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IN THE SUPREME COURT OF FLORIDA**IN RE: AMENDMENTS TO THE FLORIDA
RULES OF JUVENILE PROCEDURE****Case No.: SC13-****AMENDMENTS TO CONFORM TO AMENDMENTS TO
FLA. R. JUD. ADMIN. 2.516**

Whitney M. Untiedt, Chair, Juvenile Court Rules Committee, and John F. Harkness, Jr., Executive Director, The Florida Bar, file these out-of-cycle amendments to the Florida Rules of Juvenile Procedure under *Fla. R. Jud. Admin.* 2.140(e). The proposals have been approved by the committee and by the Board of Governors of The Florida Bar as follows:

	<u>Committee vote</u>	<u>BOG vote</u>
Rule 8.085	23-0-1	40-0
Rule 8.225	23-0-1	40-0
Rule 8.635	23-0-1	40-0

When the e-mail service rule, *Fla. R. Jud. Admin.* 2.516, was created by the Supreme Court in 2012, the Juvenile Court Rules Committee proposed incorporating its provisions into its own service rules, rather than cross-referencing to *Rule* 2.516. The Court adopted this proposal when enacting *Rule* 2.516. See *In re Amendments to the Florida Rules of Judicial Administration, the Florida Rules of Civil Procedure, the Florida Rules of Criminal Procedure, the Florida Probate Rules, the Florida Rules of Traffic Court, the Florida Small Claims Rules, the Florida Rules of Juvenile Procedure, the Florida Rules of Appellate Procedure, and the Florida Family Law Rules of Procedure — E-mail Service Rule*, 102 So. 3d 505 (Fla. 2012).

Rule 2.516 was amended in 2013 in *In re Amendments to Florida Rule of Judicial Administration 2.516*, 112 So. 3d 1173 (Fla. 2013). The committee has amended its three service rules, *Rules* 8.085, 8.225, and 8.635, to conform to the changes in *Rule* 2.516. For example, an amendment to *Fla. R. Jud. Admin.* 2.516(b)(1) to allow the parties not to use e-mail service if they stipulate otherwise has been incorporated into *Fla. R. Juv. P.* 8.085(b)(2), 8.225(f)(5)(b)(ii), and 8.635(b)(2).

The proposed changes are attached in the full page legislative (Appendix A) and two-column (Appendix B) formats.

The Committee respectfully requests that the Court amend the Florida Rules of Juvenile Procedure as provided in this report.

Respectfully submitted July 29, 2013.

/s/ Whitney M. Untiedt

Whitney M. Untiedt, Chair
Juvenile Court Rules Committee
35 North Main Street
Gainesville, FL 32601
352/338-7370
Florida Bar No.: 15819
untiedtw@pdo8.org

/s/ John F. Harkness, Jr.

John F. Harkness, Jr.
Executive Director, The Florida Bar
651 East Jefferson Street
Tallahassee, FL 32399
(850)561-5600
Florida Bar No.: 123390
jharkness@flabar.org

CERTIFICATE OF COMPLIANCE

I certify that this report was prepared in compliance with the font requirements of *Fla. R App. P.* 9.120(a)(2).

I certify that these rules were read against West's *Florida Rules of Court Volume I — State* (2013) and *In re Amendments to the Florida Rules of Juvenile Procedure*, 38 Fla. L. Weekly S337 (Fla. 2013).

/s/ Ellen H. Sloyer
Ellen Sloyer, Staff Liaison
Juvenile Court Rules Committee
The Florida Bar
651 East Jefferson Street
Tallahassee, FL 32399
850/561-5709
esloyer@flabar.org

APPENDIX A

RULE 8.085. PREHEARING MOTIONS AND SERVICE

(a) Prehearing Motions.

(1) Motions in General. Every motion made before a hearing and any pleading in response to the motion shall be in writing and shall be signed by the party making the motion and the party's attorney. This requirement may be waived by the court for good cause shown.

(2) Motion to Dismiss. All defenses not raised by a plea of not guilty or denial of the allegations of the petition shall be made by a motion to dismiss the petition. If a motion to dismiss is granted, the child who is detained under an order entered under rule 8.013 may be continued in detention under the said order upon the representation that a new or amended petition will be filed.

(3) Motion to Suppress. Any confession or admission obtained illegally or any evidence obtained by an unlawful search and seizure may be suppressed on motion by the child.

(A) Every motion to suppress shall clearly state the particular evidence sought to be suppressed, the reason for the suppression, and a general statement of the facts on which the motion is based.

(B) Before hearing evidence, the court shall determine if the motion is legally sufficient. If it is not, the motion shall be denied. If the court hears the motion on its merits, the moving party shall present evidence in support thereof and the state may offer rebuttal evidence.

(4) Motion to Sever. A motion may be made for the severance of 2 or more counts in a multi-count petition, or for the severance of the cases of 2 or more children to be adjudicated in the same hearing. The court may grant motions for severance of counts and severance of jointly brought cases for good cause shown.

(5) Time for Filing. Any motion to suppress, sever, or dismiss shall be made prior to the date of the adjudicatory hearing unless an opportunity to make such motion previously did not exist or the party making the motion was not aware of the grounds for the motion.

(6) **Sworn Motions to Dismiss.** Before the adjudicatory hearing the court may entertain a motion to dismiss on the ground that there are no material disputed facts and the undisputed facts do not establish a prima facie case of guilt against the child. The facts on which such motion is based shall be specifically alleged and the motion sworn to by the child. The motion shall be filed a reasonable time before the date of the adjudicatory hearing. The state may traverse or demur to this motion. Factual matters alleged in it shall be deemed admitted unless specifically denied by the state in a traverse. The court, in its discretion, may receive evidence on any issue of fact necessary to decide the motion. The motion shall be dismissed if the state files a written traverse that with specificity denies under oath the material fact or facts alleged in the motion to dismiss. Any demurrer or traverse shall be filed a reasonable time before the hearing on the motion to dismiss.

