FLORIDA RULES OF JUVENILE PROCEDURE

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CITATIONS TO OPINIONS ADOPTING OR AMENDING RULES

ORIGINAL ADOPTION, effective 7-1-77: 345 So.2d 655.

OTHER OPINIONS	CITATION	RESULT OF OPINION
Effective 7-1-79:	372 So.2d 449.	Deleted 8.020.
Effective 1-1-81:	393 So.2d 1077.	Amended 8.010–8.050, 8.070, 8.100–8.150, 8.170–8.260, 8.280–8.300, 8.320–8.340; deleted 8.160, 8.310; replaced 8.923–8.924; added 8.925–8.931.
Effective 9-1-82:	418 So.2d 1004.	Amended 8.170, 8.300.
Effective 1-1-85:	462 So.2d 399.	Four-year-cycle revision; divided rules into two parts. Amended 8.030–8.050, 8.070, 8.110–8.130, 8.150, 8.180–8.240, 8.280–8.300; deleted 8.060, 8.340; added 8.160, 8.500–8.870; replaced 8.250, 8.260.
Effective 9-19-85:	475 So.2d 1240.	Amended 8.040.
Effective 1-1-89:	530 So.2d 920.	Four-year-cycle revision; all committee notes before 1984 deleted. Amended 8.050–8.190, 8.260, 8.320, 8.530, 8.710, 8.720; deleted 8.160, 8.310, 8.909, 8.914; replaced 8.923–8.924.
Effective 1-1-89:	532 So.2d 1272.	Amended 8.180.
Effective 10-1-89:	549 So.2d 663.	Added Part III, 8.880–8.887.
Effective 3-1-90:	557 So.2d 1360.	Amended 8.610, 8.630, 8.710, 8.800.
Effective 7-1-91:	589 So.2d 818.	Reorganized and renumbered rules. Amended 8.000–8.013, 8.025–8.040, 8.060–8.065, 8.075, 8.085–8.130, 8.140, 8.150–8.180, 8.200–8.275, 8.285, 8.300–8.320, 8.330–8.400, 8.415, 8.700–8.710, 8.720–8.725, 8.735, 8.904–8.909, 8.931–8.932, 8.948, 8.965, 8.980; deleted 8.915–8.931; added 8.015, 8.045, 8.070, 8.080, 8.325, 8.405–8.410, 8.500–8.530, 8.600–8.695, 8.902–8.903, 8.911–8.913, 8.930, 8.937–8.947, 8.960–8.964, 8.966–8.967, 8.981–8.984.
Effective 1-1-93:	608 So.2d 478.	Amended 8.045, 8.060, 8.085, 8.160, 8.205–8.210, 8.225, 8.235, 8.325, 8.340, 8.515, 8.640, 8.982; added 8.104, 8.185; deleted 8.175, 8.200, 8.280, 8.600, 8.700.
Effective 12-22-94:	648 So.2d 115.	Amended 8.090, 8.415; added 8.227.
Effective 1-26-95:	649 So.2d 1370.	Amended 8.090–8.104, 8.120, 8.245, 8.947, 8.961; added 8.949–8.950.
Effective 9-28-95:	661 So.2d 800.	Amended 8.210, 8.400–8.410, 8.500–8.505, 8.520, 8.530.
Effective 10-1-96:	681 So.2d 666.	Amended 8.060.
Effective 10-31-96:	684 So.2d 756.	Amended 8.095.
Effective 1-1-97:	684 So.2d 756.	Four-year-cycle revision. Amended 8.013, 8.035, 8.075, 8.085, 8.105, 8.115–8.120, 8.215, 8.225, 8.265, 8.305, 8.315, 8.405–8.410, 8.510, 8.525, 8.610, 8.617, 8.625, 8.635, 8.909, 8.940–8.942, 8.946–8.947, 8.950, 8.961, 8.964–8.967, 8.982; added 8.535, 8.951, 8.968–8.969.
Effective 7-10-97:	696 So.2d 763.	Added 8.290.
Effective 10-1-98:	725 So.2d 296.	Amended 8.000, 8.201, 8.210–8.215, 8.225, 8.240–8.255, 8.290, 8.305–8.330, 8.340–8.345, 8.400–8.415, 8.500–8.525, 8.535, 8.960–8.964, 8.966–8.967, 8.969, 8.980–8.981, 8.983–8.984; added 8.959, 8.965, 8.970–8.972, 8.979, 8.985–8.986; deleted 8.405, 8.530, 8.967, 8.982.
Effective 12-3-98:	724 So.2d 1153.	Amended 8.060.
Effective 4-29-99:	753 So.2d 541.	Amended 8.100.
Effective 7-1-99:	753 So.2d 1214.	Amended 8.210, 8.225, 8.235, 8.275, 8.305–8.310, 8.320–8.330, 8.345, 8.400–8.415, 8.500–8.510, 8.525.
Effective 1-1-01:	783 So.2d 138.	Four-year-cycle revision. Amended 8.013–8.015, 8.030, 8.040, 8.060, 8.070, 8.085, 8.095, 8.115–8.120, 8.185, 8.205–8.215, 8.225–

OTHER OPINIONS	CITATION	RESULT OF OPINION
		8.260, 8.290–8.320, 8.330, 8.340–8.510, 8.520, 8.610, 8.625, 8.635, 8.655, 8.690–8.695, 8.710, 8.902–8.903, 8.905–8.909, 8.913–8.930, 8.932–8.936, 8.938, 8.940–8.942, 8.947–8.951, 8.959–8.961, 8.964–8.966; added 8.031, 8.041, 8.224; deleted 8.227, committee note to Part III, 8.946.
Effective 1-1-01:	789 So.2d 951.	Amended 8.330, 8.525.
Effective 3-1-01:	796 So.2d 468.	Amended 8.305, 8.400, 8.505; added 8.217.
Effective 1-15-02:	816 So.2d 536.	Amended 8.135, 8.510.
Effective 1-1-03:	827 So.2d 219.	Two-year cycle revision. Amended 8.030–8.031, 8.085, 8.110, 8.185, 8.201, 8.210, 8.225, 8.245, 8.255, 8.265, 8.345, 8.525, 8.635, 8.959–8.960, 8.967, 8.979; added 8.929; deleted 8.275.
Effective 3-6-03:	842 So.2d 763.	Added 8.350.
Effective 10-1-04:	887 So.2d 1090.	Amended 8.060, 8.625.
Effective 1-27-05:	894 So.2d 875.	Two-year cycle revision. Amended 8.165, 8.203, 8.240–8.245, 8.255, 8.290–8.305, 8.315, 8.325, 8.400–8.415, 8.500–8.515, 8.525, 8.535, 8.603, 8.908, 8.911, 8.959–8.960, 8.979; added 8.257.
Effective 3-3-05:	898 So.2d 47.	Amended 8.041, 8.225, 8.415, 8.929, 8.947.
Effective 6-30-05:	907 So.2d 1161.	Added 8.800–8.835, 8.987–8.991.
Effective 11-17-05:	915 So.2d 592.	Amended 8.010, 8.013, 8.415, 8.929, 8.947, 8.970; added 8.355, 8.973, 8.974.
Effective 1-1-06:	915 So.2d 145.	Amended 8.290.
Effective 7-6-06:	934 So.2d 438.	Amended 8.805, 8.820, 8.987, 8.991; added 8.992.
Effective 1-1-07:	939 So.2d 74.	Three-year cycle revision. Amended 8.045, 8.090, 8.135, 8.210, 8.257, 8.350, 8.515, 8.535, 8.911, 8.930, 8.964, 8.966, 8.980–8.983; added 8.975.
Effective 2-8-07:	951 So.2d 804.	Amended 8.240, 8.250, 8.257, 8.305, 8.330, 8.400–8.415, 8.929, 8.947, 8.950–8.951, 8.961, 8.966, 8.970; added 8.420–8.430, 8.976–8.977.
Effective 6-21-07:	959 So.2d 250.	Amended 8.075, 8.115.
Effective 7-12-07:	960 So.2d 764.	Added 8.978.
Effective 6-26-08:	985 So.2d 534.	Amended 8.100.
Effective 7-1-08:	981 So.2d 463.	Amended 8.165.
Effective 9-25-08:	992 So.2d 242.	Amended 8.225, 8.962–8.963, 8.968, 8.977.
Effective 3-19-09:	5 So.3d 665.	Amended 8.225.
Effective 10-1-09:	22 So.3d 9.	Amended 8.305, 8.961; added 8.292, 8.958, 8.961(a).
Effective 11-12-09:	24 So.3d 47.	Amended 8.330, 8.525, 8.983, 8.984; added 8.276, 8.332.
Effective 1-1-10:	26 So.3d 552.	Amended 8.010, 8.070, 8.080, 8.100, 8.115, 8.130, 8.235, 8.257, 8.265, 8.310, 8.400–8.410, 8.505; added 8.978(a), 8.982.
Effective 6-24-10:	41 So.3d 888.	Added 8.003.
Effective 1-1-11:	48 So.3d 809.	Amended 8.010.
Effective 10-20-11:	75 So.3d 216.	Amended 8.820, 8.825, 8.947, 8.987, 8.990, 8.992; adopted 8.840.
Effective 6-1-12:	88 So.3d 142.	Amended 8.255
Effective 9-1-12:	102 So.3d 505.	Amended 8.085, 8.225, 8.635, and 8.903.
Effective 10-1-12:	95 So3d 96.	Amended 8.085, 8.180, 8.240, 8.630.
Effective 10-11-12:	101 So.3d 368.	Amended 8.201, 8.425, 8.500, 8.510, 8.980.
Effective 10-1-13:	102 So.3d 451.	Amended 8.000, 8.003, 8.205, 8.217, 8.230, 8.690, adopted 8.004, re-numbered parts within rules.
Effective 1-1-13:	101 So.3d 368.	Amended 8.415.
Effective 7-1-13:	115 So.3d 286.	Amended 8.035, 8.070, 8.075, 8.080, 8.115, 8.201, 8.225, 8.260, 8.285, 8.340, 8.345, 8.350, 8.908, 8.929, 8.947, 8.959, 8.960, 8.961, 8.963, 8.964, 8.965, 8.966, 8.967, 8.970, 8.973, 8.975, 8.979, 8.982, adopted 8.226, 8.286, 8.347, 8.517, 8.952.
Effective: 10-3-13:	123 So.3d 1139.	Amended 8.085, 8.225, 8.635.
Effective: 10-3-13:	123 So.3d 1128.	Amended 8.060, 8.095, 8.135, 8.255, 8.345, 8.425, 8.947.

OTHER OPINIONS	CITATION	RESULT OF OPINION
Effective: 3-20-14:	136 So.3d 508.	Adopted 8.401, 8.435, amended 8.415, 8.973, deleted 8.971, 8.972.
Effective 10-1-14:	141 So.3d 1172.	Amended 8.290.
Effective 2-19-15:	158 So.3d 523.	See corrected opinion effective 1-21-16.
Effective 1-1-16:	175 So.3d 263.	Three-year cycle revision. Amended 8.075, 8.165, 8.315, 8.332, 8.345; created subpart V.C.; adopted 8.850, 8.855, 8.860, 8.865, 8.870; deleted 8.962, 8.963.
Effective 1-21-16.	191 So.3d 257.	Amended 8.305, 8.310, 8.350, 8.355, 8.415, 8.960, 8.961, 8.970, 8.973A, 8.973B; adopted 8.231.
Effective 2-11-16	184 So.3d 1116.	Amended 8.150
Effective 3-23-17	213 So. 3d 803	Amended 8.510, 851, 8.525,8.983,8.984; adopted 8.530, 8.9831, 8.9832
Effective 1-1-19	258 So.3d 1254	Amended Rule 8.005, Rule 8.045, 8.060, 8.085, 8.090, 8.100, 8.110, 8.255, 8.257, 8.320, 8.425, and 8.8.435. Amended Forms 8.947, 8.93, 8.964, 8.965, 8.974, and 8.991
Effective 11-27-19		Amended Rules 8.240, 8.332, 8.350, 8.355, 8.400, 8.415, 8.430, 8.525, 8.961, 8.965, 8.966, 8.970, 8.973A, 8.973B, 8.973C, 8.975, 8.983, and 8.984

NOTE TO USERS: Rules in this pamphlet are current through _____. Subsequent amendments, if any, can be found at www.floridasupremecourt.org/decisions/rules.shtml.

PART I. RULES OF GENERAL APPLICATION

RULE 8.000. SCOPE AND PURPOSE

These rules shall govern the procedures in the juvenile division of the circuit court in the exercise of its jurisdiction under Florida law.

Part II of these rules governs the procedures for delinquency cases in the juvenile court. Part IV governs the procedures for families and children in need of services cases in the juvenile court. The Department of Juvenile Justice shall be referred to as the "department" in these parts.

Part III of these rules governs the procedures for dependency cases in the juvenile court. The Department of Children and Family Services shall be referred to as the "department" in that part.

These rules are intended to provide a just, speedy, and efficient determination of the procedures covered by them and shall be construed to secure simplicity in procedure and fairness in administration.

They shall be known as the Florida Rules of Juvenile Procedure and may be cited as Fla. R. Juv. P.

When appropriate the use of singular nouns and pronouns shall be construed to include the plural and the use of plural nouns and pronouns shall be construed to include the singular.

Committee Notes

1991 Amendment. All rules have been edited for style and to remove gender bias. The rules have been reorganized and renumbered to correspond to the types and stages of juvenile proceedings. Cross-references have been changed accordingly.

1992 Amendment. Scope and Purpose, previously found in rules 8.000, 8.200, 8.600, and 8.700, has been consolidated into one rule. Designations of subparts within the delinquency part of the rules have been changed accordingly. Reference to the civil rules, previously found in rule 8.200, has been removed because the rules governing dependency and termination of parental rights proceedings are self-contained and no longer need to reference the Florida Rules of Civil Procedure.

RULE 8.003. FAMILY LAW COVER SHEET

The party opening or reopening a case under Parts II, III, IV, or V of these rules shall file with the clerk of the circuit court Florida Family Law Rules of Procedure Form 12.928, Cover Sheet for Family Law Cases.

RULE 8.004. ELECTRONIC FILING

(a) All documents that are court records, as defined in Florida Rule of Judicial Administration 2.430(a)(1), are to be filed by electronic transmission, consistent with the requirements of Florida Rule of Judicial Administration 2.525, provided that:

(1) the clerk has the ability to accept and retain such documents;

(2) the clerk or the chief judge of the circuit has requested permission to accept documents filed by electronic transmission; and

(3) the supreme court has entered an order granting permission to the clerk to accept documents filed by electronic transmission.

(b) All documents filed by electronic transmission under this rule satisfy any requirement for the filing of an original, except where the court, law, or these rules otherwise provide for the submittal of an original.

(c) The following paper documents or other submissions may be manually submitted to the clerk for filing under the following circumstances:

(1) when the clerk does not have the ability to accept and retain documents by electronic filing or has not had electronic court filing procedures (ECF Procedures) approved by the supreme court;

(2) by any self-represented party or any self-represented nonparty unless specific ECF Procedures provide a means to file documents electronically. However, any self-represented nonparty that is a governmental or public agency and any other agency, partnership, corporation, or business entity acting on behalf of any governmental or public agency may file documents by electronic transmission if such entity has the capability of filing documents electronically;

(3) by attorneys excused from e-mail service pursuant to these rules or Florida Rule of Judicial Administration 2.516;

(4) when submitting evidentiary exhibits or filing non-documentary materials;

(5) when the filing involves documents in excess of 25 megabytes (25 MB) in size. For such filings, documents may be transmitted using an electronic storage medium that the clerk has the ability to accept, which may include a CD-ROM, flash drive, or similar storage medium;

(6) when filed in open court, as permitted by the court;

(7) when paper filing is permitted by any approved statewide or local ECF procedures; and

(8) if any court determines that justice so requires.

(d) The filing date for an electronically transmitted document is the date and time that such filing is acknowledged by an electronic stamp, or otherwise, pursuant to any procedure set forth in any electronic court filing procedures (ECF Procedures) approved by the supreme court, or the date the last page of such filing is received by the court or clerk.

(e) Where these rules are silent, Florida Rule of Judicial Administration 2.525 controls.

(f) Electronic transmission may be used by a court for the service of all orders, pursuant to Florida Rule of Judicial Administration 2.516, and for the service of filings pursuant to any ECF Procedures, provided the clerk, together with input from the chief judge of the circuit, has obtained approval from the supreme court of ECF Procedures containing the specific procedures and program to be used in transmitting the orders and filings.

Editor's Note

On October 18, 2012, the Supreme Court of Florida issued a revised opinion in case number SC11-399, which was originally issued on June 21, 2012. See In re Amendments to the Florida Rules of Judicial Administration, 102 So. 3d 451 (Fla. 2012). The opinion provides in relevant part:

"First, the new electronic filing requirements the Courts adopts will become effective in the civil, probate, small claims, and family law divisions of the trial courts, as well as for appeals to the circuit courts in these categories of cases, on

April 1, 2013, at 12:01 a.m., except as may be otherwise provided by administrative order. Electronic filing will be mandatory in these divisions pursuant to rule 2.525 on that date. However, until the new rules take effect in these divisions, any clerk who is already accepting documents filed by electronic transmission under the current rules should continue to do so; attorneys in these counties are encouraged to file documents electronically under the current rules.

"Next, the new electronic filing requirements the Court adopts will become effective in the criminal, traffic, and juvenile divisions of the trial courts, as well as for appeals to the circuit court in these categories of cases, on October 1, 2013, at 12:01 a.m., except as may be otherwise provided by administrative order. Electronic filing will be mandatory in these divisions under rule 2.525 on that date. The new e-filing requirements, as they apply in proceedings brought pursuant to the Florida Mental Health Act (Baker Act), Chapter 394, Part I, Florida Statutes, and the Involuntary Commitment of Sexually Violent Predators Act (Jimmy Ryce), Chapter 394, Part V, Florida Statutes, will also not be mandatory in these cases until October 1, 2013. As stated above, until the new rules take effect in these divisions and proceedings, any clerk who is already accepting electronically filed documents under the current rules should continue to do so; attorneys are again encouraged to utilize existing electronic filing procedures under the current rules.

"However, until the new rules and procedures take effect in the district courts, any clerk who is already accepting documents filed by electronic transmission may continue to do so; attorneys in these districts are encouraged to file documents electronically. Clerks will not be required to electronically transmit the record on appeal until July 1, 2013, at 12:01 a.m. Until July 1, we encourage clerks, whenever possible, to electronically transmit the record under the new rules and requirements.

"(W)e note that, in all types of cases, pursuant to amended rule 2.525(d) self-represented parties and self-represented nonparties, including nonparty governmental or public agencies, and attorneys excused from e-mail service under Florida Rule of Judicial Administration 2.516 will be permitted, but nor required, to file documents electronically.

