

Proposed rule

Reasons for change

RULE 2.050. TRIAL COURT ADMINISTRATION

- (a) **Purpose.** [NO CHANGE]
- (b) **Chief Judge.** [NO CHANGE]
- (c) **Selection.** [NO CHANGE]
- (d) **Circuit Court Administrator.** [NO CHANGE]
- (e) **Local Rules and Administrative Orders.**

(1) Local court rules as defined in rule 2.020 may be proposed by a majority of the circuit and county judges in the circuit. The judges shall notify the local bar within the circuit of the proposal, after which they shall permit a representative of the local bar, and may permit any other interested person, to be heard orally or in writing on the proposal before submitting it to the supreme court for approval. When a proposed local rule is submitted to the supreme court for approval, the following procedure shall apply:

(A) Local court rule proposals shall be submitted to the supreme court in January of each year. The supreme court may accept emergency proposals submitted at other times.

(B) Not later than February 15 of

[Editor’s note: The following sentence appears in subdivision (b) of this rule: “When assigning a judge to hear any type of postconviction or collateral relief proceeding brought by a defendant who has been sentenced to death, the chief judge shall assign to such cases *a judge qualified to conduct such proceedings under subdivision (b)(1) of this rule.*” The most recent version of West’s Rules of Court contains, in lieu of the italicized language, former language “the judge who presided over the original proceeding if that judge is active or otherwise available to serve unless otherwise directed by the supreme court.” The italicized language is correct. See *Amendments to Florida Rule of Criminal Procedure 3.851, 3.852, and 3.993 and Florida Rule of Judicial Administration 2.050*, 797 So. 2d 1213, 1234 (Fla. 2001).]

each year, the clerk of the supreme court shall submit all local court rule proposals to the Supreme Court Local Rules Advisory Committee created by rule 2.130. At the same time, the clerk of the supreme court shall send copies of the proposed rules to the appropriate committees of The Florida Bar. The Florida Bar committees, any interested local bar associations, and any other interested person shall submit any comments or responses that they wish to make to the Supreme Court Local Rules Advisory Committee on or before March 15 of the year.

(C) The Supreme Court Local Rules Advisory Committee shall meet on or before April 15 to consider the proposals and any comments submitted by interested parties. The committee shall transmit its recommendations to the supreme court concerning each proposal, with the reasons for its recommendations, within 15 days after its meeting.

(D) The supreme court shall consider the recommendations of the committee and may resubmit the proposals with modifications to the committee for editorial comment only. The supreme court may set a hearing on any proposals, or consider them on the recommendations and comments as submitted. If a hearing is set, notice shall be given to the chief judge of the circuit from which the proposals originated, the executive director of The Florida Bar, the chair of the Rules of Judicial Administration Committee of The Florida Bar, any local bar associations, and any interested persons who made comments on the specific proposals to be considered. The supreme court shall act on the proposals

promptly after the recommendations are received or heard.

(E) If a local court rule is approved by the supreme court, it shall become effective on the date set by that court.

(F) A copy of all local court rules approved by the supreme court shall be indexed and recorded by the clerk of the circuit court in each county of the circuit where the rules are effective. A set of the recorded copies shall be readily available for inspection as a public record, and copies shall be provided to any requesting party for the cost of duplication. The chief judge of the circuit may provide for the publication of the rules. The clerk of the supreme court shall furnish copies of each approved local court rule to the executive director of The Florida Bar.

(2) Any judge or member of The Florida Bar who believes that an administrative order promulgated under subdivision (b)(2) of this rule is a court rule or a local rule as defined in rule 2.020, rather than an administrative order, may apply to the Supreme Court Local Rules Advisory Committee for a decision on the question. The decisions of the committee concerning the determination of the question shall be reported to the supreme court, and the court shall follow the procedure set forth in subdivision (D) above in considering the recommendation of the committee.

(3) All administrative orders of a general and continuing nature, and all others designated by the chief judge, shall be indexed and recorded by the clerk of the circuit

Subdivision (e) (3) is amended to eliminate requirement that clerks furnish copies of administrative orders to executive director of The Florida Bar because of availability of all administrative orders via electronic means. Bar staff noted that

court in each county where the orders are effective. A set of the recorded copies shall be readily available for inspection as a public record, and copies shall be provided to any requesting party for the cost of duplication. ~~The clerk of the circuit court shall furnish copies of each administrative order to the executive director of The Florida Bar.~~ The chief judge shall, on an annual basis, direct a review of all local administrative orders to ensure that the set of copies maintained by the clerk remains current and does not conflict with supreme court or local rules.

the administrative orders the Bar has received are not used by them or others, and are not routinely updated by clerks of circuit courts.