(b) **Service of Pleadings and Papers.**

(1) **When Required.** Unless the court orders otherwise, every pleading subsequent to the initial petition, every order, every written motion, unless it is one as to which hearing ex parte is authorized, and every written notice filed in the case shall be served on each party; however, nothing herein shall be construed to require that a plea be in writing or that an application for witness subpoena be served.

(2) **How Made.** When service is required or permitted to be made upon a party represented by an attorney, service shall be made upon the attorney unless service upon the party is ordered by the court. ~~Unless excused by the court, s~~ Service upon the attorney or party shall be made by electronic mail (e-mail) consistent with the requirements of Florida Rule of Judicial Administration 2.516, unless the parties stipulate otherwise. Service on and by all parties who are not represented by an attorney and who do not designate an e-mail address, and on and by all attorneys excused from e-mail service, must be made by delivering a copy or by mailing it to the attorney or party's last known address or, if no address is known, by leaving it with the clerk of the court. Service by mail shall be complete upon mailing. Delivery of a copy within this rule shall mean:

- (A) handing it to the attorney or the party;
- (B) leaving it at the attorney's office, with the person in charge thereof;
- (C) if there is no one in charge of the office, leaving it in a

conspicuous place therein;

(D) if the office is closed or the person to serve has no office, leaving it at his or her usual place of abode with some person of the family above 15 years of age and informing such person of the contents thereof; or

(E) transmitting it by facsimile to the attorney's or party's office with a cover sheet containing the sender's name, firm, address, telephone number, and facsimile number, the number of pages transmitted, and the recipient's facsimile number. When service is made by facsimile, a copy shall also be served by any other method permitted by this rule. Facsimile service occurs when the transmission is complete.

(3) Filing. All ~~original papers, copies of which are required to be served upon parties,~~ documents must be filed with the court either before service or immediately thereafter. If the document required to be filed is to be an original and is not placed in the court file or deposited with the clerk, a certified copy must be so placed by the clerk

(4) Filing with Court Defined. The filing of ~~pleadings and other papers~~ documents with the court as required by these rules shall be made by filing them with the clerk of the court in accordance with rule 8.004, except that the court may permit the papers to be filed with the court in which event the filing date shall be noted thereon and the papers shall be transmitted to the office of the clerk. judge may permit documents to be filed with the judge, in which event the judge must note the filing date before him or her on the documents and transmit them to the clerk. The date of filing is that shown on the face of the document by the notation of the judge or the time stamp of the clerk, whichever is earlier.

(5) Certificate of Service. When any authorized person shall in substance certify:

"I certify that a copy/copies has/have been furnished to (insert name or names) by (e-mail) (delivery) (mail) (fax) on(date).....

Title"

this certificate shall be taken as prima facie proof of such service in compliance with this rule.

(6) Service by Clerk. When the clerk is required to serve notices and other documents, the clerk may do so by e-mail or by any other method permitted in subdivision (b)(2). Service by a clerk is not required to be by e-mail.

(c) Format for E-mail Service. All documents served by e-mail must be sent by an e-mail message containing a subject line beginning with the words “SERVICE OF COURT DOCUMENT” in all capital letters, followed by the case number of the proceeding in which the documents are being served. The body of the e-mail must identify the court in which the proceeding is pending, the case number, the name of the parties on each side, the style of the proceeding, the title of each document served with that e-mail, and the sender's name and telephone number. Any e-mail which, together with its attachments, exceeds five megabytes (5MB) in size, must be divided and sent as separate e-mails, numbered in the subject line, no one of which may exceed 5 MB in size.

(d) Time for Service of Motions and Notice of Hearing. Service by e-mail is complete ~~upon transmission~~ on the date it is sent and must be treated as service by mail for the computation of time. ~~An e-mail is deemed served on the date of transmission, unless~~ If the sender learns that the e-mail did not reach the address of the person to be served, the sender must immediately send another copy by e-mail, or by means authorized by subdivision (b)(2). If e-mail service is excused, a copy of any written motion which may not be heard ex parte and a copy of the notice of the hearing thereof shall be served a reasonable time before the time specified for the hearing. If a document is served by more than one method of service, the computation of time for any response to the served document shall be based on the method of service that provides the shortest response time.

(e) Pleading to Be Signed by Attorney. Every written paper or pleading of a party represented by an attorney shall be signed in the attorney’s individual name by such attorney, whose mailing address, primary e-mail address and telephone number, including area code, and Florida Bar number shall be stated, and who shall be duly licensed to practice law in Florida. Any document served by e-mail may be signed by any of the “/s/”, “/s”, or “s/” formats. The attorney may be required by an order of court to vouch for the authority to represent such party and to give the address of such party. Except when otherwise specifically provided by these rules or applicable statute, pleadings as such need not be verified or accompanied by affidavit.

(f) Pleading to Be Signed by Unrepresented Party. A party who has no

attorney but represents himself or herself shall sign the written pleading or other paper to be filed and state his or her primary e-mail address, mailing address, and telephone number, including area code.

(g) Effect of Signing Pleading. The signature of a person shall constitute a certificate that the paper or pleading has been read; that to the best of the person's knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If a pleading or paper is not signed, or is signed with intent to defeat the purpose of this rule, it may be stricken and the action may proceed as though the pleading or paper had not been served.