By order of November 28, 2012, in case number SC11-399, the Court released a revised implementation schedule, which provides, in pertinent part: "The e-filing rules adopted in the October 2012 opinion will be mandatory in this (Supreme) Court on February 27, 2013, at 12:01 a.m.; and effective earlier on a

voluntary basis as will be indicated by further administrative order of the chief justice.

"Thereafter, the e-filing rules will be mandatory in the Second District Court of Appeal on July 22, 2013, at 12:01 a.m.; in the Third District Court of Appeal on September 27, 2013, at 12:01 a.m.; in the Fourth District Court of Appeal on October 31, 2013, at 12:01 a.m.; in the Fifth District Court of Appeal on November 27, 2013 at 12:01 a.m.; and in the First District Court of Appeal on December 27, 2013, at 12:01 a.m., unless made mandatory earlier by the chief judge of the applicable district court of appeal. The e-filing rules will be effective earlier on a voluntary trial basis in the district courts of appeal as will be indicated by further administrative order by the chief judge of the applicable district court."

PART II. DELINQUENCY PROCEEDINGS

A. PRELIMINARY PROCEEDINGS

RULE 8.005. ORDERING CHILDREN INTO CUSTODY

If a verified petition has been filed, or if, prior to the filing of a petition, an affidavit or sworn testimony is presented to the court, either of which alleges facts which under existing law are sufficient to authorize that a child be taken into custody, the court may issue an order to a person, authorized to do so, directing that the child be taken into custody.

(a) Requirements of Order. The order shall:

(1) be in writing;

(2) specify the name and address of the child or, if unknown, designate the child by any name or description by which the child can be identified with reasonable certainty;

(3) specify the age and sex of the child or, if the child's age is unknown, that he or she is believed to be of an age subject to the jurisdiction of the circuit court as a juvenile case;

(4) state the reasons why the child is being taken into custody;

(5) order that the child be brought immediately before the court or be taken to a place of detention designated by the court to be detained pending a detention hearing;

(6) state the date when issued and the county and court where issued; and

(7) be signed by the court with the title of office, or may be electronically signed if the custody order bears the affiant's signature or electronic signature and is supported by an oath or affirmation administered by the court or other person authorized by law to administer oaths.

(b) Prohibited Orders. The court shall not issue an order to take into custody for a failure to appear for children in the care or custody of the state unless the court has information that the child willfully failed to appear.

RULE 8.010. DETENTION HEARING

(a) When Required. No detention order provided for in rule 8.013 shall be entered without a hearing at which all parties shall have an opportunity to be heard on the necessity for the child's being held in detention, unless the court finds that the parent or custodian cannot be located or that the child's mental or physical condition is such that a court appearance is not in the child's best interest.

(b) Time. The detention hearing shall be held within the time limits as provided by law. A child who is detained shall be given a hearing within 24 hours after being taken into custody.

(c) Place. The detention hearing may be held in the county where the incident occurred, where the child is taken into custody, or where the child is detained.

(d) Notice. The intake officer shall make a diligent effort to notify the parent or custodian of the child of the time and place of the hearing. The notice may be by the most expeditious method available. Failure of notice to parents or custodians or their nonattendance at the hearing shall not invalidate the proceeding or the order of detention.

(e) Appointment of Counsel. At the detention hearing, the child shall be advised of the right to be represented by counsel. Counsel shall be appointed if the

child qualifies, unless the child waives counsel in writing subject to the requirements of rule 8.165.

(f) Advice of Rights. At the detention hearing the persons present shall be advised of the purpose of the hearing and the child shall be advised of:

(1) the nature of the charge for which he or she was taken into custody;

(2) that the child is not required to say anything and that anything said may be used against him or her;

(3) if the child's parent, custodian, or counsel is not present, that he or she has a right to communicate with them and that, if necessary, reasonable means will be provided to do so; and

(4) the reason continued detention is requested.

(g) Issues. At this hearing the court shall determine the following:

(1) The existence of probable cause to believe the child has committed a delinquent act. This issue shall be determined in a nonadversary proceeding. The court shall apply the standard of proof necessary for an arrest warrant and its finding may be based upon a sworn complaint, affidavit, deposition under oath, or, if necessary, upon testimony under oath properly recorded.

(2) The need for detention according to the criteria provided by law. In making this determination in addition to the sworn testimony of available witnesses all relevant and material evidence helpful in determining the specific issue, including oral and written reports, may be relied on to the extent of its probative value, even though it would not be competent at an adjudicatory hearing.

(3) The need to release the juvenile from detention and return the child to the child's nonresidential commitment program.

(h) Probable Cause. If the court finds that such probable cause exists, it shall enter an order making such a finding and may, if other statutory needs of detention exist, retain the child in detention. If the court finds that such probable cause does not exist, it shall forthwith release the child from detention. If the court finds that one or more of the statutory needs of detention exists, but is unable to make a finding on the existence of probable cause, it may retain the child in

detention and continue the hearing for the purpose of determining the existence of probable cause to a time within 72 hours of the time the child was taken into custody. The court may, on a showing of good cause, continue the hearing a second time for not more than 24 hours beyond the 72-hour period. Release of the child based on no probable cause existing shall not prohibit the filing of a petition and further proceedings thereunder, but shall prohibit holding the child in detention prior to an adjudicatory hearing.

(i) Presence of Counsel. The state attorney or assistant state attorney and public defender or assistant public defender shall attend the detention hearing. Detention hearings shall be held with adequate notice to the public defender and state attorney. An official record of the proceedings shall be maintained. If the child has retained counsel or expresses a desire to retain counsel and is financially able, the attendance of the public defender or assistant public defender is not required at the detention hearing.

RULE 8.013. DETENTION PETITION AND ORDER

(a) Time Limitation. No child taken into custody shall be detained, as a result of the incident for which taken into custody, longer than as provided by law unless a detention order so directing is made by the court following a detention hearing.

(b) Petition. The detention petition shall:

(1) be in writing and be filed with the court;

(2) state the name and address of the child or, if unknown, designate the child by any name or description by which he or she can be identified with reasonable certainty;

(3) state the age and sex of the child or, if the age is unknown, that the child is believed to be of an age which will make him or her subject to the procedures covered by these rules;

(4) state the reasons why the child is in custody and needs to be detained;

(5) recommend the place where the child is to be detained or the agency to be responsible for the detention; and

(6) be signed by an authorized agent of the Department of Juvenile Justice or by the state attorney or assistant state attorney.

(c) Order. The detention order shall:

(1) be in writing;

(2) state the name and address of the child or, if unknown, designate the child by any name or description by which he or she can be identified with reasonable certainty;

(3) state the age and sex of the child or, if the age is unknown, that the child is believed to be of an age which will make him or her subject to the procedures covered by these rules;

(4) order that the child shall be held in detention and state the reasons therefor, or, if appropriate, order that the child be released from detention and returned to his or her nonresidential commitment program;

(5) make a finding that probable cause exists that the child is delinquent or that such a finding cannot be made at this time and that the case is continued for such a determination to a time certain within 72 hours from the time the child is taken into custody unless this time is extended by the court for good cause shown for not longer than an additional 24 hours;

(6) designate the place where the child is to be detained or the person or agency that will be responsible for the detention and state any special conditions found to be necessary;

(7) state the date and time when issued and the county and court where issued, together with the date and time the child was taken into custody;

(8) direct that the child be released no later than 5:00 p.m. on the last day of the specified statutory detention period, unless a continuance has been granted to the state or the child for cause; and

(9) be signed by the court with the title of office.

RULE 8.015. ARRAIGNMENT OF DETAINED CHILD

(a) When Required. If a petition for delinquency is filed and the child is being detained, whether in secure, nonsecure, or home detention, the child shall be given a copy of the petition and shall be arraigned within 48 hours of the filing of the petition, excluding Saturdays, Sundays, or legal holidays.

(b) Notice.

(1) Personal appearance of any person in a hearing before the court shall obviate the necessity of serving process on that person.

(2) The clerk of the court shall give notice of the time and place of the arraignment to the parent or guardian of the child and the superintendent of the detention center by:

(A) summons;

(B) written notice; or

(C) telephone notice.

(3) The superintendent of the detention center, or designee, also shall verify that a diligent effort has been made to notify the parent or guardian of the child of the time and place of the arraignment.

(4) Failure of notice to the parent or guardian, or nonattendance of the parent or guardian at the hearing, shall not invalidate the proceeding.

Committee Notes

This rule corresponds to section 985.215(7), Florida Statutes, which requires detained children to be arraigned within 48 hours of the filing of the delinquency petition. This statutory requirement does not allow the normal summons process to take place. The rule, therefore, creates an option for the clerk of the court to notice the parent by phone or in writing.

B. PLEADINGS, PROCESS, AND ORDERS

RULE 8.025. STYLE OF PLEADINGS AND ORDERS

All pleadings and orders shall be styled: "In the interest of ....., a child," or: "In the interest of ....., children."

RULE 8.030. COMMENCEMENT OF FORMAL PROCEEDINGS

(a) Allegations as to Child. All proceedings shall be initiated by the filing of a petition by a person authorized by law to do so. A uniform traffic complaint may be considered a petition, but shall not be subject to the requirements of rule 8.035.

(b) Allegations as to Parents or Legal Guardians. In any delinquency proceeding in which the state is seeking payment of restitution or the performance of community service work by the child's parents or legal guardians, a separate petition alleging the parents' or legal guardians' responsibility shall be filed and served on the parents or legal guardians of the child.

RULE 8.031. PETITION FOR PARENTAL SANCTIONS

(a) Contents. Each petition directed to the child's parents or legal guardians shall be entitled a petition for parental sanctions and shall allege all facts showing the appropriateness of the requested sanction against the child's parents or legal guardians.

(b) Verification. The petition shall be signed by the state attorney or assistant state attorney, stating under oath the petitioner's good faith in filing the petition.

(c) Amendments. At any time before the hearing, an amended petition for parental sanctions may be filed or the petition may be amended on motion. Amendments shall be freely permitted in the interest of justice and the welfare of the child. A continuance may be granted on motion and a showing that the amendment prejudices or materially affects any party.

RULE 8.035. PETITIONS FOR DELINQUENCY

(a) Contents of Petition.

(1) Each petition shall be entitled a petition for delinquency and shall allege facts showing the child to have committed a delinquent act. The petition must be a plain, concise, and definite written statement of the essential facts constituting the offense charged.

(2) The petition shall contain allegations as to the identity and residence of the parents or custodians, if known.

(3) In petitions alleging delinquency, each count shall recite the official or customary citations of the statute, ordinance, rule, regulation, or other provision of the law which the child is alleged to have violated, including the degree of each offense.

(4) Two or more allegations of the commission of delinquent acts may appear in the same petition, in separate counts.

(5) Two or more children may be the subject of the same petition if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses. The children may be named in one or more counts together or separately and all of them need not be named in each count.

(6) Allegations made in one count shall not be incorporated by reference in another count.

(b) Verification. The petition shall be signed by the state attorney or assistant state attorney, stating under oath the petitioner's good faith in filing the petition. No objection to a petition on the grounds that it was not signed or verified, as herein provided, shall be entertained after a plea to the merits.

(c) Child's Right to Copy of Petition. Upon application to the clerk, a child must be furnished a copy of the petition and the endorsements on it at least 24 hours before being required to plead to the petition.

(d) Amendments. At any time prior to the adjudicatory hearing an amended petition may be filed or the petition may be amended on motion. Amendments shall be freely permitted in the interest of justice and the welfare of the child. A continuance may be granted upon motion and a showing that the amendment prejudices or materially affects any party.

(e) Statement of Particulars. The court, on motion, must order the prosecuting attorney to furnish a statement of particulars when the petition on which the child is to be tried fails to inform the child of the particulars of the offense sufficiently to enable the child to prepare a defense. The statement of particulars must specify as definitely as possible the place, date, and all other material facts of the crime charged that are specifically requested and are known to the prosecuting attorney. Reasonable doubts concerning the construction of this rule shall be resolved in favor of the child.

(f) Defects and Variances. No petition or any count thereof shall be dismissed, or any judgment vacated, on account of any defect in the form of the petition or of misjoinder of offenses or for any cause whatsoever.

RULE 8.040. PROCESS

(a) Summons.

(1) Upon the filing of a petition upon a child who is not detained by order of the court, 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. The time of the hearing shall not be less than 24 hours after service of the summons. The summons shall require the custodian to produce the child at the said time and place. A copy of the delinquency petition shall be attached to the summons.

(2) If the child is being detained by order of the court, process shall be in accordance with the rule pertaining to the arraignment of a detained child.

(b) Service.

(1) **Generally.** 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.

(2) **Petition for Parental Sanctions.** A petition for parental sanctions may be served on the child's parents or legal guardians in open court at any hearing concerning the child, but must be served at least 72 hours before the hearing at which parental sanctions are being sought. The petition for parental sanctions also may be served in accordance with chapter 48, Florida Statutes.

Committee Notes

1991 Amendment. This rule clearly defines the difference in procedures for summons for detained and nondetained children.

2000 Amendment. Subsection (b)(2) was added to provide requisite notice to the parents or legal guardians of a child when the state is seeking restitution or wishes to impose other sanctions against the parent or legal guardian. See *S.B.L., Natural Mother of J.J. v. State*, 737 So.2d 1131 (Fla. 1st DCA 1999); *A.G., Natural Mother of S.B. v. State*, 736 So.2d 151 (Fla. 1st DCA 1999).

RULE 8.041. WITNESS ATTENDANCE AND SUBPOENAS

(a) Attendance. A witness summoned by a subpoena in an adjudicatory hearing shall remain in attendance at the adjudicatory hearing until excused by the court or by both parties. A witness who departs without being excused properly may be held in criminal contempt of court.

(b) Subpoenas Generally.

(1) Subpoenas for testimony before the court and subpoenas for production of tangible evidence before the court may be issued by the clerk of the court, by any attorney of record in an action, or by the court on its own motion.

(2) Except as otherwise required by this rule, the procedure for issuance of a subpoena (except for a subpoena duces tecum) by an attorney of record in a proceeding shall be as provided in the Florida Rules of Civil Procedure.

(c) Subpoenas for Testimony or Production of Tangible Evidence.

(1) Every subpoena for testimony or production of tangible evidence before the court shall be issued by an attorney of record in an action or by the clerk under the seal of the court. The subpoena shall state the name of the court and the title of the action and shall command each person to whom it is directed to attend and give testimony or produce evidence at a time and place specified.

(2) On oral request of an attorney of record, and without a witness praecipe, the clerk shall issue a subpoena for testimony before the court or a subpoena for tangible evidence before the court. The subpoena shall be signed and sealed but otherwise blank, both as to the title of the action and the name of the

person to whom it is directed. The subpoena shall be filled in before service by the attorney.

(d) Subpoenas for Production of Tangible Evidence. If a subpoena commands the person to whom it is directed to produce the books, papers, documents, or tangible things designated in it, the court, on motion made promptly and in any event at or before the time specified in the subpoena for compliance with it, may

(1) quash or modify the subpoena if it is unreasonable and oppressive, or

(2) condition denial of the motion on the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

RULE 8.045. NOTICE TO APPEAR

(a) Definition. A notice to appear, unless indicated otherwise, means a written order issued by a law enforcement officer or authorized agent of the department, in lieu of taking a child into custody or detaining a child, which requires a child accused of violating the law to appear in a designated court or governmental office at a specified date and time.

(b) By Arresting Officer. If a child is taken into custody for a violation of law and the officer elects to release the child as provided by law to a parent, responsible adult relative, or legal guardian, a notice to appear may be issued to the child by the officer unless:

(1) the child fails or refuses to sufficiently identify himself or herself or supply the required information;

(2) the child refuses to sign the notice to appear;

(3) the officer has reason to believe that the continued liberty of the child constitutes an unreasonable risk of bodily injury to the child or others;

(4) the child has no ties with the jurisdiction reasonably sufficient to ensure an appearance or there is substantial risk that the child will refuse to respond to the notice;

(5) the officer has any suspicion that the child may be wanted in any jurisdiction; or

(6) it appears that the child has previously failed to respond to a notice or a summons or has violated the conditions of any pretrial release program.

(c) By Departmental Agent. If a child is taken into custody by an authorized agent of the department as provided by law, or if an authorized agent of the department takes custody of a child from a law enforcement officer and the child is not detained, the agent shall issue a notice to appear to the child upon the child's release to a parent, responsible adult relative, or legal guardian.

(d) How and When Served. If a notice to appear is issued, 6 copies shall be prepared. One copy of the notice shall be delivered to the child and 1 copy shall be delivered to the person to whom the child is released. In order to secure the child's release, the child and the person to whom the child is released shall give their written promise that the child will appear as directed in the notice by signing the remaining copies. One copy is to be retained by the issuer and 3 copies are to be filed with the clerk of the court.

(e) Distribution of Copies. The clerk shall deliver 1 copy of the notice to appear to the state attorney and 1 copy to the department and shall retain 1 copy in the court's file.

(f) Contents. A notice to appear shall contain the following information:

(1) the name and address of the child and the person to whom the child was released;

(2) the date of the offense(s);

(3) the offense(s) charged by statute and municipal ordinance, if applicable;

(4) the counts of each offense;

(5) the time and place where the child is to appear;

(6) the name and address of the trial court having jurisdiction to try the offense(s) charged;

(7) the name of the arresting officer or authorized agent of the department; and

(8) the signatures of the child and the person to whom the child was released.

(g) Failure to Appear. When a child signs a written notice to appear and fails to respond to the notice, an order to take into custody shall be issued. The court shall not issue an order to take into custody for a child in the care or custody of the state unless the court has information that the child willfully failed to appear.

(h) Form of Notice. The notice to appear shall be substantially as found in form 8.930.

Committee Notes

1991 Adoption. This rule allows juveniles to be released with definite notice as to when they must return to court. This should help decrease the number of juveniles held in detention centers awaiting a court date. It also should provide a mechanism to divert juveniles to programs more efficiently. The change also should decrease the number of summons issued by the clerk.

1992 Amendment. A summons is not sworn but the arrest affidavit that is filed with the notice to appear is sworn. The notice to appear, which is more like a summons, does not need to be sworn.

RULE 8.055. ORDERS

All orders of the court shall be reduced to writing as soon after they are entered as is consistent with orderly procedure and shall contain findings of fact as required by law.

C. DISCOVERY

RULE 8.060. DISCOVERY

(a) Notice of Discovery.

(1) After the filing of the petition, a child may elect to utilize the discovery process provided by these rules, including the taking of discovery depositions, by filing with the court and serving upon the petitioner a "notice of discovery" which shall bind both the petitioner and the child to all discovery

procedures contained in these rules. Participation by a child in the discovery process, including the taking of any deposition by a child, shall be an election to participate in discovery. If any child knowingly or purposely shares in discovery obtained by a codefendant, the child shall be deemed to have elected to participate in discovery.