(4) All local court rules entered pursuant to this section shall be numbered sequentially for each respective judicial circuit.

(f) **Duty to Rule within a Reasonable Time.** [NO CHANGE]

(g) **Duty to Expedite Priority Cases.** [NO CHANGE]

(h) **Neglect of Duty.** [NO CHANGE]

(i) **Status Conference after Compilation of Record in Death Cases.** [NO CHANGE]

Proposed rule

Reasons for change

RULE 2.051. PUBLIC ACCESS TO JUDICIAL BRANCH RECORDS

(a) **Generally.** [NO CHANGE]

(b) **Definitions.** [NO CHANGE]

(c) **Exemptions.** [NO CHANGE]

(d) **Review of Denial of Access Request.**

Expedited review of denials of access to records of the judicial branch shall be provided through an action for mandamus, or other appropriate appellate remedy, in the following manner:

(1) Where a judge who has denied a request for access to records is the custodian, the action shall be filed in the court having appellate jurisdiction to review the decisions of the judge denying access. Upon order issued by the appellate court, the judge denying access to records shall file a sealed copy of the requested records with the appellate court.

(2) All other actions under this rule shall be filed in the circuit court of the circuit in which such denial of access occurs.

(e) **Procedure.** Requests and responses to requests for access to records under this rule shall be made in a reasonable manner.

Requires judges, when acting as the custodian of judicial branch records, to provide a copy of the requested records in a sealed envelope for purpose of appellate review of denial of access to judicial records. The proposal is in response to a request from the court in *Media General Convergence, Inc. v. Chief Judge of the Thirteenth Judicial Circuit*, 840 So. 2d 1008 (Fla. 2003).

(1) Requests for access to records shall be in writing and shall be directed to the custodian. The request shall provide sufficient specificity to enable the custodian to identify the requested records. The reason for the request is not required to be disclosed.

(2) The custodian shall be solely responsible for providing access to records of the custodian's entity. The custodian shall determine whether the requested record is subject to this rule and, if so, whether the record or portions of the record are exempt from disclosure. The custodian shall determine the form in which the record is provided. If the request is denied, the custodian shall state in writing the basis for the denial.

(3) Fees for copies of records in all entities in the judicial branch of government, except for copies of court records, shall be the same as those provided in section 119.07, Florida Statutes (2001).

Requires a record custodian of judicial branch records to state in writing the reasons for denial of access to judicial records to assist the requesting party as well as an appellate court reviewing the denial.

Proposed rule

Reasons for change

RULE 2.060. ATTORNEYS

(a) **Generally.** [NO CHANGE]

(b) **~~Staff Attorneys, Law Clerks, and Judicial Assistants~~ Persons Employed by the Court Not to Practice.** Except as provided in this subdivision, ~~no one serving as a staff attorney, law clerk, or judicial assistant to a justice or judge of any court~~ full-time employee of the court shall practice as an attorney in any court or before any agency of government while continuing in that position. Any attorney designated by the ~~court~~ chief justice or chief judge may represent the court, any court employee in the employee's official capacity, or any judge in the judge's official capacity, in any proceeding in which the court, employee, or judge is an interested party. An attorney formerly employed by a court shall not represent anyone in connection with a matter in which the attorney participated personally and substantially ~~as a judicial staff attorney, law clerk, or judicial assistant~~ while employed by the court, unless all parties to the proceeding consent after disclosure.

(c) **Pleadings to Be Signed.** [NO CHANGE]

(d) **Party Not Represented by Attorney to Sign.** [NO CHANGE]

(e) **Form of Signature of Attorney, Party, or**

This proposal amends subdivision (b) to delete specific reference to staff attorneys, law clerks, and judicial assistants and substitutes the broader language “Persons Employed by the Court” as individuals not to engage in the practice of law. This change updates the rule and accommodates changes to existing and future court employment position titles held by attorneys. It clarifies that the prohibition applies only to court employees who are full-time employees, as many circuits have part-time attorneys to whom this restriction should not apply. It also clarifies that the person with authority to designate an attorney to represent the court is the chief justice of an appellate court or the chief judge of a trial court and includes court employees acting in their official capacity as individuals to whom legal representation may be provided. The proposal clarifies that the prohibition against successive representation may be waived after disclosure to all parties consistent with the provisions of Florida Rule of Professional Conduct 4-1.11.

