

The Florida Bar’s Juvenile Court Rules Committee (committee) has filed with the Florida Supreme Court its regular-cycle report of proposed amendments to the Florida Rules of Juvenile Procedure. The committee proposes amendments to rules 8.045 (Notice to Appear); 8.090 (Speedy Trial); 8.135 (Correction of Disposition or Commitment Orders); 8.210 (Parties and Participants); 8.257 (General Magistrates); 8.350 (Placement of Child Into Residential Treatment Center After Adjudication of Dependency); 8.515 (Providing Counsel to Parties); and 8.535 (Postdisposition Hearings) and forms 8.911 (Uniform Child Custody Jurisdiction and Enforcement Act Affidavit); 8.930 (Juvenile Notice to Appear); 8.964 (Dependency Petition); 8.966 (Adjudication Order – Dependency); 8.980 (Petition for Termination of Parental Rights Based on Voluntary Relinquishment); 8.981 (Petition for Involuntary Termination of Parental Rights); 8.983 (Adjudication Order and Judgment of Involuntary Termination of Parental Rights); and new form 8.975 (Dependency Order Withholding Adjudication).

The Court invites all interested persons to comment on the committee's proposed amendments, which are summarized below and reproduced in full online at <http://www.floridasupremecourt.org/decisions/proposed.shtml>. An original and nine paper copies of all comments must be filed with the Court on or before April 3, 2006, with a certificate of service verifying that a copy has been served on the Committee Chair, Alan Abramowitz, 400 West Robinson St., Orlando, Florida 32801-1782, as well as a separate request for oral argument if the person filing the comment wishes to participate in oral argument, which may be scheduled in this case for June. The Committee Chair has until April 18, 2006, to file a response to any comments filed with the Court. Electronic copies of all comments also must be filed in accordance with In re Mandatory Submission of Electronic Copies of Documents, Fla. Admin. Order No. AOSC04-84 (Sept. 13, 2004).

IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENTS TO THE FLORIDA RULES OF JUVENILE
PROCEDURE (THREE YEAR CYCLE), CASE NO. SC06-140

PROPOSED AMENDMENTS

RULE/FORM	CHANGE
8.045 (Notice to Appear) & 8.930 (Juvenile Notice to Appear)	Subdivision (f)(5) of rule and form are amended to conform to subdivision (a) (Definition), stating that a child issued a notice to appear must appear “in a designated court or governmental office.”
8.090 (Speedy Trial)	Amends subdivision (a)(2) of the Speedy Trial rule to

	change the time from which speedy trial begins to run from “the date the petition was filed” to “the date the summons issued on the filing of the petition was served.” Conforms the rule to section 985.219, Florida Statutes.
8.135 (Correction of Disposition or Commitment Orders)	Corrects cross-references to Fla. R. App. P. 9.140, which was amended and subdivisions re-numbered in 2002.
8.210 (Parties and Participants)	Amends subdivision (b) (Participants) to conform to section 63.0425, Florida Statutes, as amended by Chapter 2003-58, Laws of Florida, regarding notice to grandparents of adoption proceedings. Deletes committee notes.
8.257 (General Magistrates)	Subdivision (f) (Exceptions) is amended to show that exceptions must be “filed” with the court. Adds subdivision (h) to state that general magistrates may not conduct shelter hearings under section 39.402, Florida Statutes, or adjudicatory hearings under sections 39.507 and 39.809, Florida Statutes. Because a shelter hearing must occur within 24 hours there is no time for objections to the referral. Sections 39.507 and 39.809, Florida Statutes, both specify that an adjudicatory hearing must be conducted by a judge.
8.350 (Placement of Child Into Residential Treatment Center After Adjudication of Dependency)	Adds subdivision (d) (Standard of Proof) to require the court, at the hearing, to determine whether the evidence supporting involuntary commitment of a dependent child to a residential mental health treatment facility is clear and convincing, in conformity with <u>In re J.W.</u> , 890 So. 2d 337 (Fla. 2d DCA 2004).
8.515 (Providing Counsel to Parties)	Subdivision (a)(2) is amended to provide that the court shall appoint counsel for indigent parents “as provided by law” to conform with section 57.082, Florida Statutes, regarding determination of indigent status in civil proceedings.
8.535 (Postdisposition Hearings)	New subdivision (d) (Withholding Consent to Adopt) implements section 39.812(5), Florida Statutes, regarding withholding of consent to adoption by the Department of Children and Family Services.
8.911 (Uniform Child Custody Jurisdiction and Enforcement Act Affidavit)	Deletes the current Uniform Child Custody Jurisdiction and Enforcement Act affidavit and incorporates by reference Fla. Sup. Ct. App. Fam. L. Form 12.902(d)
8.964 (Dependency Petition)	Amends form to change “UCCJA” to “UCCJEA” to conform to sections 61.501 <i>et seq.</i> , Florida Statutes. Also makes style changes.
8.966 (Adjudication Order – Dependency)	Adds “the child” and “the attorney for the child” to the list or those attending the hearing at the beginning of the form. Replaces “by default” in items 2 and 3 with “for failure to appear after proper notice.” Defaults are not

	entered in dependency cases. However, failure to appear can result in entry of a consent. <u>See</u> section 39.506(3), Florida Statutes, and Rule 8.225(c)(1). Also makes style corrections.
8.975 (Dependency Order Withholding Adjudication)	Creates a new form for an order withholding adjudication but finding the child dependent. Similar to Form 8.966.
8.980 (Petition for Termination of Parental Rights Based on Voluntary Relinquishment)	Replaces reference to “UCCJA” with “UCCJEA” to conform to sections 61.501 <i>et seq.</i> , Florida Statutes. Also makes style changes.
8.981 (Petition for Involuntary Termination of Parental Rights)	Replaces reference to “UCCJA” with “UCCJEA” to conform to sections 61.501 <i>et seq.</i> , Florida Statutes. Also makes style changes.
8.983 (Adjudication Order and Judgment of Involuntary Termination of Parental Rights)	A list of persons present before the court is added, as in Forms 8.965 and 8.966. A sentence is added to indicate which parent’s parental rights are being terminated. A new item under findings of fact is added which states that the children “are at substantial risk of significant harm” and that termination of parental rights is “the least restrictive means to protect the child(ren) from harm.” In renumbered item 6, a statutory reference is corrected and a list of the statutory factors in sections 39.810(1)–(11), Florida Statutes, is added. A new item 7 is added for use when parental rights of only one parent are being terminated. New item 8 allows a finding that continued grandparent visitation is not in the child’s best interest. New item 9 allows the court to make a finding regarding communication or contact with siblings or relatives. In the “Ordered and Adjudged” section, item 2 is amended to allow the court to indicate the specific subdivision of section 39.806, Florida Statutes, under which parental rights are being terminated. Item 3 also adds statutory references supporting the placement of the children. Style changes also are made.