(h) Service of Orders. A copy of all orders must be transmitted by the court or under its direction to all parties at the time of the entry of the order. The court may require that orders be prepared by a party, may require the party to furnish the court with stamped addressed envelopes for service of the order or judgment, and may require that proposed orders be furnished to all parties before entry by the court of the order. The court may serve any order by e-mail to all attorneys who were not excused from e-mail service and to all parties not represented by an attorney who have designated an e-mail address for service. This subdivision is directory, and a failure to comply with it does not affect the order or its finality or any proceedings arising in the matter.

Committee Notes

1991 Amendment. (a)(6) This creates a procedure for dismissal similar to Florida Rule of Criminal Procedure 3.190(c)(4).

1992 Amendments. (d) Rules 8.240(c)(2) and 8.630(c)(2) allow 5 days for service by mail. This change conforms this rule.

(f) The current rule implies that a written pleading must be filed. No written pleadings are required.

(e) and (g) The language from (e) was moved to create this new subdivision. The current rule applies only to attorneys. These requirements also should apply to nonattorneys who sign and file papers. This rule conforms with proposed revisions to rules 8.230 and 8.640

RULE 8.225. PROCESS, DILIGENT SEARCHES, AND SERVICE OF PLEADINGS AND PAPERS

(a) Summons and Subpoenas.

(1) Summons. Upon the filing of a dependency petition, the clerk shall issue a summons. The summons shall require the person on whom it is served to appear for a hearing at a time and place specified not less than 72 hours after service of the summons. A copy of the petition shall be attached to the summons.

(2) Subpoenas. Subpoenas for testimony before the court, for production of tangible evidence, and for taking depositions shall be issued by the clerk of the court, the court on its own motion, or any attorney of record for a party. Subpoenas may be served within the state by any person over 18 years of age who is not a party to the proceeding. In dependency and termination of parental rights proceedings, subpoenas may also be served by authorized agents of the department or the guardian ad litem. Except as otherwise required by this rule, the procedure for issuance of a subpoena by an attorney of record in a proceeding shall be as provided in the Florida Rules of Civil Procedure.

(3) Service of Summons and Other Process to Persons Residing in the State. The summons and other process shall be served upon all parties other than the petitioner as required by law. The summons and other process may be served by authorized agents of the department or the guardian ad litem.

(A) Service by publication shall not be required for dependency hearings and shall be required only for service of summons in a termination of parental rights proceeding for parents whose identities are known but whose whereabouts cannot be determined despite a diligent search. Service by publication in these circumstances shall be considered valid service.

(B) The failure to serve a party or give notice to a participant in a dependency hearing shall not affect the validity of an order of adjudication or disposition if the court finds that the petitioner has completed a diligent search that failed to ascertain the identity or location of that party.

(C) Personal appearance of any person in a hearing before the court eliminates the requirement for serving process upon that person.

(4) Service of Summons and Other Process to Persons Residing Outside of the State in Dependency Proceedings.

(A) Service of the summons and other process on parents, parties, participants, petitioners, or persons outside this state shall be in a manner reasonably calculated to give actual notice, and may be made:

(i) by personal delivery outside this state in a manner prescribed for service of process within this state;

(ii) in a manner prescribed by the law of the place in which service is made for service of process in that place in an action in any of its courts of general jurisdiction;

(iii) by any form of mail addressed to the person to be served and requesting a receipt; or

(iv) as directed by the court. Service by publication shall not be required for dependency hearings.

(B) Notice under this rule shall be served, mailed, delivered, or last published at least 20 days before any hearing in this state.

(C) Proof of service outside this state may be made by affidavit of the person who made the service or in the manner prescribed by the law of this state, the order pursuant to which the service is made, or the law of the place in which the service is made. If service is made by mail, proof may be in a receipt signed by the addressee or other evidence of delivery to the addressee.

(D) Personal appearance of any person in a hearing before the court eliminates the requirement for serving process upon that person.

(b) Diligent Search.

(1) **Location Unknown.** If the location of a parent is unknown and that parent has not filed a permanent address designation with the court, the petitioner shall complete a diligent search as required by law.

(2) **Affidavit of Diligent Search.** If the location of a parent is unknown after the diligent search has been completed, the petitioner shall file with

the court an affidavit of diligent search executed by the person who made the search and inquiry.

(3) Court Review of Affidavit. The court must review the affidavit of diligent search and enter an order determining whether the petitioner has completed a diligent search as required by law. In termination of parental rights proceedings, the clerk must not certify a notice of action until the court enters an order finding that the petitioner has conducted a diligent search as required by law. In a dependency proceeding, if the court finds that the petitioner has conducted a diligent search, the court may proceed to grant the requested relief of the petitioner as to the parent whose location is unknown without further notice.

(4) Continuing Duty. After filing an affidavit of diligent search in a dependency or termination of parental rights proceeding, the petitioner, and, if the court requires, the department, are under a continuing duty to search for and attempt to serve the parent whose location is unknown until excused from further diligent search by the court. The department shall report on the results of the continuing search at each court hearing until the person is located or until further search is excused by the court.

(c) Identity of Parent Unknown.

(1) If the identity of a parent is unknown, and a petition for dependency, shelter care, or termination of parental rights is filed, the court shall conduct the inquiry required by law. The information required by law may be submitted to the court in the form of a sworn affidavit executed by a person having personal knowledge of the facts.

(2) If the court inquiry fails to identify any person as a parent or prospective parent, the court shall so find and may proceed to grant the requested relief of the petitioner as to the unknown parent without further notice.

(d) Identity and Location Determined. If an inquiry or diligent search identifies and locates any person who may be a parent or prospective parent, the court must require that notice of the hearing be provided to that person.

(e) Effect of Failure to Serve. Failure to serve parents whose identity or residence is unknown shall not affect the validity of an order of adjudication or disposition if the court finds the petitioner has completed a diligent search.