Other Person. [NO CHANGE]

(f) **Attorney Not to Be Surety.** [NO CHANGE]

(g) **Stipulations.** [NO CHANGE]

(h) **Appearance of Attorney.** [NO CHANGE]

(i) **Termination of Appearance of Attorney.** [NO
CHANGE]

(j) **Law Student Participation.** [NO CHANGE]

(k) **Attorney as Agent of Client.** [NO CHANGE]

Proposed rule

Reasons for change

RULE 2.085. CASE MANAGEMENT AND TIME STANDARDS FOR TRIAL AND APPELLATE COURTS

The title of the rule is amended to reflect the expanded subject matter of this rule, which includes case management issues relating to continuances and the new notice of related cases proposed amendment.

(a) **Purpose.** [NO CHANGE]

(b) **Case Control.** [NO CHANGE]

(c) **Priority Cases.** [NO CHANGE]

(d) **Related Cases.**

(1) The petitioner in a family case shall file with the court a notice of related cases, if related cases are known or reasonably ascertainable. A case is related when:

(A) it involves any of the same parties, children, or issues and it is pending at the time the party files a family case; or

(B) it affects the court-s jurisdiction to proceed;
or

(C) an order in the related case may conflict with an order on the same issues in the new case; or

(D) an order in the new case may conflict with an order in the earlier litigation.

These provisions create a procedure that defines the responsibilities for the filing of notice of related cases to facilitate communication between court divisions handling cases involving the same family members and to facilitate the concept of the unified family court system. It also reletters existing subdivisions (d) – (f) to new subdivisions (e) – (g) with no further change in language.

(2) Family cases include dissolution of marriage, annulment, support unconnected with dissolution of marriage, paternity, child support, UIFSA, custodial care of and access to children, adoption, name change, declaratory judgment actions related to premarital, marital, or postmarital agreements, civil domestic, repeat violence, dating violence, and sexual violence injunctions, juvenile dependency, termination of parental rights, juvenile delinquency, emancipation of a minor, CINS/FINS, truancy, and modification and enforcement of orders entered in these cases.

(3) The notice of related cases shall identify the caption and case number of the related case, a brief statement of the relationship of the actions, and a statement addressing whether assignment to one judge or another method of coordination will conserve judicial resources and promote an efficient determination of the actions.

(4) The notice of related cases shall be filed with the initial pleading by the filing attorney or self-represented petitioner.

(5) Each party has a continuing duty to inform the court of any proceedings in this or any other state that could affect the current proceeding.

(6) Whenever it appears to a party that two or more pending cases present common issues of fact and that assignment to one judge or another method of coordination will

significantly promote the efficient administration of justice, conserve judicial resources, avoid inconsistent results, or prevent multiple court appearances by the same parties on the same issues, the party may file a notice of related cases requesting coordination of the litigation.

(7) The notice of related cases shall be served on all parties in the related cases, the presiding judges, and the chief judge or family law administrative judge.

(de) **Continuances.** All judges shall apply a firm continuance policy. Continuances should be few, good cause should be required, and all requests should be heard and resolved by a judge. All motions for continuance shall be in writing unless made at a trial and, except for good cause shown, shall be signed by the party requesting the continuance. All motions for continuance in priority cases shall clearly identify such priority status and explain what effect the motion will have on the progress of the case.

(ef) **Time Standards.** The following time standards are hereby established as a presumptively reasonable time period for the completion of cases in the trial and appellate courts of this state. It is recognized that there are cases that, because of their complexity, present problems that cause reasonable delays. However, most cases should be completed within the following time periods:

(1) **Trial Court Time Standards.**

(A) Criminal.

disposition)	Felony C 180 days (arrest to final
disposition)	Misdemeanor C 90 days (arrest to final
	(B) Civil.
disposition)	Jury cases C 18 months (filing to final
final disposition)	Non-jury cases C 12 months (filing to
disposition)	Small claims C 95 days (filing to final
	(C) Domestic Relations.
disposition)	Uncontested C 90 days (filing to final
disposition)	Contested C 180 days (filing to final
	(D) Probate.
	Uncontested, no federal estate tax return
	C 12 months (from issuance of letters of administration to final

discharge)

Uncontested, with federal estate tax
return C 12 months (from the return's due date to final
discharge)

Contested C 24 months (from filing to
final discharge)

(E) Juvenile Delinquency.
Disposition hearing C 120 days (filing
of petition or child being taken into custody to hearing)

Disposition hearing (child detained) C
36 days (date of detention to hearing)

(F) Juvenile Dependency.

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

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

(G) Permanency Proceedings.