(2) Within 5 days of service of the child's notice of discovery, the petitioner shall serve a written discovery exhibit which shall disclose to the child or the child's counsel and permit the child or the child's counsel to inspect, copy, test, and photograph the following information and material within the petitioner's possession or control:

(A) A list of the names and addresses of all persons known to the petitioner to have information that may be relevant to the allegations, to any defense with respect thereto, or to any similar fact evidence to be presented at trial under section 90.402(2), Florida Statutes. The names and addresses of persons listed shall be clearly designated in the following categories:

(i) Category A. These witnesses shall include:

a. eye witnesses;

b. alibi witnesses and rebuttal to alibi witnesses;

c. witnesses who were present when a recorded or unrecorded statement was taken from or made by the child or codefendant, which shall be separately identified within this category;

d. investigating officers;

e. witnesses known by the petitioner to have any material information that tends to negate the guilt of the child as to the petition's allegations;

f. child hearsay witnesses;

g. expert witnesses who have not provided a written report and a curriculum vitae or who are going to testify; and

h. informant witnesses who will offer testimony concerning the statements of a child charged with a delinquent act about the issues for which the child is being tried.

(ii) Category B. All witnesses not listed in either Category A or Category C.

(iii) Category C. All witnesses who performed only ministerial functions or whom the petitioner does not intend to call at the hearing and whose involvement with and knowledge of the case is fully set out in a police report or other statement furnished to the defense.

(B) The statement of any person whose name is furnished in compliance with the preceding paragraph. The term "statement" as used herein means a written statement made by said person and signed or otherwise adopted by him or her and also includes any statement of any kind or manner made by such person and written or recorded or summarized in any writing or recording. The term "statement" is specifically intended to include all police and investigative reports of any kind prepared for or in connection with the case, but shall not include the notes from which such reports are compiled.

(C) Any written or recorded statements and the substance of any oral statements made by the child and known to the petitioner, including a copy of any statements contained in police reports or summaries, together with the name and address of each witness to the statements.

(D) Any written or recorded statements, and the substance of any oral statements, made by a codefendant if the hearing is to be a joint one.

(E) Those portions of recorded grand jury minutes that contain testimony of the child.

(F) Any tangible papers or objects that were obtained from or belonged to the child.

(G) Whether the petitioner has any material or information that has been provided by a confidential informant.

(H) Whether there has been any electronic surveillance, including wiretapping, of the premises of the child, or of conversations to which the child was a party, and any documents relating thereto.

(I) Whether there has been any search or seizure and any document relating thereto.

(J) Reports or statements of experts made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments, or comparisons.

(K) Any tangible papers or objects that the petitioner intends to use in the hearing and that were not obtained from or belonged to the child.

(L) Whether the state has any material or information that has been provided by an informant witness, including:

(i) the substance of any statement allegedly made by the child about which the informant may testify;

(ii) a summary of the criminal record of the informant witness;

(iii) a summary of the delinquency record of the informant witness, if court ordered;

(iv) the time and place under which the child's alleged statement was made;

(v) whether the informant witness has received, or expects to receive, anything in exchange for his or her testimony; and

(vi) the informant witness's prior history of cooperation, in return for any benefit, as known to the state.

(3) As soon as practicable after the filing of the petition, the petitioner shall disclose to the child any material information within the state's possession or control which tends to negate the guilt of the child as to the petition's allegations.

(4) The petitioner shall perform the foregoing obligations in any manner mutually agreeable to the petitioner and the child or as ordered by the court.

(5) Upon a showing of materiality to the preparation of the defense, the court may require such other discovery to the child as justice may require.

(b) Required Disclosure to Petitioner.

(1) If a child elects to participate in discovery, within 5 days after receipt by the child of the discovery exhibit furnished by the petitioner under this rule, the following disclosures shall be made:

(A) The child shall furnish to the petitioner a written list of names and addresses of all persons whom the child expects to call as witnesses at the hearing. When the petitioner subpoenas a witness whose name has been furnished by the child, except for hearing subpoenas, reasonable notice shall be given to the child as to the time and location of examination pursuant to the subpoena. At such examination, the child through counsel shall have the right to be present and to examine the witness. The physical presence of the child shall be governed by rule 8.060(d)(6).

(B) The child shall serve a written discovery exhibit which shall disclose to the petitioner and permit the petitioner to inspect, copy, test, and photograph the following information and material which is in the child's possession or control:

(i) The statement of any person whom the child expects to call as a trial witness other than that of the child.

(ii) Reports or statements of experts made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments, or comparisons.

(iii) Any tangible papers or objects which the child intends to use in the hearing.

(2) The child shall perform the foregoing obligations in any manner mutually agreeable to the child and the petitioner or as ordered by the court.

(3) The filing of a motion for protective order by the petitioner will automatically stay the times provided for in this subdivision. If a protective order is granted, the child may, within 2 days thereafter, or at any time before the petitioner furnishes the information or material which is the subject of the motion for

protective order, withdraw the demand and not be required to furnish reciprocal discovery.

(c) Limitations on Disclosure.

(1) Upon application, the court may deny or partially restrict disclosure authorized by this rule if it finds there is a substantial risk to any person of physical harm, intimidation, bribery, economic reprisals, or unnecessary annoyance or embarrassment resulting from such disclosure, which outweighs any usefulness of the disclosure to the party requesting it.

(2) The following matters shall not be subject to disclosure:

(A) Disclosure shall not be required of legal research or of records, correspondence, or memoranda, to the extent that they contain the opinion, theories, or conclusions of the prosecuting or defense attorney or members of their legal staff.

(B) Disclosure of a confidential informant shall not be required unless the confidential informant is to be produced at a hearing or a failure to disclose the informant's identity will infringe upon the constitutional rights of the child.

(d) Depositions.

(1) Time and Location.

(A) At any time after the filing of the petition alleging a child to be delinquent, any party may take the deposition upon oral examination of any person authorized by this rule.

(B) Depositions of witnesses residing in the county in which the adjudicatory hearing is to take place shall be taken in the building in which the adjudicatory hearing is to be held, another location agreed on by the parties, or a location designated by the court. Depositions of witnesses residing outside the county in which the adjudicatory hearing is to take place shall take place in a court reporter's office in the county and state in which the witness resides, another location agreed to by the parties, or a location designated by the court.

(2) Procedure.

(A) The party taking the deposition shall give reasonable written notice to each other party and shall make a good faith effort to coordinate the date, time, and location of the deposition to accommodate the schedules of other parties and the witness to be deposed. The notice shall state the time and the location of the deposition and the name of each person to be examined, and include a certificate of counsel that a good faith effort was made to coordinate the deposition schedule.

(B) Upon application, the court or the clerk of the court may issue subpoenas for the persons whose depositions are to be taken.

(C) After notice to the parties the court, for good cause shown, may change the time or location of the deposition.

(D) In any case, no person shall be deposed more than once except by consent of the parties or by order of the court issued on good cause shown.

(E) Except as otherwise provided by this rule, the procedure for taking the deposition, including the scope of the examination and the issuance of a subpoena (except for a subpoena duces tecum) for deposition by an attorney of record in the action shall be the same as that provided in the Florida Rules of Civil Procedure.

(F) The child, without leave of court, may take the deposition of any witness listed by the petitioner as a Category A witness or listed by a codefendant as a witness to be called at a joint hearing. After receipt by the child of the discovery exhibit, the child, without leave of court, may take the deposition of any unlisted witness who may have information relevant to the petition's allegations. The petitioner, without leave of court, may take the deposition of any witness listed by the child to be called at a hearing.

(G) No party may take the deposition of a witness listed by the petitioner as a Category B witness except upon leave of court with good cause shown. In determining whether to allow a deposition, the court should consider the consequences to the child, the complexities of the issues involved, the complexity of the testimony of the witness (e.g., experts), and the other opportunities available to the child to discover the information sought by deposition.

(H) A witness listed by the petitioner as a Category C witness shall not be subject to deposition unless the court determines that the witness should be listed in another category.

(I) No deposition shall be taken in a case in which a petition has been filed alleging that the child committed only a misdemeanor or a criminal traffic offense when all other discovery provided by this rule has been complied with unless good cause can be shown to the trial court. In determining whether to allow a deposition, the court should consider the consequences to the child, the complexity of the issues involved, the complexity of the witness's testimony (e.g., experts), and the other opportunities available to the child to discover the information sought by deposition. However, this prohibition against the taking of depositions shall not be applicable if following the furnishing of discovery by the child the petitioner then takes the statement of a listed defense witness pursuant to section 27.04, Florida Statutes.

(3) Use of Deposition. Any deposition taken pursuant to this rule may be used at any hearing covered by these rules by any party for the purpose of impeaching the testimony of the deponent as a witness.

(4) Introduction of Part of Deposition. If only part of a deposition is offered in evidence by a party, an adverse party may require the introduction of any other part that in fairness ought to be considered with the part introduced, and any party may introduce any other parts.

(5) Sanctions. A witness who refuses to obey a duly served subpoena for the taking of a deposition may be adjudged in contempt of the court from which the subpoena issued.

(6) Physical Presence of Child. The child shall not be physically present at a deposition except upon stipulation of the parties or as provided by this rule.

The court may order the physical presence of the child upon a showing of good cause. In ruling, the court may consider:

(A) the need for the physical presence of the child to obtain effective discovery;

(B) the intimidating effect of the child's presence on the witness, if any;

(C) any cost or inconvenience that may result; and

(D) any alternative electronic or audio-visual means available to protect the child's ability to participate in discovery without the child's physical presence.

(7) Statements of Law Enforcement Officers. Upon stipulation of the parties and the consent of the witness, the statement of a law enforcement officer may be taken by telephone in lieu of deposition of the officer. In such case, the officer need not be under oath. The statement, however, shall be recorded and may be used for impeachment at trial as a prior inconsistent statement pursuant to the Florida Evidence Code.

(8) Depositions of Law Enforcement Officers. Subject to the general provisions of this rule, law enforcement officers shall appear for deposition, without subpoena, upon written notice of taking deposition delivered at the address designated by the law enforcement agency or department or, if no address has been designated, to the address of the law enforcement agency or department, 5 days prior to the date of the deposition. Law enforcement officers who fail to appear for deposition after being served notice are subject to contempt proceedings.

(9) Videotaped Depositions. Depositions of children under the age of 16 shall be videotaped upon demand of any party unless otherwise ordered by the court. The court may order videotaping of a deposition or taking of a deposition of a witness with fragile emotional strength to be in the presence of the trial judge or a special magistrate.

(e) Perpetuating Testimony.

(1) After the filing of the petition and upon reasonable notice, any party may apply for an order to perpetuate testimony of a witness. The application shall be verified or supported by the affidavits of credible persons, and shall state that the prospective witness resides beyond the territorial jurisdiction of the court or may be unable to attend or be prevented from attending the subsequent court proceedings, or that grounds exist to believe that the witness will absent himself or herself from the jurisdiction of the court, that the testimony is material, and that it is necessary to take the deposition to prevent a failure of justice.

(2) If the application is well founded and timely made, the court shall order a commission to be issued to take the deposition of the witness to be

used in subsequent court proceedings and that any designated books, papers, documents, or tangible objects, not privileged, be produced at the same time and place. The commission may be issued to any official court reporter, whether the witness be within or without the state, transcribed by the reporter, and filed in the court. The commission shall state the time and place of the deposition and be served on all parties.

(3) No deposition shall be used or read in evidence when the attendance of the witness can be procured. If it shall appear to the court that any person whose deposition has been taken has absented himself or herself by procurement, inducements, or threats by or on behalf of any party, the deposition shall not be read in evidence on behalf of that party.

(f) Nontestimonial Discovery. After the filing of the petition, upon application, and subject to constitutional limitations, the court may with directions as to time, place, and method, and upon conditions that are just, require:

(1) the child in all proceedings to:

(A) appear in a lineup;

(B) speak for identification by a witness to an offense;

(C) be fingerprinted;

(D) pose for photographs not involving reenactment of a scene;

(E) try on articles of clothing;

(F) permit the taking of specimens of material under the fingernails;

(G) permit the taking of samples of blood, hair, and other materials of the body which involve no unreasonable intrusion thereof;

(H) provide specimens of handwriting; or

(I) submit to a reasonable physical or medical inspection of his or her body; and

(2) such other discovery as justice may require upon a showing that such would be relevant or material.

(g) Court May Alter Times. The court may alter the times for compliance with any discovery under these rules on good cause shown.

(h) Supplemental Discovery. If, subsequent to compliance with these rules, a party discovers additional witnesses, evidence, or material that the party would have been under a duty to disclose or produce at the time of such previous compliance, the party shall promptly disclose or produce such witnesses, evidence, or material in the same manner as required under these rules for initial discovery.

(i) Investigations Not to Be Impeded. Except as otherwise provided for matters not subject to disclosure or restricted by protective orders, neither the counsel for the parties nor other prosecution or defense personnel shall advise persons having relevant material or information, except for the child, to refrain from discussing the case with opposing counsel or showing opposing counsel any relevant material, nor shall they otherwise impede opposing counsel's investigation of the case.

(j) Protective Orders. Upon a showing of good cause, the court shall at any time order that specified disclosures be restricted, deferred, or exempted from discovery, that certain matters are not to be inquired into or that the scope of the deposition be limited to certain matters, that a deposition be sealed and after being sealed be opened only by order of the court, or make such other order as is appropriate to protect a witness from harassment, unnecessary inconvenience, or invasion of privacy, including prohibiting the taking of a deposition. All material and information to which a party is entitled, however, must be disclosed in time to permit such party to make beneficial use of it.

(k) Motion to Terminate or Limit Examination. At any time during the taking of a deposition, on motion of a party or of the deponent, and upon a showing that the examination is being conducted in bad faith or in such manner as to unreasonably annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the circuit court where the deposition is being taken may:

(1) terminate the deposition;

(2) limit the scope and manner of the taking of the deposition;

(3) limit the time of the deposition;

(4) continue the deposition to a later time;

(5) order the deposition to be taken in open court and, in addition;

(6) may impose any sanction authorized by this rule.

If the order terminates the deposition, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of any party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

(l) In Camera and Ex Parte Proceedings.

(1) Any person may move for an order denying or regulating disclosure of sensitive matters. The court may consider the matters contained in the motion in camera.

(2) Upon request, the court shall allow the child to make an ex parte showing of good cause for taking the deposition of a Category B witness.

(3) A record shall be made of proceedings authorized under this subdivision. If the court enters an order granting relief after an in camera inspection or ex parte showing, the entire record of the proceeding shall be sealed and preserved in the records of the court, to be made available to the appellate court in the event of an appeal.

(m) Sanctions.

(1) If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with an applicable discovery rule or with an order issued pursuant to an applicable discovery rule, the court may:

(A) order such party to comply with the discovery or inspection of materials not previously disclosed or produced;

(B) grant a continuance;

(C) grant a mistrial;

(D) prohibit the party from calling a witness not disclosed or introducing in evidence the material not disclosed; or

(E) enter such order as it deems just under the circumstances.

(2) Willful violation by counsel or a party not represented by counsel of an applicable discovery rule or an order issued pursuant thereto may subject counsel or a party not represented by counsel to appropriate sanction by the court. The sanctions may include, but are not limited to, contempt proceedings against the attorney or party not represented by counsel, as well as the assessment of costs incurred by the opposing party, when appropriate.

Court Commentary

1996 Amendment. This amendment generally conforms the rule to the 1996 amendment to Florida Rule of Criminal Procedure 3.220.

RULE 8.065. NOTICE OF DEFENSE OF ALIBI

(a) Notice to State Attorney. After a petition has been served the state attorney may demand in writing that the child, who intends to offer an alibi defense, shall provide the state attorney with the details of the alibi as to the time and place where the child claims to have been at the time of the alleged offense and the names and addresses of such witnesses as may appear to testify thereon. The child shall comply as above not less than 10 days before the trial date.

(b) Rebuttal Witness List. The state attorney shall, within 5 days of the receipt thereof, provide the child with a list of such witnesses to be called to rebut the alibi testimony.

(c) Sanctions. Should the child fail or refuse to comply with the provisions hereof, the court may in its discretion exclude testimony of alibi witnesses other than the child or, should the state attorney fail to comply herewith, the court may in its discretion exclude rebuttal testimony offered by the state.

(d) Waiver of Rule. For good cause shown, the court may waive the requirements of this rule.

D. ARRAIGNMENTS AND PLEAS

RULE 8.070. ARRAIGNMENTS

(a) Appointment of Counsel. Prior to the adjudicatory hearing, the court may conduct a hearing to determine whether a guilty, nolo contendere, or not guilty plea to the petition shall be entered and whether the child is represented by counsel or entitled to appointed counsel as provided by law. Counsel shall be appointed if the child qualifies for such appointment and does not waive counsel in writing subject to the requirements of rule 8.165.

(b) Plea. The reading or statement as to the charge or charges may be waived by the child. No child, whether represented by counsel or otherwise, shall be called on to plead unless and until he or she has had a reasonable time within which to deliberate thereon. If the child is represented by counsel, counsel may file a written plea of not guilty at or before arraignment and arraignment shall then be deemed waived. If a plea of guilty or nolo contendere is entered, the court shall proceed as set forth under rule 8.115, disposition hearings. If a plea of not guilty is entered, the court shall set an adjudicatory hearing within the period of time provided by law. The child is entitled to a reasonable time in which to prepare for trial.

Committee Notes

1991 Adoption. This rule creates an arraignment proceeding that is referred to in section 985.215(7), Florida Statutes.

RULE 8.075. PLEAS

No written answer to the petition nor any other pleading need be filed. No child, whether represented by counsel or otherwise, shall be called upon to plead until he or she has had a reasonable time within which to deliberate thereon.

(a) Acceptance of Plea. In delinquency cases the child may plead guilty, nolo contendere, or not guilty. The court may refuse to accept a plea of guilty or nolo contendere, and shall not accept either plea without first determining that the plea is made voluntarily and with a full understanding of the nature of the allegations and the possible consequences of such plea and that there is a factual basis for such plea.

(b) Plan of Proposed Treatment, Training, or Conduct. After the filing of a petition and prior to the adjudicatory hearing, a plan of proposed treatment, training, or conduct may be submitted on behalf of the child in lieu of a plea. The appropriate agencies of the Department of Juvenile Justice or other agency as designated by the court shall be the supervising agencies for said plan and the terms and conditions of all such plans shall be formulated in conjunction with the supervising agency involved. The submission of a plan is not an admission of the allegations of the petition of delinquency.

If such a plan is submitted the procedure shall be as follows:

(1) The plan must be in writing, agreed to and signed in all cases by the state attorney, the child, and, when represented, by the child's counsel, and, unless excused by the court, by the parents or custodian. An authorized agent of the supervising agency involved shall indicate whether the agency recommends the acceptance of the plan.

(2) The plan shall contain a stipulation that the speedy trial rule is waived and shall include the state attorney's consent to defer the prosecution of the petition.