(f) Notice and Service of Pleadings and Papers.

(1) Notice of Arraignment Hearings in Dependency Cases.

Notice of the arraignment hearing must be served on all parties with the summons and petition. The document containing the notice to appear in a dependency arraignment hearing must contain, in type at least as large as the balance of the document, the following or substantially similar language: “FAILURE TO PERSONALLY APPEAR AT THE ARRAIGNMENT HEARING CONSTITUTES CONSENT TO THE ADJUDICATION OF THIS CHILD (OR THESE CHILDREN) AS A DEPENDENT CHILD (OR CHILDREN) AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD (OR THESE CHILDREN).” Any preadoptive parents of the children and all participants, including the child’s foster parents and relative caregivers, must be notified of the arraignment hearing.

(2) Notice of Assessment of Child Support. Other than as part of a disposition order, if the court, on its own motion or at the request of any party, seeks to impose or enforce a child support obligation on any parent, all parties and participants are entitled to reasonable notice that child support will be addressed at a future hearing.

(3) Notice of Hearings to Participants and Parties Whose Identity or Address are Known. Any preadoptive parents, all participants, including foster parents and relative caregivers, and parties whose identity and address are known must be notified of all proceedings and hearings, unless otherwise provided by law. Notice involving emergency hearings must be that which is most likely to result in actual notice. It is the duty of the petitioner or moving party to notify any preadoptive parents, all participants, including foster parents and relative caregivers, and parties known to the petitioner or moving party of all hearings, except hearings which must be noticed by the court. Additional notice is not required if notice was provided to the parties in writing by the court or is contained in prior court orders and those orders were provided to the participant or party. All foster or preadoptive parents must be provided at least 72 hours notice, verbally or in writing, of all proceedings or hearings relating to children in their care or children they are seeking to adopt to ensure the ability to provide input to the court. This subdivision shall not be construed to require that any foster parent, preadoptive parent, or relative caregiver be made a party to the proceedings solely on the basis of notice and a right to be heard.

(4) Service of Pleadings, Orders, and Papers. Unless the court

orders otherwise, every pleading, order, and paper filed in the action after the initial petition, shall be served on each party or the party's attorney. Nothing herein shall be construed to require that a plea be in writing or that an application for witness subpoena be served.

(5) Method of Service. When service is required or permitted to be made upon a party or participant represented by an attorney, service shall be made upon the attorney unless service upon the party or participant is ordered by the court.

(A) Excusing of Service. Service is excused if the identity or residence of the party or participant is unknown and a diligent search for that person has been completed in accordance with law.

(B) Service by Electronic Mail ("E-mail"). Service of a document by e-mail is made by an e-mail sent to all addresses designated by the attorney or party with either (a) a copy of the document in PDF format attached or (b) a link to the document on a website maintained by a clerk.

(i) Service on Attorneys. Upon appearing in a proceeding, an attorney must ~~serve a designation of~~ designate a primary e-mail address and may designate no more than two secondary e-mail addresses to which service must be directed in that proceeding. Every document filed by an attorney thereafter must include the primary e-mail address of that attorney and any secondary e-mail addresses. If an attorney does not designate any e-mail address for service, documents may be served on that attorney at the e-mail address on record with The Florida Bar.

(ii) Exception to E-mail Service on Attorneys. Service by an attorney on another attorney must be made by e-mail ~~unless excused by the court~~ unless the parties stipulate otherwise. Upon motion by an attorney demonstrating that the attorney has no e-mail account and lacks access to the Internet at the attorney's office, the court may excuse the attorney from the requirements of e-mail service. Service on and by an attorney excused by the court from e-mail service must be by the means provided in subdivision (c)(6) of this rule.

(iii) Service on and by Parties Not Represented by an Attorney. Any party not represented by an attorney may serve a designation of a primary e-mail address and also may designate no more than two secondary

e-mail addresses to which service must be directed in that proceeding. If a party not represented by an attorney does not designate an e-mail address for service in a proceeding, service on and by that party must be by the means provided in subdivision (c)(6) of this rule.

(iv) Format of E-mail for Service. All documents served by e-mail must be attached to an e-mail message containing a subject line beginning with the words “SERVICE OF COURT DOCUMENT” in all capital letters, followed by the case number of the proceeding in which the documents are being served. The body of the e-mail must identify the court in which the proceeding is pending, the case number, the name of the initial party on each side, the title of each document served with that e-mail, and the sender’s name and telephone number. Any e-mail which, together with its attachments, exceeds five megabytes (5MB) in size, must be divided and sent as separate e-mails, numbered in the subject line, no one of which may exceed 5MB in size.

(v) Time of Service. Service by e-mail is complete ~~upon transmission on the date sent~~ and must be treated as service by mail for the computation of time. ~~An e-mail is deemed served on the date of transmission, unless~~ If the sender learns that the e-mail did not reach the address of the person to be served, the sender must immediately send another copy by e-mail or by a means authorized by subdivision (f)(6).

(6) Service by Other Means. In addition to, and not in lieu of, service by e-mail, service may also be made upon attorneys by any of the means specified in this subdivision. If a document is served by more than one method of service, the computation of time for any response to the served document shall be based on the method of service that provides the shortest response time. Service on and by all parties and participants who are not represented by an attorney and who do not designate an e-mail address, and on and by all attorneys excused from e-mail service, must be made by delivering a copy of the document or by mailing it to the party or participant at their permanent mailing address if one has been provided to the court or to the party, participant, or attorney at their last known address or, if no address is known, by leaving it with the clerk of the court. Service by mail is complete upon mailing. Delivery of a copy within this rule is complete upon:

- (A) handing it to the attorney or to the party or participant,
- (B) leaving it at the attorney’s, party’s or participant’s office

with a clerk or other person in charge thereof,

(C) if there is no one in charge, leaving it in a conspicuous place therein,

(D) if the office is closed or the person to be served has no office, leaving it at the person's usual place of abode with some person of his or her family above 15 years of age and informing such person of the contents, or

(E) transmitting it by facsimile to the attorney's, party's, or participant's office with a cover sheet containing the sender's name, firm, address, telephone number, and facsimile number, and the number of pages transmitted. When service is made by facsimile, a copy must also be served by any other method permitted by this rule. Facsimile service occurs when transmission is complete.