Permanency hearing C 12 months (date
child is sheltered to hearing)

(2) **Supreme Court and District Courts of**

Appeal Time Standards: Rendering a decision C within 180 days of either oral argument or the submission of the case to the court panel for a decision without oral argument

(3) **Florida Bar Referee Time Standards:**
Report of referee C within 180 days of being assigned to hear the case

(4) **Circuit Court Acting as Appellate Court:**

Ninety days from submission of the case to the judge for review

(fg) **Reporting of Cases.** The time standards require that the following monitoring procedures be implemented:

All pending cases in circuit and district courts of appeal exceeding the time standards shall be listed separately on a report submitted quarterly to the chief justice. The report shall include for each case listed the case number, type of case, case status (active or inactive for civil cases and contested or uncontested for domestic relations and probate cases), the date of arrest in criminal cases, and the original filing date in civil cases. The Office of the State Courts Administrator will provide the necessary forms for submission of this data. The report will be due on the 15th day of the month following the last day of the quarter.

Proposed rule

Reasons for change

RULE 2.130. PROCEDURE FOR AMENDING RULES

(a) **Emergency Amendments.** The supreme court, with or without notice, may change court rules at any time if an emergency exists that does not permit reference to the appropriate committee of The Florida Bar for recommendations. If a change is made without reference to the committee, the change may become effective immediately or at a future time. In either event, the court shall fix a date for further consideration of the change. Any person may file comments concerning the change, seeking its abrogation or a delay in the effective date, in accordance with the procedures set forth in subdivision (c)(6) of this rule. The court may allow oral argument in support of such comments by The Florida Bar, by its sections and committees, and by other bar associations. Notice of the hearing on the change and a copy of the change shall be furnished to the affected committee chair and vice chair, the executive director of The Florida Bar, all members of the Judicial Management Council, the clerk and chief judge of each district court of appeal, the clerk and chief judge of each judicial circuit, the Speaker of the Florida House of Representatives, the President of the Florida Senate, the chairs of the House and Senate committees as designated by the Speaker and the President, and any person who has asked in writing filed with the clerk of the supreme court for a copy of the notice. The change shall be published on the Internet websites of the supreme court and The Florida Bar, and in the Florida Bar Journal or Florida Bar News before the hearing.

This amendment adds legislative branch leaders to the group of individuals who are provided notice of hearing and copy of the change for emergency amendments. In this instance, as in the following repetition of the proposed language throughout this rule, inclusion permits the legislature to be aware of any proposed rule changes that may impact existing statutory provisions or pending legislation prior to the adoption of a

Notice of the hearing shall also be published on the Internet websites of the supreme court and The Florida Bar, and in the Florida Bar Journal or Florida Bar News.

proposed amendment.

(b) **Amendments Generally.** The following procedure shall be followed for consideration of rule amendments generally other than those adopted under subdivisions (a), (e), and (f):

(1) Proposals for court rules, amendments to them, or abrogation of them may be made by any person.

(2) Proposals shall be submitted to the clerk of the supreme court in writing and shall include a general description of the proposed rule change or a specified proposed change in content. The clerk of the supreme court shall refer proposals to the appropriate committee under subdivision (b) (3).

(3) The Florida Bar shall appoint the following committees to consider rule proposals: Civil Procedure Rules Committee, Criminal Procedure Rules Committee, Small Claims Rules Committee, Traffic Court Rules Committee, Appellate Court Rules Committee, Juvenile Court Rules Committee, Code and Rules of Evidence Committee, Rules of Judicial Administration Committee, Probate Rules Committee, Workers= Compensation Rules Committee, and Family Law Rules Committee.

[Proposal does not address status of the Workers' Compensation Rules Committee.]

(4) Each committee shall be composed of attorneys and judges with extensive experience and training in the area of practice of the committee calling for regular, frequent use of the rules. The members of the committee shall serve for 3-year staggered terms. The president of The Florida Bar shall appoint the chair and vice chair of each committee.

(5) The Rules of Judicial Administration Committee shall also serve as a rules coordinating committee. Each rules committee shall have at least 1 of its members appointed to the Rules of Judicial Administration Committee to serve as liaison. All proposed rules changes shall be submitted to the Rules of Judicial Administration Committee, which shall then refer all proposed rules changes to those rules committees that might be affected by the proposed change. All proposed changes shall be submitted by June ~~30~~15 of each year of the rules cycle.