(3) After hearing, which may be waived by stipulation of the parties and the supervising agency, the court may accept the plan and order compliance therewith, or may reject it. If the plan is rejected by the court, the court shall state on the record the reasons for rejection.

(4) Violations of the conditions of the plan shall be presented to the court by motion by the supervising agency or by any party. If the court, after hearing, finds a violation has occurred, it may take such action as is appropriate to enforce the plan, modify the plan by supplemental agreement, or set the case for hearing on the original petition.

(5) The plan shall be effective for an indeterminate period, for such period as is stated therein, or until the petition is dismissed.

(6) Unless otherwise dismissed, the petition may be dismissed on the motion of the person submitting the plan or the supervising agency, after notice of hearing and a finding of substantial compliance with the provisions and intent of the plan.

(c) Written Answer. A written answer admitting or denying the allegations of the petition may be filed by the child joined by a parent, custodian, or the child's counsel. If the answer admits the allegations of the petition it must acknowledge that the child has been advised of the right to counsel, the right to remain silent, and the possible dispositions available to the court and shall include a consent to a predispositional study. Upon the filing of such an answer, a hearing for adjudication or adjudication and disposition shall be set at the earliest practicable time.

(d) Entry of Plea by Court. If a child stands mute or pleads evasively, a plea of not guilty shall be entered by the court.

(e) Withdrawal of Plea Before Disposition. The court may in its discretion for good cause shown at any time prior to the beginning of a disposition hearing permit a plea of guilty or nolo contendere to be withdrawn, and if a finding that the child committed a delinquent act has been entered thereon, set aside such finding and allow another plea to be substituted for the plea of guilty or nolo contendere. In the subsequent adjudicatory hearing the court shall not consider the plea which was withdrawn as an admission.

(f) Withdrawal of Plea After Disposition. A child who pleads guilty or nolo contendere without expressly reserving the right to appeal a legally dispositive issue may file a motion to withdraw the plea within 30 days after rendition of the disposition, but only on the grounds that

(1) the lower tribunal lacked subject matter jurisdiction;

(2) there has been a violation of the plea agreement;

(3) the plea was involuntary;

(4) there has been a sentencing error; or

(5) as otherwise provided by law.

(g) Withdrawal of Plea After Drug Court Transfer. A child who pleads guilty or nolo contendere to a charge for the purpose of transferring the case, as provided by law, may file a motion to withdraw the plea upon successful completion of the juvenile drug court treatment program.

RULE 8.080. ACCEPTANCE OF GUILTY OR NOLO CONTENDERE PLEA

(a) Voluntariness. Before accepting a plea of guilty or nolo contendere, the court shall determine that the plea is knowingly and voluntarily entered and that there is a factual basis for it. Counsel for the prosecution and the defense shall assist the court in this determination.

(b) Open Court. All pleas shall be taken in open court, except the hearing may be closed as provided by law.

(c) Determination by Court. The court, when making this determination, should place the child under oath and shall address the child personally. The court shall determine that the child understands each of the following rights and consequences of entering a guilty or nolo contendre plea:

(1) Nature of the Charge. The nature of the charge to which the plea is offered and the possible dispositions available to the court.

(2) Right to Representation. If the child is not represented by an attorney, that the child has the right to be represented by an attorney at every stage of the proceedings and, if necessary, one will be appointed. Counsel shall be appointed if the child qualifies for such appointment and does not waive counsel in writing subject to the requirements of rule 8.165.

(3) Right to an Adjudicatory Hearing and Attendant Rights. That the child has the right to plead not guilty, or to persist in that plea if it had already been made, and that the child has the right to an adjudicatory hearing and at that hearing has the right to the assistance of counsel, the right to compel the attendance of witnesses on his or her behalf, the right to confront and cross-examine witnesses against him or her, and the right not to be compelled to incriminate himself or herself.

(4) Effect of Plea. That, if the child pleads guilty or nolo contendere, without express reservation of the right to appeal, the right to appeal all matters relating to the judgment, including the issue of guilt or innocence, is relinquished, but the right to review by appropriate collateral attack is not impaired.

(5) Waiving Right to an Adjudicatory Hearing. That, if the child pleads guilty or nolo contendere, there will not be a further adjudicatory hearing of any kind, so that by pleading so the right to an adjudicatory hearing is waived.

(6) Questioning by Judge. That, if the child pleads guilty or nolo contendere, the court may ask the child questions about the offense to which the child has pleaded, and, if those questions are answered under oath, on the record, the answers may later be used against the child in a prosecution for perjury.

(7) Terms of Plea Agreement. The complete terms of any plea agreement including specifically all obligations the child will incur as a result.

(8) Sexual Offender Registration. That, if the child pleads guilty or nolo contendere to certain sexual offenses, the child may be required to register as a sexual offender.

(9) Sexually Violent or Sexually Motivated Offenses. That, if the child pleads guilty or nolo contendere, and the offense to which the child is pleading is a sexually violent offense or a sexually motivated offense, or if the child has been previously adjudicated for such an offense, the plea may subject the child to involuntary civil commitment as a sexually violent predator on completion of his or her sentence. It shall not be necessary for the trial judge to determine whether the present or prior offenses were sexually motivated, as this admonition shall be given to all children in all cases.

(10) Deportation Consequences.

(A) If the child is not a citizen of the United States, the facts underlying the child's plea and the court's acceptance of the plea of guilty or nolo contendere, regardless of whether adjudication of guilt has been withheld, may have the additional consequences of changing his or her immigration status, including deportation or removal from the United States, pursuant to the laws of the United States.

(B) The court should advise the child to consult with counsel if he or she needs additional information concerning the potential deportation consequences of the plea.

(C) If the child has not discussed the potential deportation consequences with his or her counsel, prior to accepting the child's plea, the court is required, upon request, to allow a reasonable amount of time to permit the child

to consider the appropriateness of the plea in light of the advisement described in this subdivision.

(D) This admonition should be given to all children in all cases, and the trial court must not require at the time of entering a plea that the child disclose his or her legal status in the United States.

(d) Acknowledgment by Child. Before the court accepts a guilty or nolo contendere plea, the court must determine that the child either:

(1) acknowledges guilt; or

(2) acknowledges that the plea is in the child's best interest, while maintaining innocence.

(e) Of Record. These proceedings shall be of record.

(f) When Binding. Prior to the court's acceptance of a plea, the parties must notify the court of any plea agreement and may notify the court of the reasons for the plea agreement. Thereafter, the court must advise the parties whether the court accepts or rejects the plea agreement and may state its reasons for a rejection of the plea agreement. No plea offer or negotiation is binding until it is accepted by the court after making all the inquiries, advisements, and determinations required by this rule. Until that time, it may be withdrawn by either party without any necessary justification.

(g) Withdrawal of Plea When Judge Does Not Concur. If the trial judge does not concur in a tendered plea of guilty or nolo contendere arising from negotiations, the plea may be withdrawn.

(h) Failure to Follow Procedures. Failure to follow any of the procedures in this rule shall not render a plea void, absent a showing of prejudice.

E. MOTIONS AND SERVICE OF PLEADINGS

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 or if the party is represented by an attorney, 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. 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 or 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 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 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 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).

the certificate shall be taken as prima facie proof of such service in compliance with all rules of court and law.

_____

Title"

(6) People Who May Certify Service. Service of pleadings and orders required to be served as provided by subdivision (2) may be certified by an attorney of record, clerk or deputy clerk, court, or authorized agent of the Department of Juvenile Justice in the form provided in subdivision (b)(5).

(c) Format for E-mail 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 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 on the date it is sent and must be treated as service by mail for the computation of time. 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 or filed electronically 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 inter-posed 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 by 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 8.090. SPEEDY TRIAL

(a) Time. If a petition has been filed alleging a child to have committed a delinquent act, the child shall be brought to an adjudicatory hearing without demand within 90 days of the earlier of the following:

(1) the date the child was taken into custody; or

(2) the date of service of the summons that is issued when the petition is filed.

(b) Motion to Discharge. If an adjudicatory hearing has not commenced within 90 days, upon motion timely filed with the court and served upon the prosecuting attorney, the child shall be entitled to the appropriate remedy as set

forth in subdivision (m). Before granting such motion, the court shall make the required inquiry under subdivision (d).

(c) Commencement. A child shall be considered to have been brought to trial if the adjudicatory hearing begins within the time provided. The adjudicatory hearing is considered to have commenced when the first witness is sworn before the judge.

(d) Discharge Exceptions. If the adjudicatory hearing is not commenced within the periods of time established, the child shall be entitled to the appropriate remedy as set forth in subdivision (m) unless any of the following situations exist:

(1) The child has voluntarily waived the right to speedy trial.

(2) An extension of time has been ordered under subdivision (f).

(3) The failure to hold an adjudicatory hearing is attributable to the child, or his or her counsel, or to accommodate a co-defendant when the state shows the necessity of trying the cases together.

(4) The child was unavailable for the adjudicatory hearing. A child is unavailable if:

(A) the child or the child's counsel fails to attend a proceeding when their presence is required; or

(B) the child or the child's counsel is not ready for the adjudicatory hearing on the date it is scheduled.

No presumption of nonavailability attaches, but if the state objects to discharge and presents evidence of nonavailability, the child must, by competent proof, establish availability during the term.

(5) The demand referred to in subdivision (g) is invalid.

(6) If the court finds discharge is not appropriate, the pending motion to discharge shall be denied, and an adjudicatory hearing shall commence within 90 days of a written or recorded order of denial.

(e) Incompetency of Child. Upon the filing of a motion suggesting that the child may be incompetent, the speedy trial period shall be tolled until a subsequent finding of the court that the child is competent to proceed.

(f) Extension of Time. The period of time established by subdivision (a) may be extended as follows:

(1) Upon stipulation, announced to the court or signed by the child or the child's counsel and the state.

(2) By written or recorded order of the court on the court's own motion or motion by either party in exceptional circumstances. The order extending the period shall recite the reasons for the extension and the length of the extension. Exceptional circumstances are those which require an extension as a matter of substantial justice to the child or the state or both. Such circumstances include:

(A) unexpected illness or unexpected incapacity or unforeseeable and unavoidable absence of a person whose presence or testimony is uniquely necessary for a full and adequate trial;

(B) a showing by the state that the case is so unusual and so complex, due to the number of child co-defendants or the nature of the prosecution or otherwise, that it is unreasonable to expect adequate investigation or preparation within the periods of time established by this rule;

(C) a showing by the state that specific evidence or testimony is not available, despite diligent efforts to secure it, but will become available at a later time;

(D) a showing by the child or the state of necessity for delay grounded on developments which could not have been anticipated and which will materially affect the trial;

(E) a showing that a delay is necessary to accommodate a co-defendant, when there is a reason not to sever the cases in order to proceed promptly with the trial of the child; or

(F) a showing by the state that the child has caused major delay or disruption of preparation or proceedings, such as by preventing the attendance of witnesses or otherwise.

Exceptional circumstances shall not include general congestion of the court's docket, lack of diligent preparation or failure to obtain available witnesses, or other avoidable or foreseeable delays.

(3) By written or recorded order of the court for a period of reasonable and necessary delay resulting from proceedings including, but not limited to, an examination and hearing to determine the mental competency or physical ability of the child to stand trial for hearings or pretrial motions, for appeals by the state, and for adjudicatory hearings of other pending charges against the child.

(g) Speedy Trial Upon Demand. Except as otherwise provided by this rule and subject to the limitations imposed by subdivision (h), the child shall have the right to demand a trial within 60 days, by filing a pleading titled "Demand for Speedy Trial" with the court and serving it upon the prosecuting attorney.

(1) No later than 5 days from the filing of a demand for speedy trial, the court shall set the matter for report, with notice to all parties, for the express purposes of announcing in open court receipt of the demand and of setting the case for trial.

(2) At the report the court shall set the case for trial to commence at a date no less than 5 days nor more than 45 days from the date of the report.

(3) The failure of the court to hold such a report date on a demand which has been properly filed shall not interrupt the running of any time periods under this subdivision (g).

(4) In the event that the child shall not have been brought to trial within 50 days of the filing of the demand, the child shall have the right to the appropriate remedy as set forth in subdivision (m).

(h) Demand for Speedy Trial; Effect. A demand for speedy trial shall be deemed a pleading by the child that he or she is available for the adjudicatory hearing, has diligently investigated the case, and is prepared or will be prepared for the adjudicatory hearing within 5 days. A demand may not be withdrawn by the child except on order of the court, with consent of the state, or on good cause shown. Good cause for continuance or delay on behalf of the child shall not thereafter include nonreadiness for the adjudicatory hearing, except as to matters that may arise after the demand for the adjudicatory hearing is filed and that could not reasonably have been anticipated by the child or defense counsel.

(i) Discharge After Demand. If an adjudicatory hearing has not commenced within 50 days after a demand for speedy trial, upon motion timely filed with the court having jurisdiction and served upon the prosecuting attorney,

the child shall have the right to the appropriate remedy as set forth in subdivision (m), provided the court has made the required inquiry under subdivision (d).

(j) Effect of Mistrial, Appeal, or Order of New Adjudicatory Hearing. A child who is to be tried again or whose adjudicatory hearing has been delayed by an appeal by the state or the child shall be brought to trial within 90 days from the date of declaration of a mistrial by the trial court, the date of an order by the trial court granting a new adjudicatory hearing, or the date of receipt by the trial court of a mandate, order, or notice of whatever form from an appellate or other reviewing court which makes possible a new adjudicatory hearing for the child, whichever is last. If the child is not brought to an adjudicatory hearing within the prescribed time periods, the child shall be entitled to the appropriate remedy as set forth in subdivision (m).

(k) Discharge From Delinquent Act or Violation of Law; Effect. Discharge from a delinquent act or violation of law under this rule shall operate to bar prosecution of the delinquent act or violation of law charged and all other offenses on which an adjudicatory hearing has not begun or adjudication obtained or withheld and that were, or might have been, charged as a lesser degree or lesser included offense.

(l) **Nolle Prosequi; Effect.** The intent and effect of this rule shall not be avoided by the state entering a nolle prosequi to a delinquent act or violation of law charged and by prosecuting a new delinquent act or violation of law grounded on the same conduct or episode or otherwise by prosecuting new and different charges based on the same delinquent conduct or episode, whether or not the pending charge is suspended, continued, or the subject of the entry of a nolle prosequi.

(m) Remedy for Failure to Try Child Within the Specified Time.

(1) No remedy shall be granted to any child under this rule until the court shall have made the required inquiry under subdivision (d).

(2) The child may, at any time after the expiration of the prescribed time period, file a motion for discharge. Upon filing the motion the child shall simultaneously file a notice of hearing. The motion for discharge and its notice of hearing shall be served upon the prosecuting attorney.

(3) No later than 5 days from the date of the filing of a motion for discharge, the court shall hold a hearing on the motion and, unless the court finds that one of the reasons set forth in subdivision (d) exists, shall order that the child

be brought to trial within 10 days. If the child is not brought to trial within the 10-day period through no fault of the child, the child shall be forever discharged from the delinquent act or violation of law.

Committee Notes

1991 Amendment. (m)(2) This rule requires a notice of hearing at the time of filing the motion for discharge to ensure that the child's motion is heard in a timely manner. A dissenting opinion in the committee was that this change does not protect the child's rights but merely ensures that the case is not dismissed because of clerical error.

RULE 8.095. PROCEDURE WHEN CHILD BELIEVED TO BE INCOMPETENT OR INSANE

(a) Incompetency At Time of Adjudicatory Hearing or Hearing on Petition Alleging Violation of Juvenile Probation in Delinquency Cases.

(1) Motion.

(A) A written motion for examination of the child made by counsel for the child shall contain a certificate of counsel that the motion is made in good faith and on reasonable grounds to believe that the child is incompetent to proceed. To the extent that it does not invade the lawyer-client privilege, the motion shall contain a recital of the specific observations of and conversations with the child that have formed the basis for the motion.

(B) A written motion for examination of the child made by counsel for the state shall contain a certificate of counsel that the motion is made in good faith and on reasonable grounds to believe the child is incompetent to proceed and shall include a recital of the specific facts that have formed the basis for the motion, including a recitation of the observations of and statements of the child that have caused the state to file the motion.

(2) Setting Hearing. If at any time prior to or during the adjudicatory hearing or hearing on a violation of juvenile probation the court has reasonable grounds to believe the child named in the petition may be incompetent to proceed with an adjudicatory hearing, the court on its own motion or motion of counsel for the child or the state shall immediately stay the proceedings and fix a time for a hearing for the determination of the child's mental condition.

(3) Child Found Competent to Proceed. If at the hearing provided for in subdivision (a)(2) the child is found to be competent to proceed with an adjudicatory hearing, the court shall enter an order so finding and proceed accordingly.

(4) Child Found Incompetent to Proceed. If at the hearing provided for in subdivision (a)(2) the child is found to be incompetent to proceed, the child must be adjudicated incompetent to proceed and may be involuntarily committed as provided by law to the Department of Children and Families for treatment upon a finding of clear and convincing evidence that:

(A) The child is mentally ill or intellectually disabled and because of the mental illness or intellectual disability of the child:

(i) the child is manifestly incapable of surviving with the help of willing and responsible family or friends, including available alternative services, and without treatment the child is likely to either suffer from neglect or refuse to care for himself or herself, and such neglect or refusal poses a real and present threat of substantial harm to the child's well-being; or

(ii) there is a substantial likelihood that in the near future the child will inflict serious bodily harm on himself or herself or others, as evidenced by recent behavior causing, attempting, or threatening such harm; and

(B) All available less restrictive treatment alternatives, including treatment in community residential facilities or community inpatient settings which would offer an opportunity for improvement of the child's condition are inappropriate.

(5) Hearing on Competency. Not later than 6 months after the date of commitment, or at the end of any period of extended treatment or training, or at any time the service provider determines the child has attained competency or no longer meets the criteria for commitment, the service provider must file a report with the court and all parties. Upon receipt of this report, the court shall set a hearing to determine the child's competency.

(A) If the court determines that the child continues to remain incompetent, the court shall order appropriate nondelinquent hospitalization or treatment in conformity with this rule and the applicable provisions of chapter 985, Florida Statutes.

(B) If the court determines the child to be competent, it shall enter an order so finding and proceed accordingly.

(6) Commitment. Each child who has been adjudicated incompetent to proceed and who meets the criteria for commitment in subdivision (a)(4) must be committed to the Department of Children and Families. The department must train or treat the child in the least restrictive alternative consistent with public safety. Any commitment of a child to a secure residential program must be to a program separate from adult forensic programs. If the child attains competency, case management and supervision of the child will be transferred to the Department of Juvenile Justice to continue delinquency proceedings. The court retains authority, however, to order the Department of Children and Families to provide continued treatment to maintain competency.

(A) A child adjudicated incompetent because of intellectual disability may be ordered into a program designated by the Department of Children and Families for intellectually disabled children.

