petition.

(3) The petition shall include facts supporting allegations that each of the applicable statutory elements for termination of parental rights has been met.

(4) When required by law, the petition shall contain a showing that the parents were offered a case plan and did not substantially comply with it.

(5) The petition shall contain an allegation that the parents will be informed of the availability of private placement of the child with an adoption entity, as defined in chapter 63, Florida Statutes.

~~(5)~~(6) The petition shall have a certified copy of the birth certificate of each child named in it attached unless the petitioner, after diligent search and inquiry, is unable to produce it, in which case the petition shall state the date and place of birth of each child, unless these matters cannot be ascertained after diligent search and inquiry or for other good cause.



(c) **Verification.** The petition shall be signed under oath stating the good faith of the petitioner in filing it. No objection to a petition on the grounds that it was not signed or verified as required shall be entertained after a plea to the merits.

(d) **Amendments.** At any time before the conclusion of an adjudicatory hearing, an amended petition may be filed or the petition may be amended by motion. However, after a written answer has been filed or the adjudicatory hearing has commenced, amendments shall be permitted only with the permission of the court unless all parties consent. Amendments shall be freely permitted in the interest of justice and the welfare of the child. A continuance shall be granted on motion and a showing that the amendment prejudices or materially affects any party.

(e) **Defects and Variances.** No petition or any count of it shall be dismissed, or any judgment vacated, because of any defect in the form of the petition or of misjoinder of counts. If the court is of the opinion that the petition is so vague, indistinct, and indefinite as to mislead the parent and prejudice him or her in the preparation of a defense, the petitioner will be required to furnish a more definite statement.

(f) **Voluntary Dismissal.** The petitioner, without leave of the court, at any time before entry of an order of adjudication, may request a voluntary dismissal of the petition by serving a notice of request of dismissal on all parties or, if during a hearing, by so stating on the record. The petition shall be dismissed and the court loses jurisdiction unless another party adopts the petition within 72 hours. Unless otherwise stated, the dismissal shall be without prejudice.

(g) **Parental Consent.**

(1) The parents of the child may consent to the petition for termination of parental rights at any time, in writing or orally, on the record.

(2) If, before the filing of the petition for termination of parental rights, the parents have consented to the termination of parental rights and executed surrenders and waivers of notice of hearing as provided by law, this shall be alleged in the petition and copies shall be attached to the petition and presented to the court.

(3) If the parents appear and enter an oral consent on the record to the termination of parental rights, the court shall determine the basis on which a

factual finding may be made and shall incorporate these findings into its order of disposition.

**RULE 8.510. ADVISORY HEARING AND PRETRIAL STATUS CONFERENCES**

**(a) Advisory Hearing.**

(1) An advisory hearing on the petition to terminate parental rights must be held as soon as possible after service of process can be effected, but no less than 72 hours following service of process. Personal appearance of any person at the advisory hearing eliminates the time requirement for serving process on that person.

(2) The court must:

(A) advise the parents of their right to counsel and appoint counsel in accordance with legal requirements;

(B) advise the parents of the availability of private placement of the child with an adoption entity, as defined in chapter 63, Florida Statutes;

(C) determine whether an admission, consent, or denial to the petition shall be entered; and

(D) appoint a guardian ad litem if one has not already been appointed.

(3) If a parent served with notice fails to personally appear at the advisory hearing, the court shall enter a consent to the termination of parental rights petition for the parent who failed to personally appear.

(4) If an admission or consent is entered by all parents for a named child included in the petition for termination of parental rights and the court finds that termination of parental rights is in the best interest of the child, the court shall proceed to disposition alternatives as provided by law.

(5) If a denial is entered, the court shall set an adjudicatory hearing within the period of time provided by law or grant a continuance until the parties have sufficient time to proceed to an adjudicatory hearing.

**(b) Pretrial Status Conference.** Not less than 10 days before the adjudicatory hearing on a petition for involuntary termination of parental rights,

the court shall conduct a pretrial status conference to determine the order in which each party may present witnesses or evidence, the order in which cross-examination and argument shall occur, and any other matters that may aid in the conduct of the adjudicatory hearing.

**(c) Voluntary Terminations.** An advisory hearing may not be held if a petition is filed seeking an adjudication to voluntarily terminate parental rights. Adjudicatory hearings for petitions for voluntary termination must be set within 21 days of the filing of the petition. Notice of intent to rely on this subdivision must be filed with the court as required by law.