(6) The committees shall consider and vote on each proposal. The committees may originate proposals and are charged with the duty of regular review and reevaluation of the rules to advance orderly and inexpensive procedures in the administration of justice. The committees may accept or reject proposed amendments or may amend proposals. The committees shall keep minutes of their activities, which minutes shall reflect the action taken on each proposal. Copies of the minutes shall be furnished to the clerk of the supreme court, to the board of governors of The Florida Bar, and to the

This date is amended to an earlier date as part of an overall proposal to revise the current biennial reporting period to a more workable and realistic schedule. The current biennial reporting schedule has proven to be burdensome on committee members and the Bar support staff. This proposal is the result of extensive research and study on the part of the Rules of Judicial Administration Committee whose members urge its adoption.

proponent of any proposal considered at the meeting.

(c) Schedule for Rule Proposals.

~~(1) Each committee shall report all proposed rule changes on a biannual basis (with the first cycle starting in 2002). Reports shall be made in even numbered years by the Appellate Court Rules Committee, the Criminal Procedure Rules Committee, the Code and Rules of Evidence Committee, the Juvenile Court Rules Committee, the Traffic Court Rules Committee, and the Workers-Compensation Rules Committee. Reports shall be made in odd numbered years by the Civil Procedure Rules Committee, the Family Law Rules Committee, the Probate Rules Committee, the Rules of Judicial Administration Committee, and the Small Claims Rules Committee.~~

(1) Each committee shall report all proposed rule changes on a staggered basis (with the first cycle starting in 2006). Reports shall be made by the Criminal Procedure Rules Committee, the Workers-Compensation Rules Committee, the Traffic Court Rules Committee, and the Juvenile Court Rules Committee in 2006; by the Civil Procedure Rules Committee, the Probate Rules Committee, the Small Claims Rules Committee, and the Code and Rules of Evidence Committee in 2007; and by the Family Law Rules Committee, the Appellate Court Rules Committee, and the Rules of Judicial Administration Committee in 2008. Thereafter, the cycle shall repeat.

[Proposal does not address status of Workers' Compensation Rules Committee.]

The centerpiece of the committee's proposal is the division of the rules committees into three separate groups for the purpose of reporting proposed rule changes. This division reduces the workload on Bar staff assisting rules committees as well as providing the opportunity for more focused consideration of such proposals by the supreme court, the board of governors, members of the Bar, and the public. A three-year reporting cycle is proposed starting in 2006, to phase in the change in reporting cycles.

The three date changes in this subdivision are part of the overall proposal changing the reporting cycle for proposed rule

(2) No later than ~~October 1~~ June 15 of the year prior to each reporting year or such other date as the board of governors of The Florida Bar may set, each reporting committee shall submit all proposed rule changes to the board of governors with the committee's final numerical voting record on each proposal. Contemporaneously with reporting proposed rule changes to the board of governors, each committee report shall be furnished to the Speaker of the Florida House of Representatives, the President of the Florida Senate, and the chairs of the House and Senate committees as designated by the Speaker and the President, and published on the Internet website of The Florida Bar, and in the Florida Bar Journal or Florida Bar News. Any person desiring to comment upon proposed rule changes shall submit written comments to the appropriate committee chair no later than ~~November~~ August 1 of the year prior to each reporting year. Each committee shall consider any comments submitted and thereafter report to the board of governors, no later than ~~December 1~~ October 15 of the year prior to each reporting year, any revisions to the proposed rule changes. Contemporaneously with reporting any revisions to the board of governors, each committee's revised proposed rule changes shall be furnished to the Speaker of the Florida House of Representatives, the President of the Florida Senate, and the chairs of the House and Senate committees as designated by the Speaker and the President, and published on the Internet website of The Florida Bar, and in the Florida Bar Journal or Florida Bar News. Any person desiring to comment

changes. It provides an expanded time frame between the publication of proposals forwarded to the board of governors, the due date for comments, and the date by which the rules committee is to consider possible revision of the proposal prior to its being forwarded to the supreme court. It is more "user friendly" to committee members and provides better access to the process for individuals wishing to make meaningful comment on proposed rule changes.

This amendment adds legislative branch leaders to the group of individuals who are provided a copy of rules committee reports concerning proposed rule changes submitted as part of the regular rules amendment cycle at the same time as the proposed rule changes are submitted to the board of governors.

This amendment adds legislative branch leaders to the group of individuals who are provided a copy of rules committees' revised proposed rule changes which have been revised following publication and the receipt of comments.

This amendment clarifies how comments are to be made after the publication of revised proposed rule changes.

thereafter shall submit written comments to the supreme court in accordance with subdivision (c)(6).

(3) No later than ~~January~~December 15 of each reporting year, the board of governors shall consider the proposals and shall vote on each proposal to recommend acceptance, rejection, or amendment.