(B) A child adjudicated incompetent because of mental illness may be ordered into a program designated by the Department of Children and Families for mentally ill children.

(7) Continuing Jurisdiction and Dismissal of Jurisdiction.

(A) If a child is determined to be incompetent to proceed, the court shall retain jurisdiction of the child for up to 2 years after the date of the order of incompetency, with reviews at least every 6 months to determine competency. If the court determines at any time that the child will never become competent to proceed, the court may dismiss the delinquency petition or petition alleging violation of juvenile probation.

(B) If, at the end of the 2-year period following the date of the order of incompetency, the child has not attained competency and there is no evidence that the child will attain competency within a year, the court must dismiss the delinquency petition.

(C) If necessary, the court may order that proceedings under chapter 393 or 394, Florida Statutes, be instituted. Such proceedings must be instituted no less than 60 days before the dismissal of the delinquency petition. The juvenile court may conduct all proceedings and make all determinations under chapter 393 or 394, Florida Statutes.

(8) Treatment Alternatives to Commitment. If a child who is found to be incompetent does not meet the commitment criteria of subdivision (a)(4), the court shall order the Department of Children and Families to provide appropriate treatment and training in the community. All court-ordered treatment must be in the least restrictive setting consistent with public safety. Any residential program must be separate from an adult forensic program. If a child is ordered to receive such services, the services shall be provided by the Department of Children and Families. The competency determination must be reviewed at least every 6 months, or at the end of any extended period of treatment or training, and any time the child appears to have attained competency or will never attain competency, by the service provider. A copy of a written report evaluating the child's competency must be filed by the provider with the court, the Department of Children and Families, the Department of Juvenile Justice, the state, and counsel for the child.

(9) Speedy Trial Tolled. Upon the filing of a motion by the child's counsel alleging the child to be incompetent to proceed or upon an order of the court finding a child incompetent to proceed, speedy trial shall be tolled until a subsequent finding of the court that the child is competent to proceed. Proceedings under this subdivision initiated by the court on its own motion or the state's motion may toll the speedy trial period pursuant to rule 8.090(e).

(b) Insanity at Time of Delinquent Act or Violation of Juvenile Probation.

(1) If the child named in the petition intends to plead insanity as a defense, the child shall advise the court in writing not less than 10 days before the adjudicatory hearing and shall provide the court with a statement of particulars showing as nearly as possible the nature of the insanity expected to be proved and the names and addresses of witnesses expected to prove it. Upon the filing of this statement, on motion of the state, or on its own motion, the court may cause the child to be examined in accordance with the procedures in this rule.

(2) The court, upon good cause shown and in its discretion, may waive these requirements and permit the introduction of the defense, or may continue the hearing for the purpose of an examination in accordance with the procedures in this rule. A continuance granted for this purpose will toll the speedy trial rule and the limitation on detention pending adjudication.

(c) Appointment of Expert Witnesses; Detention of Child for Examination.

(1) When a question has been raised concerning the sanity or competency of the child named in the petition and the court has set the matter for an adjudicatory hearing, hearing on violation of juvenile probation, or a hearing to determine the mental condition of the child, the court may on its own motion, and shall on motion of the state or the child, appoint no more than 3, nor fewer than 2, disinterested qualified experts to examine the child as to competency or sanity of the child at the time of the commission of the alleged delinquent act or violation of juvenile probation. Attorneys for the state and the child may be present at the examination. An examination regarding sanity should take place at the same time as the examination into the competence of the child to proceed, if the issue of competency has been raised. Other competent evidence may be introduced at the hearing. The appointment of experts by the court shall not preclude the state or the child from calling other expert witnesses to testify at the adjudicatory hearing, hearing on violation of juvenile probation, or at the hearing to determine the mental condition of the child.

(2) The court only as provided by general law may order the child held in detention pending examination. This rule shall in no way be construed to add any detention powers not provided by statute or case law.

(3) When counsel for a child adjudged to be indigent or partially indigent, whether public defender or court appointed, shall have reason to believe that the child may be incompetent to proceed or may have been insane at the time of the alleged delinquent act or juvenile probation violation, counsel may so inform the court. The court shall appoint 1 expert to examine the child to assist in the preparation of the defense. The expert shall report only to counsel for the child, and all matters related to the expert shall be deemed to fall under the lawyer-client privilege.

(4) For competency evaluations related to intellectual disability, the court shall order the Developmental Services Program Office of the Department of Children and Families to examine the child to determine if the child meets the definition of intellectual disability in section 393.063, Florida Statutes, and, if so, whether the child is competent to proceed or amenable to treatment through the Department of Children and Families' intellectual disability services or programs.

(d) Competence to Proceed; Scope of Examination and Report.

(1) Examination by Experts. On appointment by the court, the experts shall examine the child with respect to the issue of competence to proceed as specified by the court in its order appointing the experts.

(A) The experts first shall consider factors related to whether the child meets the criteria for competence to proceed; that is, whether the child has sufficient present ability to consult with counsel with a reasonable degree of rational understanding and whether the child has a rational and factual understanding of the present proceedings.

(B) In considering the competence of the child to proceed, the examining experts shall consider and include in their reports the child's capacity to:

(i) appreciate the charges or allegations against the child;

(ii) appreciate the range and nature of possible penalties that may be imposed in the proceedings against the child, if applicable;

(iii) understand the adversary nature of the legal process;

(iv) disclose to counsel facts pertinent to the proceedings at issue;

(v) display appropriate courtroom behavior; and

(vi) testify relevantly.

The experts also may consider any other factors they deem to be relevant.

(C) Any report concluding that a child is not competent must include the basis for the competency determination.

(2) Treatment Recommendations. If the experts find that the child is incompetent to proceed, they shall report on any recommended treatment for the child to attain competence to proceed. A recommendation as to whether residential or nonresidential treatment or training is required must be included. In considering issues related to treatment, the experts shall report on the following:

(A) The mental illness, intellectual disability, or mental age causing incompetence.

(B) The treatment or education appropriate for the mental illness or intellectual disability of the child and an explanation of each of the possible treatment or education alternatives, in order of recommendation.

(C) The availability of acceptable treatment or education. If treatment or education is available in the community, the experts shall so state in the report.

(D) The likelihood of the child attaining competence under the treatment or education recommended, an assessment of the probable duration of the treatment required to restore competence, and the probability that the child will attain competence to proceed in the foreseeable future.

(E) Whether the child meets the criteria for involuntary hospitalization or involuntary admissions to residential services under chapter 985, Florida Statutes.

(3) Insanity. If a notice of intent to rely on an insanity defense has been filed before an adjudicatory hearing or a hearing on an alleged violation of juvenile probation, when ordered by the court the experts shall report on the issue of the child's sanity at the time of the delinquent act or violation of juvenile probation.

(4) Written Findings of Experts. Any written report submitted by the experts shall:

(A) identify the specific matters referred for evaluation;

(B) describe the procedures, techniques, and tests used in the examination and the purposes of each;

(C) state the expert's clinical observations, findings, and opinions on each issue referred for evaluation by the court and indicate specifically those issues, if any, on which the expert could not give an opinion; and

(D) identify the sources of information used by the expert and present the factual basis for the expert's clinical findings and opinions.

(5) Limited Use of Competency Evidence.

(A) The information contained in any motion by the child for determination of competency to proceed or in any report filed under this rule as it relates solely to the issues of competency to proceed and commitment, and any information elicited during a hearing on competency to proceed or commitment held under this rule, shall be used only in determining the mental competency to proceed, the commitment of the child, or other treatment of the child.

(B) The child waives this provision by using the report, or any parts of it, in any proceeding for any other purpose. If so waived, the disclosure or use of the report, or any portion of it, shall be governed by the applicable rules of evidence and juvenile procedure. If a part of a report is used by the child, the state may request the production of any other portion that, in fairness, ought to be considered.

(e) Procedures After Judgment of Not Guilty by Reason of Insanity.

(1) When the child is found not guilty of the delinquent act or violation of juvenile probation because of insanity, the court shall enter such a finding and judgment.

(2) After finding the child not guilty by reason of insanity, the court shall conduct a hearing to determine if the child presently meets the statutory criteria for involuntary commitment to a residential psychiatric facility.

(A) If the court determines that the required criteria have been met, the child shall be committed by the juvenile court to the Department of Children and Families for immediate placement in a residential psychiatric facility.

(B) If the court determines that such commitment criteria have not been established, the court, after hearing, shall order that the child receive recommended and appropriate treatment at an outpatient facility or service.

(C) If the court determines that treatment is not needed, it shall discharge the child.

(D) Commitment to a residential psychiatric facility of a child adjudged not guilty by reason of insanity shall be governed by the provisions of chapters 985 or 394, Florida Statutes, except that requests for discharge or

continued involuntary hospitalization of the child shall be directed to the court that committed the child.

(E) If a child is not committed to a residential psychiatric facility and has been ordered to receive appropriate treatment at an outpatient facility or service and it appears during the course of the ordered treatment

(i) that treatment is not being provided or that the child now meets the criteria for hospitalization, the court shall conduct a hearing pursuant to subdivision (e)(2) of this rule.

(ii) that the child no longer requires treatment at an outpatient facility or service, the court shall enter an order discharging the child.

(F) During the time the child is receiving treatment, either by hospitalization or through an outpatient facility or service, any party may request the court to conduct a hearing to determine the nature, quality, and need for continued treatment. The hearing shall be conducted in conformity with subdivision (e)(2) of this rule.

(G) No later than 30 days before reaching age 19, a child still under supervision of the court under this rule shall be afforded a hearing. At the hearing, a determination shall be made as to the need for continued hospitalization or treatment. If the court determines that continued care is appropriate, proceedings shall be initiated under chapter 394, Florida Statutes. If the court determines further care to be unnecessary, the court shall discharge the child.

F. HEARINGS

RULE 8.100. GENERAL PROVISIONS FOR HEARINGS

Unless otherwise provided, the following provisions apply to all hearings:

(a) Presence of the Child. The child shall be present unless the court finds that the child's mental or physical condition is such that a court appearance is not in the child's best interests.

(b) Use of Restraints on the Child. Instruments of restraint, such as handcuffs, chains, irons, straitjackets, cloth and leather restraints, or other similar items, shall not be used on a child during a court proceeding except when ordered by the court prior to the child's appearance in the courtroom in accordance with

this rule. Instruments of restraint must be removed prior to the child's appearance unless after an individualized assessment of the child the court finds that:

(1) The use of restraints is necessary due to one of the following factors:

(A) to prevent physical harm to the child or another person;

(B) the child's history of disruptive courtroom behavior that has placed others in potentially harmful situations or that presents a substantial risk of inflicting physical harm or himself or herself or others as evidenced by recent behavior; or

(C) a founded belief that the child presents a substantial risk of flight from the courtroom; and

(2) There are no less restrictive alternatives to restraints that will prevent flight or physical harm to the child or another person, including, but not limited to, the presence of court personnel, law enforcement officers, or bailiffs.

(3) In making a determination that the use of instruments of restraint is necessary, pursuant to subdivision (b)(1), the court shall consider:

(A) any past escapes or attempted escapes by the child;

(B) evidence of a present plan of escape by the child;

(C) a credible threat by the child to harm himself or herself or another person during court;

(D) evidence of self-injurious behavior on part of the child; and

(E) any other factor that is relevant in determining whether the use of instruments of restraint are necessary pursuant to subdivision (b)(1).

(4) The court shall provide the child's attorney an opportunity to be heard before the court orders the use of restraints. Counsel shall be appointed for this hearing if the child qualifies for such appointment and does not waive counsel in writing as required by rule 8.165.

(5) If restraints are ordered, the court shall make specific and individualized findings of fact in support of the order and the least restrictive restraints shall be used. Any restraints shall allow the child limited movement of his or her hands to read and handle documents and writings necessary to the hearing.

(6) Under no circumstances should a child be restrained using fixed restraints to a wall, floor, or furniture.

(c) Absence of the Child. If the child is present at the beginning of a hearing and during the progress of the hearing voluntarily absents himself or herself from the presence of the court without leave of the court, or is removed from the presence of the court because of disruptive conduct during the hearing, the hearing shall not be postponed or delayed, but shall proceed in all respects as if the child were present in court at all times.

(d) Invoking the Rule. Prior to the examination of any witness the court may, and on the request of any party in an adjudicatory hearing shall, exclude all other witnesses. The court may cause witnesses to be kept separate and to be prevented from communicating with each other until all are examined.

(e) Continuances. The court may grant a continuance before or during a hearing for good cause shown by any party.

(f) Record of Testimony. A record of the testimony in all hearings shall be made by an official court reporter, a court approved stenographer, or a recording device. The records shall be preserved for 5 years from the date of the hearing. Official records of testimony shall be provided only on request of a party or a party's attorney or on a court order.

(g) Notice. When these rules do not require a specific notice, all parties will be given reasonable notice of any hearing.

RULE 8.104. TESTIMONY BY CLOSED-CIRCUIT TELEVISION

(a) Requirements for Use. In any case the trial court may order the testimony of a victim or witness under the age of 16 to be taken outside the courtroom and shown by means of closed-circuit television if on motion and hearing in camera, the trial court determines that the victim or witness would suffer at least moderate emotional or mental harm due to the presence of the defendant child if the witness is required to testify in open court.

(b) Persons Who May File Motion. The motion may be filed by:

(1) the victim or witness or his or her attorney, parent, legal guardian, or guardian ad litem;

(2) the trial judge on his or her own motion;

(3) the prosecuting attorney; or

(4) the defendant child or his or her counsel.

(c) Persons Who May Be Present During Testimony. Only the judge, prosecutor, witness or victim, attorney for the witness or victim, defendant child's attorney, operator of the equipment, an interpreter, and some other person who in the opinion of the court contributes to the well-being of the victim or witness and who will not be a witness in the case may be in the room during the recording of the testimony.

(d) Presence of Defendant Child. During the testimony of the victim or witness by closed-circuit television, the court may require the defendant child to view the testimony from the courtroom. In such case, the court shall permit the defendant child to observe and hear the testimony, but shall ensure that the victim or witness cannot hear or see the defendant child. The defendant child's right to assistance of counsel, which includes the right to immediate and direct communication with counsel conducting cross examination, shall be protected and, on the defendant child's request, such communication shall be provided by any appropriate electronic method.

(e) Findings of Fact. The court shall make specific findings of fact on the record as to the basis for its ruling under this rule.

(f) Time for Motion. The motion referred to in subdivision (a) may be made at any time with reasonable notice to each party.

Committee Notes

1992 Adoption. Addition of this rule is mandated by section 92.55, Florida Statutes (1989).

RULE 8.105. WAIVER OF JURISDICTION

(a) On Demand. On demand for waiver of jurisdiction, the court shall enter a written order setting forth the demand, waiving jurisdiction, and certifying the case for trial as if the child were an adult. The demand shall be made in the form provided by law prior to the commencement of an adjudicatory hearing. A certified copy of the order shall be furnished to the clerk of the court having jurisdiction to try the child as an adult and to the prosecuting officer of the said child within 5 days of the demand being made. The court may order that the child be delivered to the sheriff of the county in which the court that is to try the child is located.

(b) Involuntary Waiver; Hearing.

(1) As provided by law, the state attorney may, or if required shall, file a motion requesting the court to waive its jurisdiction and certify the case to the appropriate court for trial as if the child were an adult.

(2) Following the filing of the motion of the state attorney, summons shall be issued and served in conformity with the provision of rule 8.040. A copy of the motion and a copy of the delinquency petition, if not already served, shall be attached to each summons.

(3) No plea to a petition shall be accepted by the court prior to the disposition of the motion to waive jurisdiction.

(4) After the filing of the report required by law, the court shall conduct a hearing on the motion to determine the existence of the criteria established by law for waiver of jurisdiction.

(5) After hearing as provided in this rule:

(A) The court may enter an order waiving jurisdiction and certifying the case for trial as if the child were an adult as provided by law. The order shall set forth the basis for waiver of jurisdiction and certification to the appropriate court, with copies provided to all parties and the department. A certified copy of the order shall be furnished to the clerk of the court having jurisdiction to try the child as an adult and to the prosecuting officer of the said court within 5 days of the date of the order. The child shall be delivered immediately to the sheriff of the county in which the court that is to try the child as an adult is located.

(B) The court may enter an order denying waiver of jurisdiction, and give reasons for this denial, as provided by law. If the waiver is denied, the same judge, with the consent of the child and the state, may proceed immediately with the adjudicatory hearing.

(c) Bail. If the child is delivered to the sheriff under subdivision (a) or (b) the court shall fix bail. A certified copy of the order shall be furnished to the sheriff.

RULE 8.110. ADJUDICATORY HEARINGS

(a) Appearances; Pleas. The child shall appear before the court at the times set and, unless a written plea has been filed, enter a plea of guilty, not guilty, or, with the consent of the court, nolo contendere.

(b) Preparation of Case. If the child pleads not guilty the court may proceed at once to an adjudicatory hearing, or may continue the case to allow sufficient time on the court calendar for a hearing or to give the state or the child a reasonable time for the preparation of the case.

(c) Trial by Court. The adjudicatory hearing shall be conducted by the judge without a jury. At this hearing, the court determines whether the allegations of the petition have been sustained.

(d) Joint and Separate Trials. When 2 or more children are alleged to have committed a delinquent act or violation of law, they shall be tried jointly unless the court in its discretion orders separate trials.

(e) Testimony. The child may choose to be sworn as a witness and testify in his or her own behalf. The child may be cross-examined as other witnesses. No child shall be compelled to give testimony against himself or herself, nor shall any prosecuting attorney be permitted to comment on the failure of the child to testify in his or her own behalf. A child offering no testimony on his or her own behalf except his or her own shall be entitled to the concluding argument.

(f) Motion for Judgment of Dismissal. If, at the close of the evidence for the petitioner or at the close of all the evidence in the cause, the court is of the opinion that the evidence is insufficient to establish a prima facie case of guilt against the child, it may, or on the motion of the state attorney or the child shall, enter an order dismissing the petition for insufficiency of the evidence. A motion for judgment of dismissal is not waived by subsequent introduction of evidence on

behalf of the child. The motion must fully set forth the grounds on which it is based.

(g) Dismissal. If the court finds that the allegations in the petition have not been proven beyond a reasonable doubt, it shall enter an order so finding and dismissing the case.

(h) Degree of Offense. If in a petition there is alleged an offense which is divided into degrees, the court may find the child committed an offense of the degree alleged or of any lesser degree supported by the evidence.

(i) Specifying Offense Committed. If in a petition more than one offense is alleged the court shall state in its order which offense or offenses it finds the child committed.

(j) Lesser Included Offenses. On a petition on which the child is to be tried for any offense, the court may find the child committed:

(1) an attempt to commit the offense, if such attempt is an offense and is supported by the evidence; or

(2) any offense that as a matter of law is a necessarily included offense or a lesser included offense of the offense charged in the petition and is supported by the evidence.