**PETITION FOR TERMINATION OF PARENTAL RIGHTS  
BASED ON VOLUNTARY RELINQUISHMENT**

**PETITION FOR TERMINATION OF  
PARENTAL RIGHTS**

Petitioner, .....(name)....., respectfully petitions this Court for termination of parental rights and permanent commitment of the minor child(ren), .....(name(s))....., to .....(agency name)..... for the purpose of subsequent adoption, and as grounds states the following:

**A. PARTIES**

1. The child, .....(name)....., is a male/female child born on .....(date)....., at .....(city, county, state)..... At the time of the filing of this petition, the child is .....(age)..... A copy of the child’s birth certificate is attached to this Petition and incorporated as Petitioner’s Exhibit .....

COMMENT: Repeat above for each child on petition.

2. The child(ren) is/are presently in the care and custody of .....(name)....., and is/are residing in ..... County, Florida.

3. An affidavit under the Uniform Child Custody Jurisdiction and Enforcement Act is attached to this as Petitioner’s Exhibit .....

4. The natural mother of the child(ren) is .....(name)....., who resides at .....

5. The natural/alleged/putative father of the child(ren) .....(name(s))..... is .....(name)....., who resides at .....

COMMENT: Repeat #5 as necessary.

6. A guardian ad litem ..... has ..... has not been appointed to represent the interests of the child(ren) in this cause.

**B. GROUNDS FOR TERMINATION**

1. The parent(s) have been advised of their right to legal counsel at all hearings that they attended.

2. The parents will be informed of the availability of private placement of the child with an adoption entity as defined in chapter 63, Florida Statutes.

23. The mother, .....(name)....., freely, knowingly, voluntarily, and ..... with ..... without advice of legal counsel executed an Affidavit and Acknowledgment of Surrender,

Consent, and Waiver of Notice on .....(date)....., for termination of her parental rights to the minor child, .....(name)....., under section 39.806(1)(a), Florida Statutes.

COMMENT: Repeat above as necessary.

34. The father, .....(name)....., freely, knowingly, and voluntarily, and ..... with ..... without advice of legal counsel executed an Affidavit and Acknowledgment of Surrender, Consent, and Waiver of Notice on .....(date)....., for termination of his parental rights to the minor child, .....(name)....., under section 39.806(1)(a), Florida Statutes.

COMMENT: Repeat above as necessary.

45. Under the provisions of chapter 39, Florida Statutes, it is in the manifest best interest of the child(ren) for parental rights to be terminated for the following reasons:

..... allegations which correspond to sections 39.810(1)–(11), Florida Statutes.

56. A copy of this petition shall be served on the natural mother, .....(name).....; the father(s), .....(name(s)).....; the custodian, .....(name).....; and the guardian ad litem, .....(name).....

67. This petition is filed in good faith and under oath.

WHEREFORE, the petitioner respectfully requests that this court grant this petition; find that the parents have voluntarily surrendered their parental rights to the minor child(ren); find that termination of parental rights is in the manifest best interests of this/these child(ren); and that this court enter an order permanently committing this/these child(ren) to the .....(name)..... for subsequent adoption.

\_\_\_\_\_  
.....(petitioner's name and identifying information).....

Verification

\_\_\_\_\_  
.....(attorney's name).....  
.....(address and telephone number).....  
.....(email address(es)).....  
.....(Florida Bar number).....

Certificate of Service

## **APPENDIX B**

**Proposed rule**

**Reasons for change**

**RULE 8.201. COMMENCEMENT OF PROCEEDINGS**

**(a) Commencement of Proceedings.** Proceedings are commenced when:

- (1) an initial shelter petition is filed;
- (2) a petition alleging dependency is filed; ~~or~~
- (3) a petition for termination of parental rights is filed; or
- (4) a petition for an injunction to prevent child abuse under chapter 39, Florida Statutes, is filed.

**(b)** [No change]

Section 2, Ch. 2012-178, Laws of Fla., amended section 39.013(2), Florida Statutes, to add “when a petition for an injunction to prevent child abuse is filed” to situations when jurisdiction attaches and a dependency proceeding is commenced. A new subdivision (a)(4) has been added to the rule to reflect this change.



**Proposed rule**

**Reasons for change**

**RULE 8.415. JUDICIAL REVIEW OF DEPENDENCY CASES**

(a) [No change]

(b) [No change]

(c) **Report.** In all cases, the department or its agent shall prepare a report to the court. The report shall contain facts showing the court to have jurisdiction of the cause as a dependency case. It shall contain information as to the identity and residence of the parent, if known, and the legal custodian, the dates of the original dependency adjudication and any subsequent judicial review proceedings, the results of any safe-harbor placement assessment including the status of the child's placement, and a request for one or more of the following forms of relief:

(1)–(3) [No change]

(d) [No change]

(e) [No change]

(f) [No change]

(g) [No change]

(h) [No change]

**Committee Notes**

[No change]

Chapter 2012-105, Laws of Fla., the Florida Safe Harbor Act, creates various provisions for children who have been sexually exploited. Section 5 of the Act creates section 39.524, Florida Statutes, Safe-harbor placement. Section 39.524(2), Florida Statutes, requires that the results of any safe-harbor placement assessment under section 39.524(1), Florida Statutes, be included in the next judicial review for the child. *Rule 8.415(c)* has been amended to include this information.