(F) Service by delivery shall be deemed complete on the date of delivery.

(7) Filing. All ~~original~~ documents must be filed with the court either before service or immediately thereafter. If the original of any bond or other document is required to be an original and is not placed in the court file or deposited with the clerk, a certified copy must be so placed by the clerk.

(8) Filing Defined. The filing of documents with the court as required by these rules must be made by filing them with the clerk, except that the judge may permit documents to be filed with the judge, in which event the judge must note the filing date before him or her on the documents and transmit them to the clerk. The date of filing is that shown on the face of the document by the judge's notation or the clerk's time stamp, whichever is earlier.

(9) Certificate of Service. When any attorney certifies in substance:

"I certify that a copy hereof has been furnished to (here insert name or names and addresses used for service) by (e-mail) (delivery) (mail) (fax) on(date).....

Attorney"

the certificate must be taken as prima facie proof of such service in compliance with this rule.

(10) Service by Clerk. When the clerk is required to serve notices and other documents, the clerk may do so by e-mail or by another method permitted under subdivision (c). Service by a clerk is not required to be by e-mail.

(11) Service of Orders.

(A) A copy of all orders or judgments must be transmitted by the court or under its direction to all parties at the time of entry of the order or judgment. No service need be made on parties against whom a default has been entered except orders setting an action for trial and final judgments that must be prepared and served as provided in subdivision (c)(11)(B). The court may require that orders or judgments be prepared by a party, may require the party to furnish the court with stamped addressed envelopes for service of the order or judgment, and may require that proposed orders and judgments be furnished to all parties before entry by the court of the order or judgment. The court may serve any order or judgment by e-mail to all attorneys who have not been excused from e-mail service and to all parties not represented by an attorney who have designated an e-mail address for service.

(B) When a final judgment is entered against a party in default, the court must mail a conformed copy of it to the party. The party in whose favor the judgment is entered must furnish the court with a copy of the judgment, unless it is prepared by the court and with the address of the party to be served. If the address is unknown, the copy need not be furnished.

(C) This subdivision is directory and a failure to comply with it does not affect the order or judgment or its finality or any proceedings arising in the action.

RULE 8.635. PROCESS

(a) Summons and Subpoenas.

(1) **Summons.** Upon the filing of a petition, the clerk shall issue a summons. The summons shall require the person on whom it is served to appear for a hearing at a time and place specified. Except in cases of medical emergency, the time of hearing shall not be less than 24 hours after service of the summons. If the child is not detained by an order of the court, the summons shall require the custodian to produce the child at the said time and place. A copy of the petition shall be attached to the summons.

(2) **Subpoenas.** Upon the application of a party, the clerk shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, or other tangible objects at any hearing. This subdivision shall not in any way limit the state attorney's power to issue subpoenas.

(3) **Service.** The summons and other process shall be served upon such persons and in such manner as required by law. If the parents or custodian are out of the state and their address is known, the clerk shall give them notice of the proceedings by mail. Service of process may be waived. Authorized agents of the Department of Juvenile Justice may also serve summons and other process upon such persons and in such manner as required by law.

(b) Service of Pleadings and Papers.

(1) **When Required.** Unless the court orders otherwise, or a statute or supreme court administrative order specifies a different means of service, every pleading subsequent to the initial petition, every order, every written motion, unless it is one as to which hearing ex parte is authorized, and every written notice filed in the case shall be served on each party; however, nothing herein shall be construed to require that a plea be in writing or that an application for witness subpoenas be served.

(2) **How Made.** When service is required or permitted to be made upon a party represented by an attorney, service shall be made upon the attorney unless service upon the party is ordered by the court. All documents required or permitted to be served on another party must be served by e-mail, unless the parties

otherwise stipulate or this rule otherwise provides.

(A) Service by Electronic Mail (“E-mail”). Service of a document by e-mail is made by an e-mail sent to all addresses designated by the attorney or party with either (a) a copy of the document in PDF format attached or (b) a link to the document on a website maintained by a clerk. Any document served by e-mail may be signed by any of the “/s/,” “/s,” or “s/” formats, so long as the filed ~~original~~ document is signed in accordance with the applicable rules of court.

(i) Service on Attorneys. Upon appearing in any proceeding, an attorney must ~~serve a designation of~~ designate a principal e-mail address and may designate no more than two secondary e-mail addresses to which service must be directed in that proceeding. Every document filed by an attorney thereafter must include in the signature block the principal e-mail address of that attorney and any secondary e-mail addresses. If an attorney does not designate any e-mail address for service, documents may be served on that attorney at the e-mail address on record with The Florida Bar.

(ii) Exception to E-mail Service on Attorneys. ~~Service by an attorney on another attorney must be made by e-mail unless excused by the court.~~ Upon motion by an attorney demonstrating that the attorney has no e-mail account and lacks access to the Internet at the attorney’s office, the court may excuse the attorney from the requirements of e-mail service. Service on and by an attorney excused by the court from e-mail service must be by the means provided in subdivision (b)(2)(B) of this rule.