(k) Dispositional Alternatives. If the court finds that the evidence proved the allegations of the petition beyond a reasonable doubt, it may enter an order of adjudication or withhold adjudication as provided by law. If the pre-disposition report required by law is available, the court may proceed immediately to disposition or continue the case for a disposition hearing. If the report is not available, the court will continue the case for a disposition hearing and refer it to the appropriate agency or agencies for a study and recommendation. If the case is continued the court may order the child detained.

RULE 8.115. DISPOSITION HEARING

(a) Information Available to Court. At the disposition hearing the court, after establishing compliance with the dispositional considerations, determinations, and discussions required by law, may receive any relevant and material evidence helpful in determining the proper disposition to be made. It shall include written reports required by law, and may include, but shall not be limited

to, the child's need for substance abuse evaluation and/or treatment, and any psychiatric or psychological evaluations of the child that may be obtained and that are relevant and material. Such evidence may be received by the court and may be relied upon to the extent of its probative value, even though not competent in an adjudicatory hearing. In any case in which it is necessary or consented to by the parties that disposition be pronounced by a judge other than the judge who presided at the adjudicatory hearing or accepted a plea of guilty or nolo contendere, the sentencing judge shall not pronounce disposition until the judge becomes acquainted with what transpired at the adjudicatory hearing, or the facts concerning the plea and the offense, including any plea discussions if a plea of guilty or nolo contendere was entered.

(b) Appointment of Counsel. Counsel shall be appointed at all disposition hearings, including cases transferred from other counties and restitution hearings, if the child qualifies for such appointment and does not waive counsel in writing as required by rule 8.165.

(c) Disclosure. The child, the child's attorney, the child's parent or custodian, and the state attorney shall be entitled to disclosure of all information in the predisposition report and all reports and evaluations used by the department in the preparation of the report.

(d) Disposition Order. The disposition order shall be prepared and distributed by the clerk of the court. Copies shall be provided to the child, defense attorney, state attorney, and department representative. Each case requires a separate disposition order. The order shall:

(1) state the name and age of the child;

(2) state the disposition of each count, specifying the charge title, degree of offense, and maximum penalty defined by statute and specifying the amount of time served in secure detention before disposition;

(3) state general and specific conditions or sanctions;

(4) make all findings of fact required by law;

(5) state the date and time when issued and the county and court where issued; and

(6) be signed by the court with the title of office.

(e) Fingerprints. The child's fingerprints shall be affixed to the order of disposition.

Committee Notes

1991 Amendment. (c) Section 985.23(3)(e), Florida Statutes, requires the court to fingerprint any child who is adjudicated or has adjudication withheld for a felony. This rule extends this requirement to all dispositions. Sentencing guidelines include scorable points for misdemeanor offenses as well as for felonies. This procedure also should assist in identifying juveniles who use false names and birthdates, which can result in the arrest of an innocent child whose name was used by the offender.

RULE 8.120. POST-DISPOSITION HEARING

(a) Revocation of Juvenile Probation.

(1) A child who has been placed on juvenile probation may be brought before the court upon allegations of violation(s).

(2) Any proceeding alleging a violation shall be initiated by the filing of a sworn affidavit of the material facts supporting the allegation(s). The affidavit shall be executed by the child's juvenile probation officer or other person having actual knowledge of the facts. Copies of the affidavit shall be provided to the court, the state attorney, and the Department of Juvenile Justice.

(3) When revocation proceedings are sought by the state attorney or the Department of Juvenile Justice, the proceedings shall be initiated by the filing of a petition alleging violation of juvenile probation. The petition shall incorporate and reference the affidavit described in subdivision (a)(2). All such petitions must be signed and filed by legal counsel.

(4) The court may initiate revocation proceedings by the entry of an order initiating revocation proceedings. The order must incorporate and reference the affidavit described in subdivision (a)(2).

(5) All interested persons, including the child, shall have an opportunity to be heard. After such hearing, the court shall enter an order revoking, modifying, terminating, or continuing juvenile probation. Upon the revocation of juvenile probation, the court shall, when the child has been placed on juvenile probation and adjudication has been withheld, adjudicate the child delinquent. In

all cases after a revocation of juvenile probation, the court shall enter a new disposition order.

(b) Retention of Authority over Discharge. When the court has retained authority over discharge of a delinquent child from placement or commitment as provided by law, prior to any discharge from placement or commitment, the Department of Juvenile Justice shall notify the court, the state attorney, the victim of the offense or offenses for which the child was placed under supervision of the department, and the child of its intention to discharge the child. Thereafter, any interested party may request a hearing, within the time prescribed by law, to address the discharge.

G. RELIEF FROM ORDERS AND JUDGMENTS

RULE 8.130. MOTION FOR REHEARING

(a) Basis. After the court has entered an order ruling on a pretrial motion, an order of adjudication, or an order withholding adjudication, any party may move for rehearing upon one or more of the following grounds:

(1) That the court erred in the decision of any matter of law arising during the hearing.

(2) That a party did not receive a fair and impartial hearing.

(3) That any party required to be present at the hearing was not present.

(4) That there exists new and material evidence which, if introduced at the hearing, would probably have changed the court's decision and could not with reasonable diligence have been discovered before and produced at the hearing.

(5) That the court is without jurisdiction of the proceeding.

(6) That the judgment is contrary to the law and evidence.

(b) Time and Method.

(1) A motion for rehearing may be made and ruled upon immediately after the court announces its judgment but must be made within 10 days of the entry of the order being challenged.

(2) If the motion is made in writing, it shall be served as provided in these rules for service of other pleadings.

(3) A motion for rehearing shall toll the time for the taking of an appeal.

(c) Court Action.

(1) If the motion for rehearing is granted the court may vacate or modify the order or any part thereof and allow additional proceedings as it deems just. It may enter a new judgment, and may order or continue the child in detention pending further proceedings.

(2) The court on its own initiative may vacate or modify any order within the time limitation provided in subdivision (b).

RULE 8.135. CORRECTION OF DISPOSITION OR COMMITMENT ORDERS

(a) Correction. A court at any time may correct an illegal disposition or commitment order imposed by it. However, a party may not file a motion to correct under this subdivision during the time allowed for the filing of a motion under subdivision (b)(1) or during the pendency of a direct appeal.

(b) Motion to Correct Disposition or Commitment Error. A motion to correct any disposition or commitment order error, including an illegal disposition or commitment, may be filed as allowed by this subdivision. The motion must identify the error with specificity and provide a proposed correction. A response to the motion may be filed within 15 days either admitting or contesting the alleged error. Motions may be filed by the state under this subdivision only if the correction of the error would benefit the child or to correct a scrivener's error.

(1) Motion Before Appeal. During the time allowed for the filing of a notice of appeal, a child, the state, or the department may file a motion to correct a disposition or commitment order error.

(A) This motion stays rendition under Florida Rule of Appellate Procedure 9.020(i).

(B) Unless the trial court determines that the motion can be resolved as a matter of law without a hearing, it shall hold an initial hearing no later than 10 days from the filing of the motion, with notice to all parties, for the express purpose of either ruling on the motion or determining the need for an evidentiary hearing. If an evidentiary hearing is needed, it shall be set no more than 10 days from the date of the initial hearing. Within 30 days from the filing of the motion, the trial court shall file an order ruling on the motion. If no order is filed within 30 days, the motion shall be deemed denied.

(2) Motion Pending Appeal. If an appeal is pending, a child or the state may file in the trial court a motion to correct a disposition or commitment order error. The motion may be filed by appellate counsel and must be served before the party's first brief is served. A notice of pending motion to correct disposition or commitment error shall be filed in the appellate court, which notice shall automatically extend the time for the filing of the brief, until 10 days after the clerk of the circuit court transmits the supplemental record under Florida Rule of Appellate Procedure 9.140(f)(6).

(A) The motion shall be served on the trial court and on all trial and appellate counsel of record. Unless the motion expressly states that appellate counsel will represent the movant in the trial court, trial counsel will represent the movant on the motion under Florida Rule of Appellate Procedure 9.140(d). If the state is the movant, trial counsel will represent the child unless appellate counsel for the child notifies trial counsel and the trial court that appellate counsel will represent the child on the state's motion.

(B) The trial court shall resolve this motion in accordance with subdivision (b)(1)(B) of this rule.

(C) Under Florida Rule of Appellate Procedure 9.140(f)(6), the clerk of the circuit court shall supplement the appellate record with the motion, the order, any amended disposition, and, if designated, a transcript of any additional portion of the proceedings.

RULE 8.140. EXTRAORDINARY RELIEF

(a) Basis. On motion and upon such terms as are just, the court may relieve a party or the party's legal representative from an order, judgment, or proceeding for the following reasons:

(1) Mistake, inadvertence, surprise, or excusable neglect.

(2) Newly discovered evidence which by due diligence could not have been discovered in time to move for rehearing.

(3) Fraud (intrinsic or extrinsic), misrepresentation, or other misconduct of any other party.

(4) That the order or judgment is void.

(b) Time. The motion shall be made within a reasonable time and, for reasons (1), (2), and (3), not more than 1 year after the judgment, order, or proceeding was taken.

RULE 8.145. SUPERSEDEAS ON APPEAL

(a) Granting of Supersedeas. The court in considering the welfare and best interest of the child and the interest of the public may grant a supersedeas in its discretion on such conditions as it may determine are appropriate.

(b) Preeminence of Rule. This rule shall be to the exclusion of any other court rule providing for supersedeas on appeal.

H. CONTEMPT

RULE 8.150. CONTEMPT

(a) Contempt of Court. The court may punish any child for contempt under this rule for interfering with the court or court administration, or for violating any order of the court. A child under the jurisdiction of the juvenile court may be subject to contempt under this rule even upon reaching the age of majority. If the child is found in contempt and sentenced to secure detention, on motion by any party the court must review the placement of the child to determine whether it is appropriate for the child to remain detained.

(b) Direct Contempt. After a hearing, a contempt may be punished immediately if the court saw or heard the conduct constituting the contempt that was committed in the actual presence of the court. The child has a right to legal counsel and the right to have legal counsel appointed by the court if the child is indigent. The court must inform the child as to the basis for the contempt by reciting the facts on which the contempt is based. Before the adjudication of guilt the court must inquire as to whether there is any cause to show why the child should not be adjudged guilty of contempt by the court and sentenced therefor. The child must be given the opportunity to present evidence of excusing or mitigating circumstances. The judgment must be signed by the court and entered of record. Sentence must be pronounced in open court.

(c) Indirect Contempt. An indirect contempt may be prosecuted in the following manner:

(1) Legal Counsel. Counsel must be appointed for all contempt hearings if the child qualifies for such appointment, or the child has the right to retain counsel, unless the child waives counsel in writing as required by rule 8.165.

(2) Order to Show Cause. On affidavit of any person having personal knowledge of the facts, the court may issue and sign an order to show cause. The order must state the essential facts constituting the contempt charged and require the child to appear before the court to show cause why the child should not be held in contempt of court. If the contempt charged involves disrespect to or criticism of a judge, on motion by the child, the judge must be disqualified by the chief judge of the circuit. The order must specify the time and place of the hearing, with a reasonable time allowed for the preparation of a defense after service of the order on the child. It must be served in the same manner as a summons. Nothing herein shall be construed to prevent the child from waiving the service of process.

(3) Motions; Answer. The child may move to dismiss the order to show cause, move for a statement of particulars, admit to the offense, or enter a denial and request a hearing.

(4) Detention Before the Hearing. The court may only detain the child before the contempt hearing solely on the contempt proceeding if the court provides clear and convincing reasons in writing demonstrating the court's belief that the child will fail to appear in response to the order to show cause.

(5) Hearing. The judge may conduct a hearing without assistance of counsel or may be assisted in the prosecution of the contempt by the state

attorney or by an attorney appointed for that purpose. At the hearing, the child has the following rights:

(A) The right to be represented by legal counsel.

(B) The right to testify in the child's own defense.

(C) The right to confront witnesses.

(D) The right to subpoena and present the witnesses.

(E) The right to have the hearing recorded and a copy of such recording.

(F) The right to have a transcript of the proceeding.

(G) The right to appeal.

(6) Verdict; Judgment. At the conclusion of the hearing the court must sign a judgment of guilty or not guilty. If the court finds the child guilty, the judgment should include a recital of the facts that constituted the contempt.

(7) Sentence. Before the pronouncement of sentence the court must inform the child of the accusation and judgment against him or her and inquire as to whether there is any cause to show why sentence should not be pronounced. The child must be afforded the opportunity to present evidence of mitigating circumstances. The court must consider all available and appropriate sentences, including alternative sanctions. The court must pronounce the sentence in open court and in the presence of the child.

I. GENERAL PROVISIONS

RULE 8.160. TRANSFER OF CASES

The court may transfer any case, after adjudication or when adjudication is withheld, to the circuit court for the county of the circuit in which is located the domicile or usual residence of the child or such other circuit court as the court may determine to be for the best interest of the child. No case shall be transferred to another county under this rule unless a plea of nolo contendere or guilty has been entered by the child on the charge being transferred, or until the transferring court has found the child committed the offense in question after an adjudicatory hearing

in the county where the offense occurred. Any action challenging the entry of a plea or the adjudicatory hearing result must be brought in the transferring court's county. The transferring court shall enter an order transferring its jurisdiction and certifying the case to the proper court. The transferring court shall furnish the following to the state attorney, the public defender, if counsel was previously appointed, and the clerk of the receiving court within 5 days:

(a) A certified copy of the order of transfer, which shall include, but not be limited to:

(1) specific offense that the child was found to have committed;

(2) degree of the offense;

(3) name of parent/custodian to be summoned;

(4) address at which the child should be summoned for disposition;

(5) name and address of victim;

(6) whether the child was represented by counsel; and

(7) findings of fact, after hearing or stipulation, regarding the amount of damages or loss caused directly or indirectly by the child's offense, for purposes of restitution.

(b) A certified copy of the delinquency petition.

(c) A copy of the juvenile referral or complaint.

(d) Any reports and all previous orders including orders appointing counsel entered by the court in the interest of that child.

Committee Notes

1991 Amendment. This rule requires the transferring court to provide sufficient information to the receiving court when transferring the case to another jurisdiction to comply with the requirements of chapter 39, Florida Statutes.

1992 Amendment. The purpose of this amendment is to require the court hearing the substantive charge to determine the value of the victim's damage or loss caused by the child's offense. The victim and witnesses necessary to testify as

to damage and loss are more often residents of the transferring court's county, rather than the receiving court's.

RULE 8.165. PROVIDING COUNSEL TO PARTIES

(a) Duty of the Court. The court shall advise the child of the child's right to counsel. The court shall appoint counsel as provided by law unless waived by the child at each stage of the proceeding. Waiver of counsel can occur only after the child has had a meaningful opportunity to confer with counsel regarding the child's right to counsel, the consequences of waiving counsel, and any other factors that would assist the child in making the decision to waive counsel. This waiver shall be in writing.

(b) Waiver of Counsel.

(1) The failure of a child to request appointment of counsel at a particular stage in the proceedings or the child's announced intention to plead guilty shall not, in itself, constitute a waiver of counsel at any subsequent stage of the proceedings.

(2) A child shall not be deemed to have waived the assistance of counsel until the entire process of offering counsel has been completed and a thorough inquiry into the child's comprehension of that offer and the capacity to make that choice intelligently and understandingly has been made.

(3) If the child is entering a plea to or being tried on an allegation of committing a delinquent act, the written waiver shall also be submitted to the court in the presence of a parent, legal custodian, responsible adult relative, or attorney assigned by the court to assist the child. The assigned attorney shall verify on the written waiver and on the record that the child's decision to waive counsel has been discussed with the child and appears to be knowing and voluntary.

(4) No waiver shall be accepted if it appears that the party is unable to make an intelligent and understanding choice because of mental condition, age, education, experience, the nature or complexity of the case, or other factors.

(5) If a waiver is accepted at any stage of the proceedings, the offer of assistance of counsel shall be renewed by the court at each subsequent stage of the proceedings at which the party appears without counsel.

RULE 8.170. GUARDIAN AD LITEM

At any stage of the proceedings, the court may appoint a guardian ad litem for the child.

A guardian ad litem shall not be required to post bond but shall file an acceptance of the office.

RULE 8.180. COMPUTATION AND ENLARGEMENT OF TIME

(a) Computation. Computation of time shall be governed by Florida Rule of Judicial Administration 2.514, except for rules 8.013 and 8.010, to which rule 2.514(a)(2)(C) shall not apply and the statutory time period shall govern.

(b) Enlargement of Time. When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for good cause shown may, at any time, in its discretion:

(1) with or without notice, order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order; or

(2) upon motion made and notice after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect.

But it may not, except as provided by law or elsewhere in these rules, extend the time for making a motion for a new trial, a motion for rehearing, judgment of acquittal, vacation of judgment, or for taking an appeal. This rule shall not be construed to apply to detention hearings.

RULE 8.185. COMMUNITY ARBITRATION

(a) Referral. A case may be referred to community arbitration as provided by law. The chief judge of each judicial circuit shall maintain a list of qualified persons who have agreed to serve as community arbitrators for the purpose of carrying out the provisions of chapter 985, Florida Statutes.

(b) Arbitrator Qualifications. Each community arbitrator or member of a community arbitration panel shall be selected pursuant to law and shall meet the following minimum qualification and training requirements:

(1) Be at least 18 years of age.

(2) Be a person of the temperament necessary to deal properly with cases involving children and with the family crises likely to be presented.

(3) Pass a law enforcement records check and a Department of Children and Family Services abuse registry background check, as determined by the written guidelines developed by the chief judge of the circuit, the senior circuit court judge assigned to juvenile cases in the circuit, and the state attorney.

(4) Observe a minimum of 3 community arbitration hearings conducted by an approved arbitrator in a juvenile case.

(5) Conduct at least 1 juvenile community arbitration hearing under the personal observation of an approved community arbitrator.

(6) Successfully complete a training program consisting of not less than 8 hours of instruction including, but not limited to, instruction in:

(A) conflict resolution;

(B) juvenile delinquency law;

(C) child psychology; and

(D) availability of community resources.

The chief judge of the circuit, the senior circuit judge assigned to juvenile cases in the circuit, and the state attorney shall develop specific written guidelines for the training program and may specify additional qualifications as necessary.

Committee Notes

1992 Adoption. This rule provides qualification and training requirements for arbitrators as required by section 985.304(3), Florida Statutes. It was the committee's intention to set minimal qualifications and to allow local programs to determine additional requirements.

PART III. DEPENDENCY AND TERMINATION OF PARENTAL RIGHTS PROCEEDINGS

A. GENERAL PROVISIONS

RULE 8.201. COMMENCEMENT OF PROCEEDINGS

(a) Commencement of Proceedings. Proceedings are commenced when:

(1) an initial shelter petition is filed;

(2) a petition alleging dependency is filed;

(3) a petition for termination of parental rights is filed; or

(4) a petition for an injunction to prevent child abuse under chapter 39, Florida Statutes, is filed.

