

APPENDIX C

Proposed Rule

Reason for Change

RULE 3.111 PROVIDING COUNSEL TO INDIGENTS

(a) [NO CHANGE]

(b) **Cases Applicable.**

(1) [NO CHANGE]

(A) [NO CHANGE]

(B) [NO CHANGE]

i. [NO CHANGE]

ii. [NO CHANGE]

(C) [NO CHANGE]

(2) [NO CHANGE]

(3) [NO CHANGE]

(4) [NO CHANGE]

(5) Before appointing a public defender, the court shall:

(A) inform the accused that, if the public defender is appointed, a lien for the services rendered by the public defender may be imposed under section 27.56, Florida Statutes;

(B) make inquiry into the financial status of the accused in a manner not inconsistent with the guidelines established by section 27.52, Florida Statutes. The accused shall respond to the inquiry under oath;

(C) require the accused to execute an affidavit of insolvency ~~in the format provided~~ as required by section 27.52, Florida Statutes.

(c) [NO CHANGE]

(1) [NO CHANGE]

(A) [NO CHANGE]

(B) [NO CHANGE]

(2) [NO CHANGE]

(3) [NO CHANGE]

(4) [NO CHANGE]

(A) [NO CHANGE]

(B) [NO CHANGE]

This matter came before the committee as a result of newly enacted legislation that was provided to Mr. Miles McGrane, President, The Florida Bar, by Thomas D. Hall, Clerk of Court, Florida Supreme Court. Specifically, the committee reviewed 2004 Fla. Laws ch. 2004-265, and *In re Approval of Form for Use by Clerks of the Circuit Courts Pursuant to Rule 10-2.1(a) of the Rules Regulating the Florida Bar*, No. SC04-994, 2004 WL 1348627 (Fla. 2004). The purpose of the proposed rule change is to conform with the newly enacted legislation.

(d) [NO CHANGE]

(1) [NO CHANGE]

(2) [NO CHANGE]

(3) [NO CHANGE]

(4) [NO CHANGE]

(5) [NO CHANGE]

(e) [NO CHANGE]

(1) [NO CHANGE]

(A) [NO CHANGE]

(B) [NO CHANGE]

(C) [NO CHANGE]

(D) [NO CHANGE]

(2) [NO CHANGE]

(3) [NO CHANGE]

Committee Notes

2004 Amendment. See Affidavit of Indigent Status, as provided by *In re Approval of Form for Use by Clerks Of the Circuit Courts Pursuant to Rule 10-2.1(a) of the Rules Regulating the Florida Bar*, 29 Fla. L. Weekly S384 (Fla. June 17, 2004).

The committee note simply provides the citation to an affidavit of indigent status previously approved by the Court.

**RULE 3.172. ACCEPTANCE OF GUILTY OR NOLO
CONTENDERE PLEA**

(a) [NO CHANGE]

(b) [NO CHANGE]

(c) [NO CHANGE]

(1) [NO CHANGE]

(2) [NO CHANGE]

(3) [NO CHANGE]

(4) [NO CHANGE]

(5) [NO CHANGE]

(6) [NO CHANGE]

(7) [NO CHANGE]

(8) [NO CHANGE]

(9) that if the defendant pleads guilty or nolo contendere, and the offense to which the defendant is pleading is a sexually violent offense, or if the defendant has been previously convicted of a sexually violent offense, the plea may subject the defendant to involuntary civil commitment as a sexually violent offender upon completion of his or her sentence.

This matter came before the committee at the request of Thomas D. Hall, Clerk of Court, Florida Supreme Court, on behalf of the Florida Supreme Court. The purpose of the proposed rule change is to advise defendants of the consequences of entering a plea if the defendant is pleading to a sexually violent offense, or if the defendant has previously been convicted of a sexually violent offense.

(d) [NO CHANGE]

(e) [NO CHANGE]

(f) [NO CHANGE]

(g) [NO CHANGE]

(h) [NO CHANGE]

(i) [NO CHANGE]

Committee Notes

2004 Committee Note. Rule 3.172(c)(9) added. See section 394.910, et seq., Fla. Stat.; and *State v. Harris*, 29 Fla. L. Weekly S230 (Fla. May 13, 2004).

The committee note directs people to applicable law supporting the proposed amendment.

RULE 3.220. DISCOVERY

(a) [NO CHANGE]

(b) [NO CHANGE]

(1) [NO CHANGE]

(A) [NO CHANGE]

(i) [NO CHANGE]

(ii) [NO CHANGE]

(ii) [NO CHANGE]

(B) [NO CHANGE]

(C) [NO CHANGE]

(D) [NO CHANGE]

(E) [NO CHANGE]

(F) [NO CHANGE]

(G) [NO CHANGE]

(H) [NO CHANGE]

(I) [NO CHANGE]

(J) [NO CHANGE]

(K) [NO CHANGE]

(2) [NO CHANGE]

(3) [NO CHANGE]

(4) [NO CHANGE]

(c) [NO CHANGE]

(1) [NO CHANGE]

(A) [NO CHANGE]

(B) [NO CHANGE]