(iii) Service on and by Parties not Represented by an Attorney. Any party not represented by an attorney may serve a designation of a principal e-mail address and also may designate no more than two secondary e-mail addresses to which service must be directed in that proceeding by the means provided in subdivision (b)(2)(A) of this rule. If a party not represented by an attorney does not designate an e-mail address for service in a proceeding, service on and by that party must be by the means provided in subdivision (b)(2)(B) of this rule.

(iv) Format of E-mail for Service. All documents served by e-mail must be sent by an e-mail message containing a subject line beginning with the words “SERVICE OF COURT DOCUMENT” in all capital letters, followed by the case number of the proceeding in which the documents are being served. The body of the e-mail must identify the court in which the

proceeding is pending, the case number, the name of the initial party on each side, the title of each document served with that e-mail, and the sender's name and telephone number. Any e-mail which, together with its attachments, exceeds five megabytes (5MB) in size, must be divided and sent as separate e-mails, numbered in the subject line, no one of which may exceed 5MB in size.

(v) **Time of Service.** Service by e-mail is complete ~~upon transmission~~ on the day it is sent and must be treated as service by mail for the computation of time. ~~An e-mail is deemed served on the date of transmission.~~ If the sender learns that the e-mail did not reach the address of the person to be served, the sender must immediately serve another copy by e-mail, or by a means authorized by subdivision (b)(2)(B) of this rule.

(B) **Service by Other Means.** In addition to, and not in lieu of, service by e-mail, service may also be made upon attorneys by the means specified in this subdivision. Service on and by all parties who are not represented by an attorney and who do not designate an e-mail address, and on and by all attorneys excused from e-mail service, must be made by delivering a copy of the document or by mailing it to the party or attorney at their last known address or, if no address is known, by leaving it with the clerk of the court. Service by mail is complete upon mailing. Delivery of a copy within this rule is complete upon:

- (i) handing it to the attorney or to the party;
- (ii) leaving it at the attorney's or party's office with a clerk or other person in charge thereof;
- (iii) if there is no one in charge, leaving it in a conspicuous place therein;
- (iv) if the office is closed or the person to be served has no office, leaving it at the person's usual place of abode with some person of his or her family above 15 years of age and informing such person of the contents; or
- (v) transmitting it by facsimile to the attorney's or party's office with a cover sheet containing the sender's name, firm, address, telephone number, and facsimile number, and the number of pages transmitted. When service is made by facsimile, a copy must also be served by any other method permitted by this rule. Facsimile service occurs when transmission is complete.

(vi) Service shall be deemed complete on the date of delivery.

(C) **Numerous Parties.** In an action where the parties are unusually numerous, the court may regulate the service contemplated by these rules on motion or on its own initiative in such manner as may be found to be just and reasonable.

(3) **Filing.** All ~~original papers, copies of which are required to be served upon parties,~~documents must be filed with the court either before service or immediately thereafter, unless otherwise provided for by general law or other rules. If the original of any bond or document required to be an original is not placed in the court file or deposited with the clerk, a certified copy may be so placed by the clerk.

(4) **Filing with Court Defined.** The filing of ~~pleadings and other papers~~documents with the court as required by these rules shall be made by filing them with the clerk in accordance with rule 8.004 except that the judge may permit documents to be filed with the judge, in which event the judge must note the filing date before him or her on the documents and transmit them to the clerk. The date of filing is the date shown on the face of the document by the judge's notation or the clerk's time stamp, whichever is earlier.

(5) **Certificate of Service.** When any attorney shall in substance certify:

"I certify that a copy/copies has/have been furnished to (insert name or names) by (e-mail) (delivery) (mail) (fax) on(date).....

Title"

this certificate shall be taken as prima facie proof of such service in compliance with this rule.

(6) **Service by Clerk.** When the clerk is required to serve notices and other documents, the clerk may do so by e-mail or by any other method permitted in subdivision (b)(2). Service by a clerk is not required to be by e-mail.

(c) **Service of Orders.** A copy of all orders or judgments must be transmitted by the court or under its direction to all parties at the time of entry of the order or judgment. The court may require that orders or judgments be prepared by a party, may require the party to furnish the court with stamped addressed envelopes for service of the order or judgment, and may require that proposed orders and judgments be furnished to all parties before entry by the court of the order or judgment. The court may serve any order or judgment by e-mail to all attorneys who have designated an e-mail address for service and to all parties not represented by an attorney who have designated an e-mail address for service. This subdivision is directory and a failure to comply with it does not affect the order or its finality or any proceedings arising in the action.

APPENDIX B

Proposed rule

Reasons for change

RULE 8.085. PREHEARING MOTIONS AND SERVICE

(a) [No change]

(b) **Service of Pleadings and Papers.**

(1) **When Required.** Unless the court orders otherwise, every pleading subsequent to the initial petition, every order, every written motion, unless it is one as to which hearing ex parte is authorized, and every written notice filed in the case shall be served on each party; however, nothing herein shall be construed to require that a plea be in writing or that an application for witness subpoena be served.