(5) a petition or affidavit for an order to take into custody is filed; or

(6) any other petition authorized by chapter 39, Florida Statutes, is filed.

(b) File to Be Opened. Upon commencement of any proceeding, the clerk shall open a file and assign a case number.

RULE 8.203. APPLICATION OF UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT

Any pleading filed commencing proceedings as set forth in rule 8.201 shall be accompanied by an affidavit, to the extent of affiant's personal knowledge, under the Uniform Child Custody Jurisdiction and Enforcement Act. Each party has a continuing duty to inform the court of any custody proceeding in this or any other state of which information is obtained during the proceeding.

RULE 8.205. TRANSFER OF CASES

(a) Transfer of Cases Within Circuit Court. If it should appear at any time in a proceeding initiated in a division other than the division of the circuit court assigned to handle dependency matters that facts are alleged that essentially constitute a dependency or the termination of parental rights, the court may upon

consultation with the administrative judge assigned to dependency cases order the transfer of action and the transmittal of all relevant documents to the division assigned to handle dependency matters. The division assigned to handle dependency matters shall then assume jurisdiction only over matters pertaining to dependency, custody, visitation, and child support.

(b) Transfer of Cases Within the State of Florida. The court may transfer any case after adjudication, when adjudication is withheld, or before adjudication where witnesses are available in another jurisdiction, to the circuit court for the county in which is located the domicile or usual residence of the child or such other circuit as the court may determine to be for the best interest of the child and to promote the efficient administration of justice. The transferring court shall enter an order transferring its jurisdiction and certifying the case to the proper court, furnishing all parties, the clerk, and the attorney's office handling dependency matters for the state in the receiving court a copy of the order of transfer within 5 days. The clerk shall also transmit a certified copy of the file to the receiving court within 5 days.

(c) Transfer of Cases Among States. If it should appear at any time that an action is pending in another state, the court may transfer jurisdiction over the action to a more convenient forum state, may stay the proceedings, or may dismiss the action.

Committee Notes

1992 Amendment. Plans under rule 8.327 were deleted in the 1991 revision to the rules, but are being reinstated as "stipulations" in the 1992 revisions. This change corrects the cross-reference.

Editor's Note

On October 18, 2012, the Supreme Court of Florida issued a revised opinion in case number SC11-399, which was originally issued on June 21, 2012. See In *re Amendments to the Florida Rules of Judicial Administration*, 102 So. 3d 451(Fla. 2012). The opinion provides in relevant part:

"First, the new electronic filing requirements the Courts adopts will become effective in the civil, probate, small claims, and family law divisions of the trial courts, as well as for appeals to the circuit courts in these categories of cases, on April 1, 2013, at 12:01 a.m., except as may be otherwise provided by administrative order. Electronic filing will be mandatory in these divisions

pursuant to rule 2.525 on that date. However, until the new rules take effect in these divisions, any clerk who is already accepting documents filed by electronic transmission under the current rules should continue to do so; attorneys in these counties are encouraged to file documents electronically under the current rules.

"Next, the new electronic filing requirements the Court adopts will become effective in the criminal, traffic, and juvenile divisions of the trial courts, as well as for appeals to the circuit court in these categories of cases, on October 1, 2013, at 12:01 a.m., except as may be otherwise provided by administrative order. Electronic filing will be mandatory in these divisions under rule 2.525 on that date. The new e-filing requirements, as they apply in proceedings brought pursuant to the Florida Mental Health Act (Baker Act), Chapter 394, Part I, Florida Statutes, and the Involuntary Commitment of Sexually Violent Predators Act (Jimmy Ryce), Chapter 394, Part V, Florida Statutes, will also not be mandatory in these cases until October 1, 2013. As stated above, until the new rules take effect in these divisions and proceedings, any clerk who is already accepting electronically filed documents under the current rules should continue to do so; attorneys are again encouraged to utilize existing electronic filing procedures under the current rules.

"However, until the new rules and procedures take effect in the district courts, any clerk who is already accepting documents filed by electronic transmission may continue to do so; attorneys in these districts are encouraged to file documents electronically. Clerks will not be required to electronically transmit the record on appeal until July 1, 2013, at 12:01 a.m. Until July 1, we encourage clerks, whenever possible, to electronically transmit the record under the new rules and requirements.

"(W)e note that, in all types of cases, pursuant to amended rule 2.525(d) self-represented parties and self-represented nonparties, including nonparty governmental or public agencies, and attorneys excused from e-mail service under Florida Rule of Judicial Administration 2.516 will be permitted, but nor required, to file documents electronically.

By order of November 28, 2012, in case number SC11-399, the Court released a revised implementation schedule, which provides, in pertinent part: "The e-filing rules adopted in the October 2012 opinion will be mandatory in this (Supreme) Court on February 27, 2013, at 12:01 a.m.; and effective earlier on a voluntary basis as will be indicated by further administrative order of the chief justice.

"Thereafter, the e-filing rules will be mandatory in the Second District Court of Appeal on July 22, 2013, at 12:01 a.m.; in the Third District Court of Appeal on September 27, 2013, at 12:01 a.m.; in the Fourth District Court of Appeal on October 31, 2013, at 12:01 a.m.; in the Fifth District Court of Appeal on November 27, 2013 at 12:01 a.m.; and in the First District Court of Appeal on December 27, 2013, at 12:01 a.m., unless made mandatory earlier by the chief judge of the applicable district court of appeal. The e-filing rules will be effective earlier on a voluntary trial basis in the district courts of appeal as will be indicated by further administrative order by the chief judge of the applicable district court."

RULE 8.210. PARTIES AND PARTICIPANTS

(a) Parties. For the purpose of these rules the terms "party" and "parties" shall include the petitioner, the child, the parent(s) of the child, the department, and the guardian ad litem or the representative of the guardian ad litem program, when the program has been appointed.

(b) Participants. "Participant" means any person who is not a party but who should receive notice of hearings involving the child. Participants include foster parents or the legal custodian of the child, identified prospective parents, actual custodians of the child, grandparents entitled to notice of an adoption proceeding as provided by law, the state attorney, and any other person whose participation may be in the best interest of the child. The court may add additional participants. Participants may be granted leave by the court to be heard without the necessity of filing a motion to intervene and shall have no other rights of a party except as provided by law.

(c) Parent or Legal Custodian. For the purposes of these rules, when the phrase "parent(s) or legal custodian(s)" is used, it refers to the rights or responsibilities of the parent and, only if there is no living parent with intact parental rights, to the rights or responsibilities of the legal custodian who has assumed the role of the parent.

RULE 8.215. GUARDIAN AD LITEM

(a) Request. At any stage of the proceedings, any party may request or the court may appoint a guardian ad litem to represent any child alleged to be dependent.

(b) Appointment. The court shall appoint a guardian ad litem to represent the child in any proceeding as required by law and shall ascertain at each

stage of the proceeding whether a guardian ad litem should be appointed if one has not yet been appointed.

(c) Duties and Responsibilities. The guardian ad litem shall be a responsible adult, who may or may not be an attorney, or a certified guardian ad litem program, and shall have the following responsibilities:

(1) To gather information concerning the allegations of the petition and any subsequent matters arising in the case and, unless excused by the court, to file a written report. This report shall include a summary of the guardian ad litem's findings, a statement of the wishes of the child, and the recommendations of the guardian ad litem and shall be provided to all parties and the court at least 72 hours before the hearing for which the report is prepared.

(2) To be present at all court hearings unless excused by the court.

(3) To represent the interests of the child until the jurisdiction of the court over the child terminates, or until excused by the court.

(4) To perform such other duties as are consistent with the scope of the appointment.

(d) Bond. A guardian ad litem shall not be required to post bond but shall file an acceptance of the office.

(e) Service. A guardian ad litem shall be entitled to receive service of pleadings and papers as provided by rule 8.225.

(f) Practice of Law by Lay Guardians. The duties of lay guardians shall not include the practice of law.

(g) Substitution or Discharge. The court, on its own motion or that of any party, including the child, may substitute or discharge the guardian ad litem for reasonable cause.

Committee Notes

1991 Amendment. (c)(1) This section allows a report to be submitted before any hearing, not only the disposition hearing.

RULE 8.217. ATTORNEY AD LITEM

(a) Request. At any stage of the proceedings, any party may request or the court may consider whether an attorney ad litem is necessary to represent any child alleged, or found, to be dependent, if one has not already been appointed.

(b) Appointment. The court may appoint an attorney ad litem to represent the child in any proceeding as allowed by law.

(c) Duties and Responsibilities. The attorney ad litem shall be an attorney who has completed any additional requirements as provided by law. The attorney ad litem shall have the responsibilities provided by law.

(d) Service. An attorney ad litem shall be entitled to receive and must provide service of pleadings and documents as provided by rule 8.225.

Editor's Note

On October 18, 2012, the Supreme Court of Florida issued a revised opinion in case number SC11-399, which was originally issued on June 21, 2012. See In re Amendments to the Florida Rules of Judicial Administration, 102 So. 3d 451 (Fla. 2012). The opinion provides in relevant part:

"First, the new electronic filing requirements the Courts adopts will become effective in the civil, probate, small claims, and family law divisions of the trial courts, as well as for appeals to the circuit courts in these categories of cases, on April 1, 2013, at 12:01 a.m., except as may be otherwise provided by administrative order. Electronic filing will be mandatory in these divisions pursuant to rule 2.525 on that date. However, until the new rules take effect in these divisions, any clerk who is already accepting documents filed by electronic transmission under the current rules should continue to do so; attorneys in these counties are encouraged to file documents electronically under the current rules.

"Next, the new electronic filing requirements the Court adopts will become effective in the criminal, traffic, and juvenile divisions of the trial courts, as well as for appeals to the circuit court in these categories of cases, on October 1, 2013, at 12:01 a.m., except as may be otherwise provided by administrative order. Electronic filing will be mandatory in these divisions under rule 2.525 on that date. The new e-filing requirements, as they apply in proceedings brought pursuant to the Florida Mental Health Act (Baker Act), Chapter 394, Part I, Florida Statutes, and the Involuntary Commitment of Sexually Violent Predators Act (Jimmy Ryce),

Chapter 394, Part V, Florida Statutes, will also not be mandatory in these cases until October 1, 2013. As stated above, until the new rules take effect in these divisions and proceedings, any clerk who is already accepting electronically filed documents under the current rules should continue to do so; attorneys are again encouraged to utilize existing electronic filing procedures under the current rules.

"However, until the new rules and procedures take effect in the district courts, any clerk who is already accepting documents filed by electronic transmission may continue to do so; attorneys in these districts are encouraged to file documents electronically. Clerks will not be required to electronically transmit the record on appeal until July 1, 2013, at 12:01 a.m. Until July 1, we encourage clerks, whenever possible, to electronically transmit the record under the new rules and requirements.

"(W)e note that, in all types of cases, pursuant to amended rule 2.525(d) self-represented parties and self-represented nonparties, including nonparty governmental or public agencies, and attorneys excused from e-mail service under Florida Rule of Judicial Administration 2.516 will be permitted, but nor required, to file documents electronically.

By order of November 28, 2012, in case number SC11-399, the Court released a revised implementation schedule, which provides, in pertinent part: "The e-filing rules adopted in the October 2012 opinion will be mandatory in this (Supreme) Court on February 27, 2013, at 12:01 a.m.; and effective earlier on a voluntary basis as will be indicated by further administrative order of the chief justice.

"Thereafter, the e-filing rules will be mandatory in the Second District Court of Appeal on July 22, 2013, at 12:01 a.m.; in the Third District Court of Appeal on September 27, 2013, at 12:01 a.m.; in the Fourth District Court of Appeal on October 31, 2013, at 12:01 a.m.; in the Fifth District Court of Appeal on November 27, 2013 at 12:01 a.m.; and in the First District Court of Appeal on December 27, 2013, at 12:01 a.m., unless made mandatory earlier by the chief judge of the applicable district court of appeal. The e-filing rules will be effective earlier on a voluntary trial basis in the district courts of appeal as will be indicated by further administrative order by the chief judge of the applicable district court."

RULE 8.220. STYLE OF PLEADING AND ORDERS

All pleadings and orders shall be styled: "In the interest of ....., a child," or: "In the interest of ....., children."

RULE 8.224. PERMANENT MAILING ADDRESS

(a) Designation. On the first appearance before the court, each party shall provide a permanent mailing address to the court. The court shall advise each party that this address will be used by the court, the petitioner, and other parties for notice unless and until the party notifies the court and the petitioner, in writing, of a new address.

(b) Effect of Filing. On the filing of a permanent address designation with the court, the party then has an affirmative duty to keep the court and the petitioner informed of any address change. Any address change must be filed with the court as an amendment to the permanent address designation.

(c) Service to Permanent Mailing Address. Service of any summons, notice, pleadings, subpoenas, or other papers to the permanent mailing address on file with the court will be presumed to be appropriate service.

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 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 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 on the date sent and must be treated as service by mail for the computation of time. 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 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 8.226. DETERMINATION OF PARENTHOOD

(a) In General. The court must determine the identity of all parents and prospective parents at the initial hearing in proceedings under chapter 39, Florida Statutes, as provided by law. Nothing in this rule prevents a parent or prospective parent from pursuing remedies under chapter 742, Florida Statutes. The court having jurisdiction over the dependency matter may conduct proceedings under chapter 742, Florida Statutes, either as part of the chapter 39, Florida Statutes, proceeding or in a separate action under chapter 742, Florida Statutes.

(b) Appearance of Prospective Parent.

(1) If a prospective parent appears in the chapter 39, Florida Statutes, proceeding, the court shall advise the prospective parent of the right to become a parent in the proceeding by completing a sworn affidavit of parenthood and filing the affidavit with the court or the department. This subdivision shall not apply if the court has identified both parents of the child as defined by law.

(2) If the prospective parent seeks to become a parent in the chapter 39, Florida Statutes, proceeding, the prospective parent shall complete a sworn affidavit of parenthood and file the affidavit with the court or the department. If a party objects to the entry of the finding that the prospective parent is a parent in the proceeding, or if the court on its own motion requires further proceedings to determine parenthood, the court shall not enter an order finding parenthood until proceedings under chapter 742, Florida Statutes, have been concluded. The prospective parent shall continue to receive notice of hearings as a participant pending the proceedings under chapter 742, Florida Statutes. If no other party objects and the court does not require further proceedings to determine parenthood, the court shall enter an order finding that the prospective parent is a parent in the proceeding.

(3) If the prospective parent is uncertain about parenthood and requests further proof of parenthood, or if there is more than one prospective parent for the same child, the juvenile court may conduct proceedings under chapter 742, Florida Statutes, to determine parenthood. At the conclusion of the chapter 742, Florida Statutes, proceedings, the court shall enter an order determining parenthood.

(4) Provided that paternity has not otherwise been established by operation of law or court order, at any time prior to the court entering a finding that the prospective parent is the parent in the proceeding, the prospective parent may

complete and file with the court or the department a sworn affidavit of nonpaternity declaring that the prospective parent is not the parent of the child and waiving all potential rights to the child and rights to further notices of hearing and court filings in the proceeding.

(5) If the court has identified both parents of a child as defined by law, the court shall not recognize an alleged biological parent as a parent in the proceeding until a court enters an order pursuant to law establishing the alleged biological parent as a parent in the proceeding.

RULE 8.230. PLEADINGS TO BE SIGNED

(a) Pleading to Be Signed by Attorney. Every written document or pleading of a party represented by an attorney shall be signed in the attorney's individual name by such attorney, whose Florida Bar number, address, and telephone number, including area code, shall be stated and who shall be duly licensed to practice law in Florida. 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.

(b) Pleading to Be Signed by Unrepresented Party. A party who has no attorney but who represents himself or herself shall sign a written pleading or other document to be filed and state his or her address and telephone number, including area code.

(c) Effect of Signing Pleading. The signature of a person shall constitute a certificate that the document 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 document 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 document had not been filed.

Committee Notes

1991 Amendment. The current rule implies that a written pleading must be filed. No written pleadings are required.

1992 Amendments. (a) and (c) The language from (a) was moved to create this new subdivision. The current rule only applies to attorneys. These

requirements also should apply to nonattorneys who sign and file papers. This change conforms to proposed changes for rules 8.085 and 8.640.

RULE 8.231. PROVIDING COUNSEL TO DEPENDENT CHILDREN WITH SPECIAL NEEDS WHO HAVE A STATUTORY RIGHT TO COUNSEL

(a) Applicability. This rule applies to children for whom the court must appoint counsel under section 39.01305, Florida Statutes. This rule does not affect the court's authority to appoint counsel for any other child.

(b) Duty of Court. The court shall appoint an attorney to represent any child who has special needs as defined in section 39.01305, Florida Statutes, and who is subject to any proceeding under chapter 39, Florida Statutes.

(c) Duties of Attorney. The attorney shall provide the child the complete range of legal services, from the removal from the home or from the initial appointment through all available appellate proceedings. With permission of the court, the attorney may arrange for supplemental or separate counsel to represent the child in appellate proceedings.

RULE 8.235. MOTIONS

(a) Motions in General. An application to the court for an order shall be made by motion which shall be in writing unless made during a hearing; shall be signed by the party making the motion or by the party's attorney; shall state with particularity the grounds therefor; and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion or in a written report to the court for a scheduled hearing provided the notice or report are served on the parties as required by law.

(b) Motion to Dismiss. Any party may file a motion to dismiss any petition, allegation in the petition, or other pleading, setting forth the grounds on which the motion is based. If a motion to dismiss the petition is granted when a child is being sheltered under an order, the child may be continued in shelter under previous order of the court upon the representation that a new or amended petition will be filed.

(c) Sworn Motion to Dismiss. Before the adjudicatory hearing the court may entertain a motion to dismiss the petition or allegations in the petition on the ground that there are no material disputed facts and the undisputed facts do not

establish a prima facie case of dependency. The facts on which such motion is based shall be specifically alleged and the motion sworn to by the party. The motion shall be filed a reasonable time before the date of the adjudicatory hearing. The opposing parties may traverse or demur to this motion. Factual matters alleged in it shall be deemed admitted unless specifically denied by the party. The motion shall be denied if the party files a written traverse that with specificity denies under oath the material fact or facts alleged in the motion to dismiss.

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

Committee Notes

1992 Amendment. This rule allows any party to move for dismissal based on the grounds that there are no material facts in dispute and that these facts are not legally sufficient to prove dependency.

RULE 8.240. COMPUTATION, CONTINUANCE, EXTENSION, AND ENLARGEMENT OF TIME

(a) Computation. Computation of time shall be governed by Florida Rule of Judicial Administration 2.514, except for rules 8.300 and 8.305, to which rule 2.514(a)(2)(C) shall not apply and the statutory time period shall govern.

