

**IN THE SUPREME COURT OF FLORIDA**

**IN RE: AMENDMENT TO  
FLORIDA RULE OF CRIMINAL  
PROCEDURE 3.220**

**CASE NO. SC12-**

**THE FLORIDA CRIMINAL PROCEDURE RULES COMMITTEE  
OUT-OF-CYCLE REPORT TO AMEND RULE 3.220**

Mark Caliel, Chair of the Florida Criminal Procedure Rules Committee (“Committee”), and John F. Harkness, Jr., Executive Director of The Florida Bar, file this out-of-cycle report of the Committee, under *Fla. R. Jud. Admin. 2.140(e)*.

The Committee proposes an amendment to Rule 3.220. The Committee voted 23-0-1 in favor of the amendment. This report is being submitted out-of-cycle because the rule amendment implements 2011 legislative amendments. The Board of Governors of The Florida Bar has reviewed the proposed amendment and voted in favor of this amendment.

Because this amendment is a result of legislation, notice of the amendment was not published in *The Florida Bar News* prior to filing this report.

**ATTACHMENTS:**

- Appendix A: Proposed amendments to *Fla. R. Crim. P. 3.220* in legislative format
- Appendix B: Two-column chart
- Appendix C: Referral letter to Committee
- Appendix D: Ch. 2011-220, § 4, Laws of Fla.

**SUMMARY AND RATIONALE FOR PROPOSED AMENDMENT:**

Chapter 2011-220, §4, Laws of Florida, codified at § 92.561, Fla. Stat., provides “a court shall deny, in a criminal proceeding, any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that portrays sexual performance by a child or constitutes child pornography so long as the state attorney makes the property or material reasonably available to the defendant.” *Fla. R. Crim. P. 3.220(b)* provides that prosecutors shall “permit the defendant to inspect, copy, test, and photograph”

specific information listed in the rule. The Committee proposes the following amendment to Rule 3.220(b)(1) to make the rule consistent with the statute:

**(b) Prosecutor's Discovery Obligation.**

(1) Within 15 days after service of the Notice of Discovery, the prosecutor shall serve a written Discovery Exhibit which shall disclose to the defendant and permit the defendant to inspect, copy, test, and photograph the following information and material within the state's possession or control, except that any property or material that portrays sexual performance by a child or constitutes child pornography may not be copied, photographed, duplicated, or otherwise reproduced:

WHEREFORE, the Florida Criminal Procedure Rules Committee respectfully requests that the Court amend the Rules of Criminal Procedure as outlined in this report.

Respectfully submitted on this 24th day of October, 2012 by

s/ Mark Caliel

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s/ John F. Harkness, Jr.

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## **CERTIFICATIONS**

### **CERTIFICATION OF FONT COMPLIANCE**

I certify that this report was prepared in compliance with the font requirements of *Fla. R. App. P. 9.210(a)(2)*.

### **CERTIFICATION THAT RULES HAVE BEEN READ AGAINST WEST'S RULES OF COURT**

I certify that these rules were read against *West's Florida Rules of Court — State* (2012 Revised Edition).

s/ Heather S. Telfer  
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