

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO THE FLORIDA
RULES OF JUDICIAL ADMINISTRATION CASE NO. 03-
105**

**COMMENT OF THE STEERING COMMITTEE ON FAMILIES
AND CHILDREN IN THE COURT**

The Steering Committee on Families and Children in the Court (“the Committee”), by and through the Chair of its Dependency Workgroup, Judge Lisa Davidson, files this comment regarding the proposed amendments to the Rules of Judicial Administration. The Committee takes no position on the proposed amendments to Rules 2.060, 2.070, 2.160 and 2.170.

Rule 2.071 - Use of Communication Equipment

The Committee reviewed and discussed the proposed amendments to Rule 2.071, allowing the presentation of testimony by communication equipment in the trial court’s discretion, over objection by a party. There was consensus among the Committee that permitting the use of technology in this manner would be very useful in many cases within the family court division. For example, use of communication equipment will facilitate testimony and could expedite cases when one parent is out of state or when a medical professional is at a facility in another

circuit. However, with respect to the use of such equipment in delinquency proceedings, the committee wishes to point out that this Court has previously rejected the use of audio-visual equipment in detention hearings. In re: Amendment to Florida Rule of Juvenile Procedure 8.100(A), 796 So. 2d 470 (Fla. 2001). The Committee recommends the Court evaluate whether the changes proposed in this petition are consistent with the Court's previous decision and policies established with regard to the Rules of Juvenile Procedure.

Rule 2.085 - Time Standards for Trial and Appellate Courts

The Committee agrees with the elimination of the 14 day time standard for temporary support and enforcement of support hearings. Additionally, the Committee supports the Rules of Judicial Administration Committee's proposal that distinct time standards be established for delinquency and dependency, as the goals and the timeframes for these proceedings are very different.

Under the proposed amendments, the time standards for delinquency are:

Adjudicatory hearing (~~delinquency~~) – 90 days (filing of petition or child being taken into custody to final disposition hearing)

Adjudicatory hearing (child detained) - 21 days (~~filing of petition~~ date of detention to hearing)

The time standards in Rule 2.085 for criminal, civil and domestic relations cases measure the time from the beginning of the case until disposition. The Committee recommends that the proposed time standard for delinquency cases be revised to use disposition as the last event in the case, consistent with these established time frames and the new proposals for dependency. While disposition is not the completion of the case (in either delinquency and dependency) it is more representative of the conclusion of judicial work than the adjudicatory hearing.

Changing the time standard from the adjudicatory hearing to the disposition hearing would require modification of the number of days for completing judicial work. Chapter 985 provides that a child may not be held in secure, nonsecure, or home detention care for more than 15 days following the entry of an order of adjudication. See § 985.215(5)(d), Fla. Stat. Therefore, 15 days should be added to the time standard for children who are detained. There is no statutory time standard for the disposition hearing if the child is not detained, but the Committee believes 30 days from the adjudicatory hearing is adequate. Should the Court accept these recommendations, the time standards for delinquency would be:

~~Adjudicatory~~ Disposition hearing (~~delinquency~~) – ~~90~~ 120
days (filing of petition or child being taken into custody to final
disposition hearing)

~~Adjudicatory~~ Disposition hearing (child detained) - ~~21~~ 36
days (filing of petition date of detention to hearing)

Subsection (F) establishes the following time standards for dependency:

Disposition hearing (child sheltered) – 88 days (shelter hearing to disposition)

Disposition hearing (child not sheltered) – 180 days

The Committee strongly supports the 88 day time standard established for cases in which children are taken into shelter. This conforms with Chapter 39, Florida Statutes, and the Adoptions and Safe Families Act which both focus on achieving permanency for children in 12 months. However, the Committee does not agree with the time standard provided for children who are not sheltered. It is the opinion of the Committee that 180 days as a benchmark is too long. The recommendation of the Rules of Judicial Administration Committee does not conflict with statutory or federal law. Nevertheless, as a matter of policy, the Committee believes the judiciary should endeavor to achieve swift resolution of all cases involving children, particularly in dependency court. Instead of 180 days, the Committee recommends a time standard of 120 days for children who are not in shelter. This figure is 30 days longer than the time standard established for children in shelter care, which would enable courts to give priority to those children in shelter care,

while continuing to focus on the need for permanency for all children and families in the dependency system.

As a technical matter, the time standard for children who are not sheltered does not specify which event marks the beginning of the case. Because these children are not sheltered, they come into the jurisdiction of the court upon the filing of a petition for dependency. § 39.0132, Fla. Stat. The Committee recommends the following clarification:

Disposition hearing (child not sheltered) - 120 days (filing of petition for dependency to disposition hearing)

As mentioned previously, a dependency case does not end at the disposition hearing. Judicial reviews and permanency hearings are conducted following disposition before active judicial work on a case concludes. Therefore, the Committee suggests that the Court request the Rules of Judicial Administration Committee consider establishing two additional time standards for dependency proceedings. First, the Committee suggests developing a time standard for completion of the permanency hearing. The Adoption and Safe Families Act requires that courts conduct permanency hearings within 12 months of the date the child is removed from the home (sheltered), as do the Florida Statutes. 45 C.F.R. § 1356.21(b)(2); § 39.701(8)(f), Fla. Stat. There can be financial consequences for

the state if such hearings are not held within the 12 months of the date the child is sheltered. Incorporating such a standard into the Rules of Judicial Administration is appropriate. Second, the Committee believes that time frames should be established for conducting termination of parental rights proceedings. While the Florida Statutes provide some time frames for events in these proceedings, other events are left to occur “as soon as practicable.” § 39.808, Fla. Stat. Providing guidance as to an acceptable time standard for completion of such proceedings would prevent cases from lingering without resolution and bring children to permanency sooner. The Committee has not previously presented these issues to the Rules of Judicial Administration Committee. Therefore, the Committee suggests that the Court request the Rules of Judicial Administration Committee consider these issues during its next cycle, or at an earlier time affixed by the Court. The Steering Committee on Families and Children in the Court is available to assist and collaborate with the Rules of Judicial Administration Committee as needed.

Respectfully submitted this ____ day of April, 2003

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this COMMENT OF THE
STEERING COMMITTEE ON FAMILIES AND CHILDREN IN THE COURT

has been furnished by the U.S. Mail, this ____ day of April, 2003, to:

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