

IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENTS TO THE RULES CASE NO. SC17-
REGULATING THE FLORIDA BAR -
CHAPTER 21 MILITARY SPOUSE
AUTHORIZATION TO ENGAGE IN THE
PRACTICE OF LAW IN FLORIDA

PETITION TO AMEND THE RULES REGULATING THE FLORIDA BAR

The Florida Bar (the bar) petitions this Court for an order amending the Rules Regulating the Florida Bar and states:

Jurisdictional Statement

This petition has been authorized by the Board of Governors of The Florida Bar (Board of Governors) under R. Reg. Fla. Bar 1-12.1.

Organization of Amendments

The bar proposes new subchapter 21 regarding authorization of military spouses to practice law in Florida as described further below. This section provides information regarding development of these rules proposals as required by Part III of this Court's administrative order number AOSC 06-14 of June 14, 2006 in *In Re: Guidelines for Rules Submissions*. The following information is included: an explanation of the amendments; the reasons for the change; the source of the proposal; the names of groups or individuals who commented or collaborated on the proposal during its development; and voting records of

pertinent committees and the Board of Governors. There were no dissenting views within the Board of Governors regarding this submission.

Amendments

CHAPTER 21 MILITARY SPOUSE AUTHORIZATION TO ENGAGE IN THE PRACTICE OF LAW IN FLORIDA

Explanation: Creates new chapter 21 which would permit spouses of members of the U.S. armed forces to practice law in Florida without taking the Florida Bar Exam while the spouse is stationed in Florida, requiring affiliation with a Florida Bar member under specified circumstances. The new chapter sets forth the requirements for eligibility, application, certification by this Court, renewal, permissible activities while certified, continuing legal education, and termination of the eligibility to practice law by the military spouse.

Reasons: Due to the unique mobility requirements of military families, lawyers licensed in a jurisdiction other than Florida often have to relocate to Florida with their spouse who is in the military. Currently, that lawyer is unable to engage in the practice of law in Florida without completing the Florida Bar Examination. Moving to Florida and taking the Florida Bar Examination is often impractical because of the timing of the deployment to Florida and the dates the bar examination is given. The timing issues could result in the military spouse being reassigned before the lawyer spouse is admitted. The cost of having to take multiple bar examinations is also often prohibitive. For these reason, some lawyer spouses choose to remain in the jurisdiction where they are licensed splitting families apart while the military spouse is stationed in Florida. Recognizing the unique issues facing lawyer spouses of those in the military, in 2012 the American Bar Association adopted a resolution encouraging states to adopt a rule allowing for admission without having to take the bar examination. The American Bar Association resolution is supported by the Conference of Chief Justices. Chapter 21, the Military Spouse Authorization to Engage in the Practice of Law rule (commonly referred to as the military spouse rule) accomplishes the goals set forth by the American Bar Association and would allow lawyers licensed in a jurisdiction other than Florida whose spouse is serving in the United States armed forces in Florida to become a member of The Florida Bar without having to sit for the Florida Bar Examination. The chapter would only apply to lawyers who are spouses of active military personnel stationed in Florida. The lawyer would have to meet the eligibility requirements, including the passage of a character and fitness

investigation by the Florida Board of Bar Examiners. The lawyer would become a member of The Florida Bar during the time their military spouse is stationed in Florida. Therefore, while it is full admission to The Florida Bar, the admission is temporary lasting only as long as the military spouse is stationed in Florida. As a member of The Florida Bar, the lawyer would be under the jurisdiction of this Court and could be subject to discipline for unethical conduct. To date, 23 jurisdictions have adopted a military spouse rule.

Source: Military Affairs Committee

Background Information – Member Commentary / Committee Action: Military Affairs Committee approved 15-1 on June 18, 2016. Rules Committee approved 7-0 on substantive and procedural basis on July 11, 2016. Program Evaluation Committee approved 13-0 on strategic basis on July 28, 2016. Board of Governors first reading on July 29, 2016. The bar's Chief Financial Officer determined de minimus fiscal impact on October 25, 2016.

Board Action: Board of Governors approved on voice vote without objection on December 9, 2016.