**Proposed rule**

**RULE 8.425. PERMANENCY HEARINGS**

(a) **Required Review.** A permanency hearing must be held no later than 12 months after the date the child was removed from the home or ~~no later than~~ within 30 days after a court determines that reasonable efforts to return a child to either parent are not required, whichever occurs first. A permanency hearing must be held at least every 12 months for any child who continues to ~~receive supervision from~~ be supervised by the department or awaits adoption.

(b) [No change]

(c) [No change]

(d) [No change]

(e) **Entry of Separate Order Establishing Permanency.** If the court permanently places a child in a permanent guardianship or with a fit and willing relative, the court shall enter a separate order establishing the authority of the permanent guardian or relative to care for the child, reciting that individual's powers and authority with respect to the child, and providing any other information the court deems proper which can be provided to persons who are not parties to the proceeding as necessary, notwithstanding the confidentiality provisions of Chapter 39, Florida Statutes.

(f) **Recommendations for Sustaining Permanency.** If the court approves a goal of placement with a fit and willing relative or another planned permanent living arrangement, the department and the guardian ad litem must provide the court with a recommended list and description of services needed by the

**Proposed rule**

Section 12, Ch. 2012-178, Laws of Fla., amended section 39.621(1), Fla. Stat., as follows:

(1) Time is of the essence for permanency of children in the dependency system. A permanency hearing must be held no later than 12 months after the date the child was removed from the home or within ~~no later than~~ 30 days after a court determines that reasonable efforts to return a child to either parent are not required, whichever occurs first. The purpose of the permanency hearing is to determine when the child will achieve the permanency goal or whether modifying the current goal is in the best interest of the child. A permanency hearing must be held at least every 12 months for any child who continues to be supervised by ~~receive supervision from~~ the department or awaits adoption.

The language in subdivision (a) has been amended to conform to this change.

Grammatical correction

Grammatical correction

child, and a recommended list and description of services needed by his or her caregiver.

## Reasons for change

### Proposed rule

#### **RULE 8.500. PETITION**

(a) [No change]

(b) **Contents.**

(1) The petition shall contain allegations as to the identity and residence of the parents, if known.

(2) The petition shall identify the age, sex, and name of the child. Two or more children may be the subject of the same petition.

(3) The petition shall include facts supporting allegations that each of the applicable statutory elements for termination of parental rights has been met.

(4) When required by law, the petition shall contain a showing that the parents were offered a case plan and did not substantially comply with it.

(5) The petition shall contain an allegation that the parents will be informed of the availability of private placement of the child with an adoption entity, as defined in chapter 63, Florida Statutes.

~~(5)~~(6) The petition shall have a certified copy of the birth certificate of each child named in it attached unless the petitioner, after diligent search and inquiry, is unable to produce it, in which case the petition shall state the date and place of birth of each child, unless these matters cannot be ascertained after diligent search and inquiry or for other good cause.

Section 1 of Chapter 2012-81, Laws of Florida, amended section 39.802(4), Florida Statutes, by addition of subdivision (d), requiring that the petition for termination of parental rights include an allegation that the parent(s) “will be informed of the availability of private placement of the child with an adoption entity.” A new subdivision (b)(5) has been added to incorporate this language.

**(c)** [No change]

**(d)** [No change]

**(e)** [No change]

**(f)** [No change]

**(g)** [No change]

**Proposed rule**

**Reasons for change**

**RULE 8.510. ADVISORY HEARING AND PRETRIAL STATUS CONFERENCES**

**(a) Advisory Hearing.**

(1) An advisory hearing on the petition to terminate parental rights must be held as soon as possible after service of process can be effected, but no less than 72 hours following service of process. Personal appearance of any person at the advisory hearing eliminates the time requirement for serving process on that person.

(2) The court must:

(A) advise the parents of their right to counsel and appoint counsel in accordance with legal requirements;

(B) advise the parents of the availability of private placement of the child with an adoption entity, as defined in chapter 63, Florida Statutes;

~~(B)~~ determine whether an admission, consent, or denial to the petition shall be entered; and

~~(D)~~ appoint a guardian ad litem if one has not already been appointed.

(3)–(5) [No change]

**(b)** [No change]

**(c)** [No change]

A new subdivision (a)(2)(B) has been added to incorporate the requirement that the parents be advised of the availability of private placement of the child with an adoption entity. See § 1, Ch. 2012-81, Laws of Fla.

## **APPENDIX C**