(4) No later than February 1 of each reporting year, each committee shall file a report of its proposed rule changes with the supreme court. Each committee may amend its recommendations to coincide with the recommendations of the board of governors or may decline to do so or may amend its recommendations in another manner. Any such amendments shall also be reported to the supreme court. The report shall include:

(A) a list of the proposed changes, together with a detailed explanation of each proposal and the name and address of the proponent of each change if other than the rules committee;

(B) the final numerical voting record of the proposals in the committee;

(C) a report of the action taken by the committee on comments submitted in accordance with subdivision (c)(2);

This change in date permits the board of governors to consider proposals prior to the January rules committee meetings and enables committees to address board concerns or suggestions immediately and, in reporting years, prior to submitting reports of proposed rule changes to the supreme court.

(D) a report of the action and voting record of the board of governors;

(E) any dissenting views of the committee and, if available, of the board; and

(F) an appendix containing all comments submitted to the committee and a two-column chart setting forth the proposed changes in legislative format in the first column and a brief explanation of each change in the second column.

The report and the proposed rule changes shall be filed with the supreme court, in legislative format, both on paper and in an electronic format approved by the supreme court.

(5) If oral argument is deemed necessary, the supreme court shall establish a date during the month of May or June of each reporting year for oral argument on the proposals. Notice of the hearing on the proposals and a copy of the proposals shall be furnished to the affected committee chair and vice chair, the executive director of The Florida Bar, all members of the Judicial Management Council, the clerk and chief judge of each district court of appeal, the clerk and chief judge of each judicial circuit, the Speaker of the Florida House of Representatives, the President of the Florida Senate, the chairs of the House and Senate committees as designated by the Speaker and the President, and any person who has asked in writing filed with the clerk of the supreme court for a copy of

This amendment adds legislative branch leaders to the group of individuals who are provided notice of hearing and copy of the change for proposed amendments made as part of the regular rules amendment cycle.

the notice. If the committee modifies its recommendations after considering comments submitted in accordance with subdivision (c)(2), the recommendations or a resume of them shall be published on the Internet websites of the supreme court and The Florida Bar and in the Florida Bar Journal or Florida Bar News before the hearing. Notice of the hearing shall also be published on the Internet websites of the supreme court and The Florida Bar and in the Florida Bar Journal or Florida Bar News.

(6) Before the date of oral argument, any person may file comments concerning the proposals. All comments and other submissions by interested persons shall be filed with the clerk of the supreme court and served on the chair of the appropriate rules committee, and on the proponent of the rule change if other than the rules committee. The chair of the rules committee shall file a response to all comments within the time period set by the court. All comments and other submissions regarding the rule change proposals, in addition to being filed with the supreme court in paper format, shall also be filed in an electronic format approved by the supreme court. Prior to the date of oral argument and as soon as practicable after the date of filing, the clerk of the supreme court shall publish on the Internet websites of the supreme court and The Florida Bar, all comments and the responses of the chair of the rules committee that have been filed concerning the rule change proposals. All requests or submissions by a rules committee made in connection with a pending rule change proposal shall be filed with the clerk of the supreme court and

thereafter published by the clerk of the supreme court on the Internet websites of the supreme court and The Florida Bar.

(7) Orders of the supreme court on said proposals should be adopted in sufficient time to take effect on January 1 of the year following the reporting year. The supreme court may permit motions for rehearing to be filed on behalf of any person, The Florida Bar, any bar association, and the affected committee.

(d) **Rejected Proposals.** [NO CHANGE]

(e) **Emergency Recommendation by Committee.**

If, in the opinion of a committee, a proposal is of an emergency nature, and the board of governors concurs, proposals may be made at any time to the supreme court. If the court agrees that an emergency exists, the court may set a time for oral argument and consideration of the proposal. Notice of the hearing on the proposals and a copy of the proposals shall be furnished to the affected committee chair and vice chair, the executive director of The Florida Bar, all members of the Judicial Management Council, the clerk and chief judge of each district court of appeal, the clerk and chief judge of each judicial circuit, the Speaker of the Florida House of Representatives, the President of the Florida Senate, the chairs of the House and Senate committees as designated by the Speaker and the President, and any person who has asked in writing filed with the clerk of the supreme court for a copy of the notice. The recommendations or a resume of them shall be published on the Internet websites

This amendment adds legislative branch leaders to the group of individuals who are provided notice of hearing and copy of the change for emergency recommendation by rules committees of proposed amendments.

of the supreme court and The Florida Bar, and in the Florida Bar Journal or Florida Bar News before the hearing. Notice of the hearing shall also be published on the Internet websites of the supreme court and The Florida Bar, and in the Florida Bar Journal or Florida Bar News.