(C) [NO CHANGE]

(D) [NO CHANGE]

(E) [NO CHANGE]

(F) [NO CHANGE]

(G) [NO CHANGE]

(H) [NO CHANGE]

(I) [NO CHANGE]

(2) [NO CHANGE]

(d) [NO CHANGE]

(1) [NO CHANGE]

(A) [NO CHANGE]

(B) [NO CHANGE]

(i) [NO CHANGE]

(ii) [NO CHANGE]

(iii) [NO CHANGE]

(2) [NO CHANGE]

(3) [NO CHANGE]

(e) [NO CHANGE]

(f) [NO CHANGE]

(g) [NO CHANGE]

(1) [NO CHANGE]

(2) [NO CHANGE]

(h) [NO CHANGE]

(1) [NO CHANGE]

(A) [NO CHANGE]

(B) [NO CHANGE]

(C) [NO CHANGE]

(D) [NO CHANGE]

(2) [NO CHANGE]

(A) [NO CHANGE]

(B) [NO CHANGE]

(3) [NO CHANGE]

(4) [NO CHANGE]

(5) [NO CHANGE]

(6) [NO CHANGE]

(7) [NO CHANGE]

(8) [NO CHANGE]

(i) [NO CHANGE]

(j) [NO CHANGE]

(k) [NO CHANGE]

(l) [NO CHANGE]

(1) [NO CHANGE]

(2) [NO CHANGE]

(m) [NO CHANGE]

(1) [NO CHANGE]

(2) [NO CHANGE]

(3) [NO CHANGE]

(n) [NO CHANGE]

(1) [NO CHANGE]

(2) [NO CHANGE]

(3) [NO CHANGE]

(A) [NO CHANGE]

(B) [NO CHANGE]

(C) [NO CHANGE]

(o) **Costs of Indigents.** After a defendant is adjudged insolvent, the reasonable costs incurred in the operation of these rules shall be taxed as costs against the ~~county~~ state.

(p) [NO CHANGE]

(1) [NO CHANGE]

(2) [NO CHANGE]

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RULE 3.390. JURY INSTRUCTIONS

(a) [NO CHANGE]

(b) **Form of Instructions.** ~~Every~~ The charge to a jury shall be orally delivered; and ~~charges in capital cases shall; and in the discretion of the court in noncapital cases may;~~ also be in writing. All written charges shall also be filed in the cause. ~~Charges in other than capital cases shall be taken by the court reporter and, if the jury returns a verdict of guilty, transcribed by the court reporter and filed in the cause.~~

(c) [NO CHANGE]

(d) [NO CHANGE]

(e) [NO CHANGE]

This matter came before the committee at the request of Thomas D. Hall, Clerk of Court, Florida Supreme Court, on behalf of the Florida Supreme Court. The purpose of the proposed rule changes is to implement recommendations made by the Judicial Management Council’s Jury Innovations Committee. Specifically, the proposed rule change deals with recommendation 26, which deals with providing jurors with written instructons.

RULE 3.400. MATERIALS TO THE JURY ROOM

(a) Discretionary Materials. The court may permit the jury, upon retiring for deliberation, to take to the jury room:

- (1) a copy of the charges against the defendant;
- (2) forms of verdict approved by the court, after being first submitted to counsel;
- ~~(3) in noncapital cases, any instructions given, but if any instructions is taken all the instructions shall be taken;~~
- (43) all things received in evidence other than depositions. If the thing received in evidence is a public record or a private document which, in the opinion of the court, ought not to be taken from the person having it in custody, a copy shall be taken or sent instead of the original.

(b) Mandatory Materials. ~~In capital cases, T~~the court must provide the jury, upon retiring for deliberation, with a written copy of ~~all~~ the instructions given to take to the jury room.

This matter came before the committee at the request of Thomas D. Hall, Clerk of Court, Florida Supreme Court, on behalf of the Florida Supreme Court. The purpose of the proposed rule changes is to implement recommendations made by the Judicial Management Council's Jury Innovations Committee. Specifically, the proposed rule change deals with recommendation 26, which deals with providing jurors with copies of jury instructions for use during jury deliberations.

RULE 3.670. RENDITION OF JUDGMENT

If the defendant is found guilty, a judgment of guilty and, if the defendant has been acquitted, a judgment of not guilty shall be rendered in open court and in writing, signed by the judge, filed, and recorded. However, where allowed by law, the judge may withhold an adjudication of guilt if the judge places the defendant on probation.

[NO CHANGE]

Committee Notes

2004 Amendment. Amended to conform with section 775.08435, Fla. Stat. (2004), effective July 1, 2004 (ch. 2004-11, Laws of Fla.).

This matter came before the committee as a result of newly enacted legislation that was provided to Mr. Miles McGrane, President, The Florida Bar, by Thomas D. Hall, Clerk of Court, Florida Supreme Court. Specifically, the committee reviewed 2004 Fla. Laws ch. 2004-60, which enacted §775.08435, Florida Statutes. The purpose of the proposed rule change is to conform with the newly enacted legislation.

The committee note simply indicates the reason for the rule change.