Official Notice of Amendments

Pursuant to R. Regulating Fla. Bar 1-12.1(g), formal notice of intent to file all the proposals in this petition was published in the January 1, 2017 issue of the bar *News*. A copy of that published notice from the Internet version of that *News* issue is included with this petition, in Appendix C. This notice can also be found at the following address:

<http://www.floridabar.org/DIVCOM/JN/jnnews01.nsf/Articles/EF49C03D48098E9C85258089006C6C0D>

Editorial Correction and Request for Waiver of Rules Procedures

During the preparation of this petition, the bar detected 1 minor editorial error within this proposal as approved by the Board of Governors. This editorial error was not reviewed by the Board of Governors, but was made under the authority granted to bar staff to correct errors in this Court's administrative order AOSC06-14, dated June 14, 2006. This editorial error was corrected in the official bar *News* notice both in print and on-line. In subdivision (a) of proposed rule 21-

4.1, a comma was added after the word “obligations” to comply with Part I(a)(2) of this Court’s Rules Style Guide.

The bar submits that these deviations from the requirements of R. Regulating Fla. Bar 1-12.1 are minimal and the amendments themselves are non-controversial. The bar therefore requests that these additional revised proposals be accepted by this Court, and that this Court waive approval by the Board of Governors as to all the edits and Board of Governors approval and official notice in the print version of the bar *News* for all necessary rules, pursuant to R. Regulating Fla. Bar 1-12.1(i).

All other requested amendments in this petition were promulgated in full compliance with applicable rules and policies.

Other Pending Amendments

There are currently 5 pending petitions involving amendments to Rules Regulating the Florida Bar filed by the bar:

In Re: Amendments to The Rules Regulating the Florida Bar (Biennial Petition), was filed on October 26, 2016. Case No. SC16-1961.

In Re: Amendments to The Rules Regulating the Florida Bar (Biennial Housekeeping), was filed on October 26, 2016. Case No. SC16-1962.

In Re: Amendments to The Rules Regulating the Florida Bar - Rules 11-1.3 and 11-1.9 (Biennial Petition), was filed on October 26, 2016. Case No. SC16-1963.

In re Amendments to Rules Regulating the Florida Bar Rule 4-1.19 and Florida Family Law Rule of Procedure 12.745 (Collaborative Law Process, Case No. SC16-1685), was filed September 16, 2016.

In re: Amendments to the Rules Regulating the Florida Bar - Subchapter 4-7 (Lawyer Referral Services), Case No. SC16-1470, was filed August 15, 2016.

The proposed amendments within this filing are unrelated to these 5 different rules matters and may be considered independent of them.

Contents of Appendices

The complete text of all proposals is included in Appendix A to this petition, in legislative format. As this is an entirely new chapter, all language is underlined.

A separate two-column presentation follows in Appendix B, which includes the text of the proposed new rules underlined together with an abbreviated recitation of the reasons for the changes.

The notice of intent to file this petition is provided in Appendix C.

Appendix D includes a report to The Florida Bar's Military Affairs Committee from the Military Spouse J.D. Network and comments in support of the proposal listed below.

Comments in Response to Amendments

Comments in support of these amendments were filed with the bar by the Florida Board of Bar Examiners; the Florida Association of Women Lawyers; Lisa Smith Bedwell, Esquire; Dennis G. Diecidue; Amanda Rohwedder, M.S.; Wendelyn Gowen, Esquire; David Alexander, Esquire; Steven Dell, Esquire; Robert Bartels, Esquire; Amanda Reher, Esquire; William England, Esquire; and Benjamin Loving, Esquire. The bar received no comments in opposition to the proposal.

Oral Argument Not Requested

The bar does not seek oral argument regarding these amendments, unless this Court orders oral argument or comments are filed that require additional response or appearance by the bar.

Effective Date Request

As to all amendments sought in this filing, the bar requests that any changes be made effective no sooner than 60 days from the date of this Court's order so

that the bar can institute any program changes necessary to implement the amendments, or a longer date if requested by the Florida Board of Bar Examiners.

The bar requests that this Court enter an order amending the Rules Regulating the Florida Bar as requested in this petition.

Respectfully submitted,

/s/ John F. Harkness, Jr.

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CERTIFICATE OF TYPE SIZE AND STYLE

I certify that this petition is typed in 14 point Times New Roman Regular type.

/s/ John F. Harkness, Jr.

John F. Harkness, Jr.
Executive Director
Florida Bar Number 123390

CERTIFICATE OF READ-AGAINST

I certify that no read-against of the Rules Regulating The Florida Bar set forth within this petition and the most recent copy of *Thomson Reuter's Florida Rules of Court* was performed because the entire chapter proposed is new.

/s/ John F. Harkness, Jr.

John F. Harkness, Jr.
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