(f) **Request by Court.** The supreme court may direct special consideration of a proposal at times other than those specified in this rule and may require a committee to report its recommendation with the recommendations of the board of governors. All requests or submissions by a rules committee made in connection with a request under this subdivision shall be filed with the clerk of the supreme court. The supreme court may set oral argument on the report at any time. Notice of the hearing on the proposals and a copy of the proposals shall be furnished to the affected committee chair and vice chair, the executive director of The Florida Bar, all members of the Judicial Management Council, the clerk and chief judge of each district court of appeal, the clerk and chief judge of each judicial circuit, the Speaker of the Florida House of Representatives, the President of the Florida Senate, the chairs of the House and Senate committees as designated by the Speaker and the President, and any person who has asked in writing filed with the clerk of the supreme court for a copy of the notice. The recommendations or a resume of them shall be published on the Internet websites of the supreme court and The Florida Bar, and in the Florida Bar Journal or Florida Bar News before the hearing. Notice of the hearing shall also be

This amendment adds legislative branch leaders to the group of individuals who are provided notice of hearing and copy of the proposed amendments proposed after the supreme court has directed special consideration of a proposal to a rules committee.

published on the Internet websites of the supreme court and The Florida Bar, and in the Florida Bar Journal or Florida Bar News.

(g) **Local Rules Proposed by Trial Courts.** [NO CHANGE]

Proposed rule

Reasons for change

RULE 2.170. STANDARDS OF CONDUCT AND TECHNOLOGY GOVERNING ELECTRONIC MEDIA AND STILL PHOTOGRAPHY COVERAGE OF JUDICIAL PROCEEDINGS

(a) Electronic and Still Photographic Coverage

Allowed. Subject at all times to the authority of the presiding judge to: (i) control the conduct of proceedings before the court; (ii) ensure decorum and prevent distractions; (iii) protect rights of privacy and prevent disclosure of privileged and confidential matters; and ~~(iiiiv)~~ ensure the fair administration of justice in the pending cause, electronic media and still photography coverage of public judicial proceedings in the appellate and trial courts of this state shall be allowed in accordance with the following standards of conduct and technology promulgated by the Supreme Court of Florida.

(b) Photographing Jurors= Faces. It shall be within the sound discretion and authority of the trial judge to prohibit the photographing, either by movie, video, or still camera, of the faces of the prospective or seated jurors, either individually, jointly, or collectively. Such prohibition shall not be construed as an exclusion of electronic media coverage or as exclusion of coverage of a particular participant, and no evidentiary hearing shall be required.

(bc) Equipment and Personnel.

This proposal is part of the amendment responding to the issue of the proper use of court security cameras. Use of the security cameras as a substitute for news media pool cameras for court proceedings of interest runs the risk of compromising trial participants' privacy interests and concerns.

This proposal gives trial judges the discretion to prohibit the photographing or broadcasting of the faces of prospective or seated jurors when necessary to protect the integrity of trial proceedings. It does not restrict the media from photographing or broadcasting the faces of other trial participants; nor does it restrict the use of artist renderings of jurors, or the broadcast of audio recordings of jury selection and trial. The proposal protects the privacy interests and concerns of potential or seated jurors while permitting liberal access to trial proceedings. Existing subdivisions (b) -- (i) are relettered to

subdivisions (c) -- (j).

(1) At least 1 portable television camera, operated by not more than 1 camera person, shall be permitted in any trial or appellate court proceeding. The number of permitted cameras shall be within the sound discretion and authority of the presiding judge.

(2) Not more than 1 still photographer, using not more than 2 still cameras, shall be permitted in any proceeding in a trial or appellate court.

(3) Not more than 1 audio system for radio broadcast purposes shall be permitted in any proceeding in a trial or appellate court. Audio pickup for all media purposes shall be accomplished from existing audio systems present in the court facility. If no technically suitable audio system exists in the court facility, microphones and related wiring essential for media purposes shall be unobtrusive and shall be located in places designated in advance of any proceeding by the chief judge of the judicial circuit or district in which the court facility is located.

(4) Any Apooling@ arrangements among the media required by these limitations on equipment and personnel shall be the sole responsibility of the media without calling upon the presiding judge to mediate any dispute as to the appropriate media representative or equipment authorized to cover a particular proceeding. In the absence of advance media agreement on disputed equipment or personnel issues, the presiding judge shall exclude all contesting media

personnel from a proceeding.

(5) The court's security cameras shall be used for security purposes only.