(2) **How Made.** When service is required or permitted to be made upon a party represented by an attorney, service shall be made upon the attorney unless service upon the party is ordered by the court. ~~Unless excused by the court, s~~Service upon the attorney or party shall be made by electronic mail (e-mail) consistent with the requirements of Florida Rule of Judicial Administration 2.516, unless the parties stipulate otherwise. Service on and by all parties who are not represented by an attorney and who do not designate an e-mail address, and on and by all attorneys excused from e-mail service, must be made by delivering a copy or by mailing it to the attorney or party's last known address or, if no address is known, by leaving it with the clerk of the court. Service by mail shall be complete upon mailing. Delivery of a copy within this rule shall mean:

Amended to conform to amendment of *Fla. R. Jud. Admin.* 2.516(b)(1) in 112 So. 3d 1173, 1175

(A)–(E) [No change]

(3) **Filing.** All ~~original papers, copies of~~ documents must be filed with the court either before service or immediately thereafter. If the document required to be filed is to be an original and is not placed in the court file or deposited with the clerk, a certified copy must be so placed by the clerk

Amended to conform to amendment of *Fla. R. Jud. Admin.* 2.516(d) in 112 So. 3d 1173, 1176

(4) **Filing with Court Defined.** The filing of ~~pleadings and other papers~~ documents with the court as required by these rules shall be made by filing them with the clerk of the court in accordance with rule 8.004, except that the ~~court may permit the papers to be filed with the court in which event the filing date shall be noted thereon and the papers shall be transmitted to the office of the clerk.~~ judge may permit documents to be filed with the judge, in which event the judge must note the filing date before him or her on the documents and transmit them to the clerk. The date of filing is that shown on the face of the document by the notation of the judge or the time stamp of the clerk, whichever is earlier.

Amended to conform to *Fla. R. Jud. Admin.* 2.516(e)

(5)–(6) [No change]

(c) [No change]

(d) **Time for Service of Motions and Notice of Hearing.** Service by e-mail is complete ~~upon transmission~~ on the date it is sent and must be treated as service by mail for the computation of time. ~~An e-mail is deemed served on the date of transmission, unless~~ If the sender learns that the e-mail did not reach the address of the person to be served, the sender must immediately send another copy by e-mail, or by means

Amended to conform to *Fla. R. Jud. Admin.* 2.516(b)(1)(d) as amended by 112 So. 3d 1173, 1175

authorized by subdivision (b)(2). If e-mail service is excused, a copy of any written motion which may not be heard ex parte and a copy of the notice of the hearing thereof shall be served a reasonable time before the time specified for the hearing. If a document is served by more than one method of service, the computation of time for any response to the served document shall be based on the method of service that provides the shortest response time.

(e) Pleading to Be Signed by Attorney. Every written paper or pleading of a party represented by an attorney shall be signed in the attorney's individual name by such attorney, whose mailing address, primary e-mail address and telephone number, including area code, and Florida Bar number shall be stated, and who shall be duly licensed to practice law in Florida. Any document served by e-mail may be signed by any of the "/s/". "/s", or "s/" formats. The attorney may be required by an order of court to vouch for the authority to represent such party and to give the address of such party. Except when otherwise specifically provided by these rules or applicable statute, pleadings as such need not be verified or accompanied by affidavit.

(f)–(h) [No change]

Committee Notes

[No change]

Proposed rule

Amended to conform to *Fla. R. Jud. Admin.* 2.516(b)(2) as amended by 112 So. 3d 1172, 1176

Amended to conform to *Fla. R. Jud. Admin.* 2.516(b)(1)(E)(iii).

Reasons for change

**RULE 8.225. PROCESS, DILIGENT SEARCHES,
AND SERVICE OF PLEADINGS
AND PAPERS**

(a) [No change]

(b) [No change]

(c) [No change]

(d) [No change]

(e) [No change]

(f) **Notice and Service of Pleadings and Papers.**

(1)–(5) [No change]

(5) **Method of Service.** When service is required or permitted to be made upon a party or participant represented by an attorney, service shall be made upon the attorney unless service upon the party or participant is ordered by the court.

(A)–(B) [No change]

(i) **Service on Attorneys.**

Upon appearing in a proceeding, an attorney must ~~serve a designation of~~ designate a primary e-mail address and may designate no more than two secondary e-mail addresses to which service must be directed in that proceeding. Every document filed by an attorney thereafter must include the

Amended to conform to *Fla. R. Jud. Admin.* 2.516(b)(1)(A) as amended by 112 So. 3d 1173, 1175

primary e-mail address of that attorney and any secondary e-mail addresses. If an attorney does not designate any e-mail address for service, documents may be served on that attorney at the e-mail address on record with The Florida Bar.

(ii) Exception to E-mail

Service on Attorneys. Service by an attorney on another attorney must be made by e-mail ~~unless excused by the court unless the parties stipulate otherwise.~~ Upon motion by an attorney demonstrating that the attorney has no e-mail account and lacks access to the Internet at the attorney's office, the court may excuse the attorney from the requirements of e-mail service. Service on and by an attorney excused by the court from e-mail service must be by the means provided in subdivision (c)(6) of this rule.

Amended to conform to *Fla. R. Jud. Admin.* 2.516(b)(1) as amended by 112 So. 3d 1173, 1175

(iii)–(iv) [No change]

(v) Time of Service.

Service by e-mail is complete ~~upon transmission~~ on the date sent and must be treated as service by mail for the computation of time. ~~An e-mail is deemed served on the date of transmission, unless~~ If the sender learns that the e-mail did not reach the address of the person to be served, the sender must immediately send another copy by e-mail or by a means authorized by subdivision (f)(6).

Amended to conform to *Fla. R. Jud. Admin.* 2.516(b)(1)(D) as amended by 112 So. 3d 1173, 1175–176

(6) Service by Other Means. In addition to, and not in lieu of, service by e-mail, service may also be made upon attorneys by any of the means specified in this subdivision. If a document is served by more than one method of service, the computation of time for any response to the served document shall be based on the method of service that provides the shortest response time. Service on and by all

Amended to conform to *Fla. R. Jud. Admin.* 2.516(b)(2) as amended by 112 So. 3d 1173, 1176

parties and participants who are not represented by an attorney and who do not designate an e-mail address, and on and by all attorneys excused from e-mail service, must be made by delivering a copy of the document or by mailing it to the party or participant at their permanent mailing address if one has been provided to the court or to the party, participant, or attorney at their last known address or, if no address is known, by leaving it with the clerk of the court. Service by mail is complete upon mailing. Delivery of a copy within this rule is complete upon:

(A)–(F) [No change]

(7) **Filing.** All ~~original~~ documents must be filed with the court either before service or immediately thereafter. If the original of any bond or other document is required to be an original and is not placed in the court file or deposited with the clerk, a certified copy must be so placed by the clerk.

