

The Supreme Court's Criminal Court Steering Committee (Committee) has submitted to the Florida Supreme Court a petition to amend the Florida Rules of Criminal Procedure. The proposed amendments add new rule 3.113 (Minimum Standards for Attorneys in Felony Cases), which would require a two-hour continuing legal education course covering the law of discovery and the principles of Brady v. Maryland, 373 U.S. 83 (1963), and Giglio v. United States, 405 U.S. 150 (1972).

The Court invites all interested persons to comment on the proposed amendments, which are reproduced in full below, as well as online at <http://www.floridasupremecourt.org/decisions/proposed.shtml>. All comments must be filed with the Court on or before September 16, 2013, with a certificate of service verifying that a copy has been served on the Committee Chair, Judge Kevin Emas, Third District Court of Appeal, 2001 S.W. 117th Avenue, Miami, Florida, 33175, emask@flcourts.org, and on the Staff Liaison to the Steering Committee, Bart Schneider, Office of the General Counsel, 500 S. Duval Street, Tallahassee, Florida 32399-1925, schneidb@flcourts.org, 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. The Committee Chair has until October 7, 2013, to file a response to any comments filed with the Court. If filed by an attorney in good standing with The Florida Bar, the comment must be electronically filed via the Portal in accordance with In re Electronic Filing in the Supreme Court of Florida via the Florida Courts E-Filing Portal, Fla. Admin. Order No. AOSC13-7 (Feb. 18, 2013). If filed by a non-lawyer or a lawyer not licensed to practice in Florida, the comment must be electronically filed via e-mail in accordance with In re Mandatory Submission of Electronic Copies of Documents, Fla. Admin. Order No. AOSC04-84 (Sept. 13, 2004). Electronically filed documents must be submitted in Microsoft Word 97 or higher. Any person unable to submit a comment electronically must mail or hand-deliver the originally signed comment to the Florida Supreme Court, Office of the Clerk, 500 South Duval Street, Tallahassee, Florida 32399-1927; no additional copies are required or will be accepted.

IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENTS TO THE FLORIDA RULES OF CRIMINAL
PROCEDURE (RULE 3.113) , CASE NO. SC13-552

RULE 3.113. MINIMUM STANDARDS FOR ATTORNEYS IN FELONY CASES

Before an attorney may participate as counsel of record in the circuit court for any adult felony case, including postconviction proceedings before the trial court, the attorney must complete a course, approved by The Florida Bar for continuing legal education credits, of at least 100 minutes and covering the legal and ethical obligations of discovery in a criminal case, including the requirements of rule 3.220, and the principles established in *Brady v. Maryland*, 373 U.S. 83 (1963) and *Giglio v. United States*, 405 U.S. 150 (1972). Added (date), effective (two years from date).

Criminal Court Steering Committee Commentary

2013 Adoption. The Supreme Court has exclusive jurisdiction under Article V, section 15 of the Florida Constitution to “[r]egulate the admission of persons to the practice of law and the discipline of persons admitted.” Implied in this grant of authority is the power to set minimum requirements for the admission to practice law, see *In re Florida Board of Bar Examiners*, 353 So. 2d 98 (Fla. 1977), as well as minimum requirements for certain kinds of specialized legal work. The Supreme Court has adopted minimum educational and experience requirements for attorneys in capital cases, see, e.g., rule 3.112, and for board certification in other specialized fields of law.

The concept of a two-hour continuing legal education (CLE) requirement was proposed in the 2012 Final Report of the Florida Innocence Commission.

The CLE requirement is not intended to establish any independent legal rights. Any claim of ineffective assistance of counsel will be controlled by *Strickland v. Washington*, 466 U.S. 668 (1984).

It is intended that The Florida Prosecuting Attorneys Association and The Florida Public Defender Association will develop a seminar that will be approved for CLE credit by The Florida Bar. It is also intended that attorneys will be able to electronically access that seminar, at no cost, via The Florida Bar’s website, the Florida Prosecuting Attorneys Association’s website, and/or the Florida Public Defender Association’s website.

The rule is not intended to apply to counsel of record in direct or collateral adult felony appeals.