(ed) Sound and Light Criteria.

(1) Only television photographic and audio equipment that does not produce distracting sound or light shall be used to cover judicial proceedings. No artificial lighting device of any kind shall be used in connection with the television camera.

(2) Only still camera equipment that does not produce distracting sound or light shall be used to cover judicial proceedings. No artificial lighting device of any kind shall be used in connection with a still camera.

(3) It shall be the affirmative duty of media personnel to demonstrate to the presiding judge adequately in advance of any proceeding that the equipment sought to be used meets the sound and light criteria enunciated in this rule. A failure to obtain advance judicial approval for equipment shall preclude its use in any proceeding.

(de) Location of Equipment Personnel.

(1) Television camera equipment shall be positioned in such location in the court facility as shall be

This proposal clarifies the limited use of cameras provided for the safety of court employees, participants and members of the public. It addresses concern about the potential consequences of having to provide court security cameras which would be suitable for maintenance of a public record while eliminating the possible compromise of confidential attorney/client communications or other privacy interests, such as security monitoring conducted in public hallways and restroom facilities.

designated by the chief judge of the judicial circuit or district in which such facility is situated. The area designated shall provide reasonable access to coverage. If and when areas remote from the court facility that permit reasonable access to coverage are provided, all television camera and audio equipment shall be positioned only in such area. Videotape recording equipment that is not a component part of a television camera shall be located in an area remote from the court facility.

(2) A still camera photographer shall position himself or herself in such location in the court facility as shall be designated by the chief judge of the judicial circuit or district in which such facility is situated. The area designated shall provide reasonable access to coverage. Still camera photographers shall assume a fixed position within the designated area and, once established in a shooting position, shall act so as not to call attention to themselves through further movement. Still camera photographers shall not be permitted to move about in order to obtain photographs of court proceedings.

(3) Broadcast media representatives shall not move about the court facility while proceedings are in session, and microphones or taping equipment once positioned as required by subdivision (a)(3) shall not be moved during the pendency of the proceeding.

(e) **Movement during Proceedings.** News media photographic or audio equipment shall not be placed in or

Scrivener's change from (a)(3) to (b)(3) to correct erroneous cross-reference.

removed from the court facility except before commencement or after adjournment of proceedings each day, or during a recess. Neither television film magazines nor still camera film or lenses shall be changed within a court facility except during a recess in the proceeding.

(fg) **Courtroom Light Sources.** With the concurrence of the chief judge of a judicial circuit or district in which a court facility is situated, modifications and additions may be made in light sources existing in the facility, provided such modifications or additions are installed and maintained without public expense.

(gh) **Conferences of Counsel.** To protect the attorney-client privilege and the effective right to counsel, there shall be no audio pickup or broadcast of conferences that occur in a court facility between attorneys and their clients, between co-counsel of a client, or between counsel and the presiding judge held at the bench.

(hi) **Impermissible Use of Media Material.** None of the film, videotape, still photographs, or audio reproductions developed during or by virtue of coverage of a judicial proceeding shall be admissible as evidence in the proceeding out of which it arose, in any proceeding subsequent or collateral thereto, or upon retrial or appeal of such proceedings.

(ij) **Appellate Review.** Review of an order excluding the electronic media from access to any proceeding,

excluding coverage of a particular participant, or upon any other matters arising under these standards shall be pursuant to Florida Rule of Appellate Procedure 9.100(d).

[Court] Commentary

1994 Amendment. This rule was copied from Canon 3A(7) of the Code of Judicial Conduct. Canon 3A(7) represented a departure from former Canon 3A(7) [ABA Canon 35]. The former canon generally proscribed electronic media and still photography coverage of judicial proceedings from within and in areas immediately adjacent to the courtroom, with three categories of exceptions C (a) use for judicial administration, (b) coverage of investitive, ceremonial, and naturalization proceedings, and (c) use for instructional purposes in educational institutions. Subject to the limitations and promulgation of standards as mentioned therein, the revised canon constituted a general authorization for electronic media and still photography coverage for all purposes, including the purposes expressed as exceptions in the former canon. Limited only by the authority of the presiding judge in the exercise of sound discretion to prohibit filming or photographing of particular participants, consent of participants to coverage is not required. The text of the rule refers to public judicial proceedings. This is in recognition of the authority reposing in the presiding judge, upon the exercise of sound discretion, to hold certain judicial proceedings or portions thereof in camera, and in recognition of the fact that certain proceedings or portions thereof are made confidential by

statute. The term Presiding judge includes the chief judge of an appellate tribunal.