Amended to conform to *Fla. R. Jud. Admin.* 2.516(d) as amended by 112 So. 3d 1173, 176

(8)–(11) [No change]

Proposed rule

RULE 8.635. PROCESS

(a) [No change]

(b) **Service of Pleadings and Papers.**

(1) **When Required.** Unless the court orders otherwise, or a statute or supreme court administrative order specifies a different means of service, every pleading subsequent to the initial petition, every order, every written motion, unless it is one as to which hearing ex parte is authorized, and every written notice filed in the case shall be served on each party; however, nothing herein shall be construed to require that a plea be in writing or that an application for witness subpoenas be served.

(2) **How Made.** When service is required or permitted to be made upon a party represented by an attorney, service shall be made upon the attorney unless service upon the party is ordered by the court. All documents required or permitted to be served on another party must be served by e-mail, unless the parties otherwise stipulate or this rule otherwise provides.

(A) **Service by Electronic Mail (“E-mail”).** Service of a document by e-mail is made by an e-mail sent to all addresses designated by the attorney or party with either (a) a copy of the document in PDF format attached or (b) a link to the document on a website maintained by a clerk. Any document served by e-mail may be signed by any of the “/s/,” “/s,” or “s/” formats, so long as the filed ~~original document~~ is signed in accordance with the applicable rules of court.

Amended to conform to *Fla. R. Jud. Admin.* 2.516(b)(1), as amended by 112 So. 3d 1173. 1175 (Fla. 2013)

Amended to conform to *Fla. R. Jud. Admin.* 2.516(b)(1)(E)(iii),

(i) Service on Attorneys.

Upon appearing in any proceeding, an attorney must ~~serve a designation of designate~~ a principal e-mail address and may designate no more than two secondary e-mail addresses to which service must be directed in that proceeding. Every document filed by an attorney thereafter must include in the signature block the principal e-mail address of that attorney and any secondary e-mail addresses. If an attorney does not designate any e-mail address for service, documents may be served on that attorney at the e-mail address on record with The Florida Bar.

(ii) Exception to E-mail

Service on Attorneys. ~~Service by an attorney on another attorney must be made by e-mail unless excused by the court.~~ Upon motion by an attorney demonstrating that the attorney has no e-mail account and lacks access to the Internet at the attorney's office, the court may excuse the attorney from the requirements of e-mail service. Service on and by an attorney excused by the court from e-mail service must be by the means provided in subdivision (b)(2)(B) of this rule.

(iii) Service on and by Parties

not Represented by an Attorney. Any party not represented by an attorney may serve a designation of a principal e-mail address and also may designate no more than two secondary e-mail addresses to which service must be directed in that proceeding by the means provided in subdivision (b)(2)(A) of this rule. If a party not represented by an attorney does not designate an e-mail address for service in a proceeding, service on and by that party must be by the means provided in subdivision (b)(2)(B) of this rule.

as amended by 112 So. 3d 1173, 1176 (Fla. 2013).

Amended to conform to *Fla. R. Jud. Admin.* 2.516(b)(1)(A), as amended by 112 So. 3d 1173, 1175

Amended to conform to *Fla. R. Jud. Admin.* 2.516(b)(1)(B), as amended by 112 So. 3d 1173, 1175

(iv) Format of E-mail for

Service. All documents served by e-mail must be sent by an e-mail message containing a subject line beginning with the words “SERVICE OF COURT DOCUMENT” in all capital letters, followed by the case number of the proceeding in which the documents are being served. The body of the e-mail must identify the court in which the proceeding is pending, the case number, the name of the initial party on each side, the title of each document served with that e-mail, and the sender’s name and telephone number. Any e-mail which, together with its attachments, exceeds five megabytes (5MB) in size, must be divided and sent as separate e-mails, numbered in the subject line, no one of which may exceed 5MB in size.

(v) Time of Service.

Service by e-mail is complete ~~upon transmission~~ on the day it is sent and must be treated as service by mail for the computation of time. ~~An e-mail is deemed served on the date of transmission.~~ If the sender learns that the e-mail did not reach the address of the person to be served, the sender must immediately serve another copy by e-mail, or by a means authorized by subdivision (b)(2)(B) of this rule.

(B) [No change]

(C) [No change]

(3) Filing.

~~All original papers, copies of which are required to be served upon parties, documents~~ must be filed with the court either before service or immediately thereafter, unless otherwise provided for by general law or other rules. If the original of any bond or document required to be an

Amended to conform to *Fla. R. Jud. Admin.* 2.516(1)(1)(D), as amended by 112 So. 3d 1173, 1176 (Fla. 2013).

Amended to conform to *Fla. R. Jud. Admin.* 2.516(d), as amended by 112 So. 3d 1173, 1176 (Fla. 2013).

original is not placed in the court file or deposited with the clerk,
a certified copy may be so placed by the clerk.

(4) Filing with Court Defined. The filing of ~~pleadings and other papers~~documents with the court as required by these rules shall be made by filing them with the clerk in accordance with rule 8.004 except that the judge may permit documents to be filed with the judge, in which event the judge must note the filing date before him or her on the documents and transmit them to the clerk. The date of filing is the date shown on the face of the document by the judge's notation or the clerk's time stamp, whichever is earlier.

Amended to conform to *Fla. R. Jud. Admin. 2.516(e)*

(5)–(6) [No change]

(c) [No change]