(b) Enlargement of Time. When by these rules, by a notice given under them, or by order of court an act is required or allowed to be done at or within a specified time, the court for good cause shown, within the limits established by law, and subject to the provisions of subdivision (d) of this rule, may, at any time, in its discretion (1) with or without notice, order the period enlarged if a request is made before the expiration of the period originally prescribed or as extended by a previous order, or (2) on motion made and notice after the expiration of the specified period permit the act to be done when the failure to act was the result of excusable neglect. The court may not, except as provided by law or elsewhere in these rules, extend the time for making a motion for new trial, for rehearing, or vacation of judgment, or for taking an appeal. This rule shall not be construed to apply to shelter hearings.

(c) Time for Service of Motions and Notice of Hearing. A copy of any written motion that may not be heard ex parte and a copy of the notice of hearing shall be served a reasonable time before the time specified for the hearing.

(d) Continuances and Extensions of Time.

(1) A motion for continuance, extension, or waiver of the time standards provided by law and found in this rule shall be in writing and signed by the requesting party. On a showing of good cause, the court shall allow a motion for continuance or extension to be made ore tenus at any time during the proceedings.

(2) A motion for continuance, extension, or waiver of the time standards provided by law shall not be made in advance of the particular circumstance or need that would warrant delay of the proceedings.

(3) A motion for continuance, extension, or waiver of the time standards provided by law shall state all of the facts that the movant contends entitle the movant to a continuance, extension, or waiver of time including:

(A) the task that must be completed by the movant to preserve the rights of a party or the best interests of the child who is the subject of the proceedings;

(B) the minimum number of days absolutely necessary to complete this task; and

(C) the total number of days the proceedings have been continued at the request of any party within any 12-month period.

(4) These time limitations do not include the following:

(A) Periods of delay resulting from a continuance granted at the request of the child's counsel or the child's guardian ad litem or, if the child is of sufficient capacity to express reasonable consent, at the request of or with the consent of the child.

(B) Periods of delay because of unavailability of evidence that is material to the case if the requesting party has exercised due diligence to obtain the evidence and there are substantial grounds to believe that the evidence will be available within 30 days. However, if the requesting party is not prepared

to proceed within 30 days, any other party may move for issuance of an order to show cause or the court on its own motion may impose appropriate sanctions, which may include dismissal of the petition.

(C) Periods of delay to allow the requesting party additional time to prepare the case and additional time is justified because of an exceptional circumstance.

(D) Reasonable periods of delay necessary to accomplish notice of the hearing to the parent or legal custodian.

(5) Notwithstanding subdivision (4), proceedings may not be continued or extended for more than a total of 60 days within any 12-month period. A continuance or extension of time standards beyond 60 days in any 12-month period may be granted only on a finding by the court of extraordinary circumstances and that the continuance or extension of time standards is necessary to preserve the constitutional rights of a party or that there is substantial evidence demonstrating that the child's best interests will be affirmatively harmed without the granting of a continuance or extension of time.

RULE 8.245. DISCOVERY

(a) Scope of Discovery. Unless otherwise limited by the court in accordance with these rules, the scope of discovery is as follows:

(1) In General. Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(2) Claims of Privilege or Protection of Trial Preparation Materials. When a party withholds information otherwise discoverable under these rules by claiming that it is privileged or subject to protection as trial preparation material, the party shall make the claim expressly and describe the nature of the document, communications, or things not produced or disclosed in a

manner that, without revealing information itself privileged or protected, will allow other parties to assess the applicability of the privilege or protection.

(b) Required Disclosure.

(1) At any time after the filing of a shelter petition, a petition alleging a child to be a dependent child, or a petition for termination of parental rights, on written demand of any party, the party to whom the demand is directed shall disclose and permit inspecting, copying, testing, or photographing matters material to the cause. If the child had no living parent with intact parental rights at the time the dependency allegations arose, then the person who was serving as the legal custodian of the child at that time is entitled to obtain discovery during the pendency of a shelter or dependency petition.

(2) The following information shall be disclosed by any party on demand:

(A) The names and addresses of all persons known to have information relevant to the proof or defense of the petition's allegations.

(B) The statement of any person furnished in compliance with the preceding paragraph. The term "statement" means a written statement made by this person and signed or otherwise adopted or approved by the person, or a stenographic, mechanical, electronic, or other recording, or a transcript of it, or that is a substantially verbatim recital of an oral statement made by this person to an officer or agent of the state and recorded contemporaneously with the making of the oral statement. The court may prohibit any party from introducing in evidence the material not disclosed, to secure and maintain fairness in the just determination of the cause.

(C) Any written or recorded statement and the substance of any oral statement made by the demanding party or a person alleged to be involved in the same transaction. If the number of oral statements made to any person are so numerous that, as a practical matter, it would be impossible to list the substance of all the oral statements, then the party to whom the demand is directed will disclose that person's identity and the fact that this person has knowledge of numerous statements. This disclosure will allow the demanding party to depose that person.

(D) Tangible papers or objects belonging to the demanding party that are to be used at the adjudicatory hearing.

(E) Reports or statements of experts, including results of physical or mental examinations and of scientific tests, experiments, or comparisons.

(3) The disclosures required by subdivision (a) of this rule shall be made within 10 days from the receipt of the demand for them. Disclosure may be made by allowing the requesting party to review the files of the party from whom discovery is requested after redaction of nondiscoverable information.

(c) Limitations on Disclosure.

(1) On application, the court may deny or partially restrict disclosure authorized by this rule if it finds there is a substantial risk to any person of physical harm, intimidation, bribery, economic reprisals, or unnecessary annoyance or embarrassment resulting from the disclosure, that outweighs any usefulness of the disclosure to the party requesting it.

(2) Disclosure shall not be required of legal research or of records, correspondence, or memoranda, to the extent that they contain the opinion, theories, or conclusions of the parties' attorneys or members of their legal staff.

(d) Production of Documents and Things for Inspection and Other Purposes.

(1) Request; Scope. Any party may request any other party

(A) to produce and permit the party making the request, or someone acting on the requesting party's behalf, to inspect and copy any designated documents, including writings, drawings, graphs, charts, photographs, phono-records, and other data compilations from which information can be obtained, translated, if necessary, by the party to whom the request is directed through detection devices into reasonably usable form, that constitute or contain matters within the scope of subdivision (a) and that are in the possession, custody, or control of the party to whom the request is directed; and

(B) to inspect and copy, test, or sample any tangible things that constitute or contain matters within the scope of subdivision (a) and that are in the possession, custody, or control of the party to whom the request is directed.

(2) Procedure. Without leave of court the request may be served on the petitioner after commencement of proceedings and on any other party with

or after service of the summons and initial petition on that party. The request shall set forth the items to be inspected, either by individual item or category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection or performing the related acts. The party to whom the request is directed shall serve a written response within 15 days after service of the request, except that a respondent may serve a response within 30 days after service of the process and initial pleading on that respondent. The court may allow a shorter or longer time. For each item or category the response shall state that inspection and related activities will be permitted as requested unless the request is objected to, in which event the reasons for the objection shall be stated. If an objection is made to part of an item or category, the part shall be specified. When producing documents, the producing party shall either produce them as they are kept in the usual course of business or shall identify them to correspond with the categories in the request. The party submitting the request may move for an order under subdivision (k) concerning any objection, failure to respond to the request, or any part of it, or failure to permit inspection as requested.

(3) Persons Not Parties. This rule does not preclude an independent action against a person not a party for production of documents and things.

(4) Filing of Documents. Unless required by the court, a party shall not file any of the documents or things produced with the response. Documents or things may be filed when they should be considered by the court in determining a matter pending before the court.

(e) Production of Documents and Things Without Deposition.

(1) Request; Scope. A party may seek inspection and copying of any documents or things within the scope of subdivision (d)(1) from a person who is not a party by issuance of a subpoena directing the production of the documents or things when the requesting party does not seek to depose the custodian or other person in possession of the documents or things.

(2) Procedure. A party desiring production under this rule shall serve notice on every other party of the intent to serve a subpoena under this rule at least 5 days before the subpoena is issued if service is by delivery and 10 days before the subpoena is issued if service is by mail. The proposed subpoena shall be attached to the notice and shall state the time, place, and method for production of

the documents or things, and the name and address of the person who is to produce the documents or things, if known, and if not known, a general description sufficient to identify the person or the particular class or group to which the person belongs; shall include a designation of the items to be produced; and shall state that the person who will be asked to produce the documents or things has the right to object to the production under this rule and that the person will not be required to surrender the documents or things. A copy of the notice and proposed subpoena shall not be furnished to the person on whom the subpoena is to be served. If any party serves an objection to production under this rule within 10 days of service of the notice, the documents or things shall not be produced under this rule and relief may be obtained under subdivision (g).

(3) Subpoena. If no objection is made by a party under subdivision (e)(2), an attorney of record in the action may issue a subpoena or the party desiring production shall deliver to the clerk for issuance a subpoena and a certificate of counsel or pro se party that no timely objection has been received from any party. The clerk shall issue the subpoena and deliver it to the party desiring production. The subpoena shall be identical to the copy attached to the notice, shall specify that no testimony may be taken, and shall require only production of the documents or things specified in it. The subpoena may give the recipient an option to deliver or mail legible copies of the documents or things to the party serving the subpoena. The person on whom the subpoena is served may condition the preparation of copies on the payment in advance of the reasonable costs of preparing the copies. The subpoena shall require production only in the county of the residence of the custodian or other person in possession of the documents or things or in the county where the documents or things are located or where the custodian or person in possession usually conducts business. If the person on whom the subpoena is served objects at any time before the production of the documents or things, the documents or things shall not be produced under this rule, and relief may be obtained under subdivision (g).

(4) Copies Furnished. If the subpoena is complied with by delivery or mailing of copies as provided in subdivision (e)(3), the party receiving the copies shall furnish a legible copy of each item furnished to any other party who requests it on the payment of the reasonable cost of preparing the copies.

(5) Independent Action. This rule does not affect the right of any party to bring an independent action for production of documents and things.

(f) Protective Orders. On motion by a party or by the person from whom discovery is sought, and for good cause shown, the court in which the action is pending may make any order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense that justice requires, including one or more of the following:

(1) that the discovery not be had;

(2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;

(4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;

(5) that discovery be conducted with no one present except persons designated by the court;

(6) that a deposition after being sealed be opened only by order of the court;

(7) that confidential research or information not be disclosed or be disclosed only in a designated way; and

(8) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

If the motion for a protective order is denied in whole or in part, the court may, on such terms and conditions as are just, order that any party or person provide or permit discovery.

(g) Depositions.

(1) Time and Place.

(A) At any time after the filing of the petition alleging a child to be dependent or a petition for termination of parental rights, any party may take the deposition on oral examination of any person who may have information relevant to the allegations of the petition.

(B) The deposition shall be taken in a building in which the adjudicatory hearing may be held, in another place agreed on by the parties, or where the trial court may designate by special or general order. A resident of the state may be required to attend an examination only in the county in which he or she resides, is employed, or regularly transacts business in person.

(2) Procedure.

(A) The party taking the deposition shall give written notice to each other party. The notice shall state the time and place the deposition is to be taken and the name of each person to be examined.

(B) Subpoenas for taking depositions shall be issued by the clerk of the court, the court, or any attorney of record for a party.

(C) After notice to the parties the court, for good cause shown, may extend or shorten the time and may change the place of taking.

(D) Except as otherwise provided by this rule, the procedure for taking the deposition, including the scope of the examination and obtaining protective orders, shall be the same as that provided by the Florida Rules of Civil Procedure.

(3) Use of Deposition. Any deposition taken under this rule may be used at any hearing covered by these rules by any party for the following purposes:

(A) For the purpose of impeaching the testimony of the deponent as a witness.

(B) For testimonial evidence, when the deponent, whether or not a party, is unavailable to testify because of one or more of the following reasons:

(i) He or she is dead.

(ii) He or she is at a greater distance than 100 miles from the place of hearing or is out of the state, unless it appears that the absence of the witness was procured by the party offering the deposition.

(iii) The party offering the deposition has been unable to procure the attendance of the witness by subpoena.

(iv) He or she is unable to attend or testify because of age, illness, infirmity, or imprisonment.

(v) It has been shown on application and notice that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used.

(vi) The witness is an expert or skilled witness.

(4) Use of Part of Deposition. If only part of a deposition is offered in evidence by a party, an adverse party may require the party to introduce any other part that in fairness ought to be considered with the part introduced, and any party may introduce any other parts.

(5) Refusal to Obey Subpoena. A person who refuses to obey a subpoena served on the person for the taking of a deposition may be adjudged in contempt of the court from which the subpoena issued.

(6) Limitations on Use. Except as provided in subdivision (3), no deposition shall be used or read in evidence when the attendance of the witness can be procured. If it appears to the court that any person whose deposition has been taken has absented himself or herself by procurement, inducements, or threats by or on behalf of any party, the deposition shall not be read in evidence on behalf of that party.

(h) Perpetuating Testimony Before Action or Pending Appeal.

(1) Before Action.

(A) Petition. A person who desires to perpetuate the person's own testimony or that of another person regarding any matter that may be cognizable in any court of this state may file a verified petition in the circuit court in the county of the residence of any expected adverse party. The petition shall be titled in the name of the petitioner and shall show:

(i) that the petitioner expects to be a party to an action cognizable in a court of Florida, but is presently unable to bring it or cause it to be brought;

(ii) the subject matter of the expected action and the person's interest in it;

(iii) the facts that the person desires to establish by the proposed testimony and the reasons for desiring to perpetuate it;

(iv) the names or a description of the persons expected to be adverse parties and their names and addresses so far as known; and

(v) the names and addresses of the persons to be examined and the substance of the testimony expected to be elicited from each and asking for an order authorizing the petitioner to take the deposition of the persons to be examined named in the petition for the purpose of perpetuating their testimony.

(B) Notice and Service. The petitioner shall serve a notice on each person named in the petition as an expected adverse party, with a copy of the petition, stating that the petitioner will apply to the court at a time and place in the notice for an order described in the petition. At least 20 days before the date of the hearing, the notice shall be served either within or without the county in the manner provided by law for serving of summons. However, if service cannot with due diligence be made on any expected adverse party named in the petition, the court may order service by publication or otherwise and shall appoint an attorney for persons not served in the manner provided by law for service of summons. The attorney shall represent the adverse party and, if he or she is not otherwise represented, shall cross-examine the deponent.

(C) Order and Examination. If the court is satisfied that the perpetuation of the testimony may prevent a failure or delay of justice, it shall make an order designating or describing the persons whose depositions may be taken and specifying the subject matter of the examination and whether the deposition shall be taken on oral examination or written interrogatories. The deposition may then be taken in accordance with these rules and the court may make orders in accordance with the requirements of these rules. For the purpose of applying these rules to depositions for perpetuating testimony, each reference in them to the court in which the action is pending shall be deemed to refer to the court in which the petition for the deposition was filed.

(D) Use of Deposition. If a deposition to perpetuate testimony is taken under these rules, it may be used in any action involving the

same subject matter subsequently brought in any court of Florida in accordance with the provisions of subdivision (g)(3).

(2) Pending Appeal. If an appeal has been taken from a judgment of any court or before the taking of an appeal if the time for it has not expired, the court in which the judgment was rendered may allow the taking of the depositions of witnesses to perpetuate their testimony for use in further proceedings in the court. In such case, the party who desires to perpetuate the testimony may move for leave to take the deposition on the same notice and service as if the action were pending in the court. The motion shall show the names and addresses of persons to be examined, the substance of the testimony expected to be elicited from each, and the reasons for perpetuating the testimony. If the court finds that the perpetuation is proper to avoid a failure or delay in justice, it may make orders as provided for by this rule and the deposition may then be taken and used in the same manner and under the same conditions as are prescribed in these rules for depositions taken in actions pending in the court.

(3) Perpetuation Action. This rule does not limit the power of a court to entertain an action to perpetuate testimony.

(i) Rules Governing Depositions of Children Under 16.

(1) The taking of a deposition of a child witness or victim under the age of 16 may be limited or precluded by the court for good cause shown.

(2) The court after proper notice to all parties and an evidentiary hearing, based on good cause shown, may set conditions for the deposition of a child under the age of 16 including:

(A) designating the place of the deposition;

(B) designating the length of time of the deposition;

(C) permitting or prohibiting the attendance of any person at the deposition;

(D) requiring the submission of questions before the examination;

(E) choosing a skilled interviewer to pose the questions;

(F) limiting the number or scope of the questions to be asked; or

(G) imposing any other conditions the court feels are necessary for the protection of the child.

(3) Good cause is shown based on, but not limited to, one or more of the following considerations:

(A) The age of the child.

(B) The nature of the allegations.

(C) The relationship between the child victim and the alleged abuser.

(D) The child has undergone previous interviews for the purposes of criminal or civil proceedings that were recorded either by videotape or some other manner of recording and the requesting party has access to the recording.

(E) The examination would adversely affect the child.

(F) The manifest best interests of the child require the limitations or restrictions.

(4) The court, in its discretion, may order the consolidation of the taking of depositions of a child under the age of 16 when the child is the victim or witness in a pending proceeding arising from similar facts or circumstances.

(j) Supplemental Discovery. If, subsequent to compliance with these rules, a party discovers additional witnesses, evidence, or material that the party would have been under a duty to disclose or produce at the time of the previous compliance, the party shall promptly disclose or produce such witnesses, evidence, or material in the same manner as required under these rules for initial discovery.

(k) Sanctions.

(1) If at any time during the course of the proceedings, it is brought to the attention of the court that a party has failed to comply with an applicable

discovery rule or with an order issued under an applicable discovery rule, the court may:

(A) order the party to comply with the discovery or inspection of materials not previously disclosed or produced;

(B) grant a continuance;

(C) order a new hearing;

(D) prohibit the party from calling a witness not disclosed or introducing in evidence the material not disclosed; or

(E) enter an order that it deems just under the circumstances.

(2) Willful violation by counsel of an applicable discovery rule or an order issued under it may subject counsel to appropriate sanction by the court.

Committee Notes

1991 Amendment. (a)(1) Termination of parental rights proceedings have been added to discovery procedures.

RULE 8.250. EXAMINATIONS, EVALUATION, AND TREATMENT

(a) Child. Mental or physical examination of a child may be obtained as provided by law.

(b) Parent, Legal Custodian, or Other Person who has Custody or is Requesting Custody. At any time after the filing of a shelter, dependency, or termination of parental rights petition, or after an adjudication of dependency or a finding of dependency when adjudication is withheld, when the mental or physical condition, including the blood group, of a parent, legal custodian, or other person who has custody or is requesting custody of a child is in controversy, any party may request the court to order the person to submit to a physical or mental examination or a substance abuse evaluation or assessment by a qualified professional. The order may be made only on good cause shown and after notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made. The person whose examination is sought may, after receiving notice of the request for an examination, request a hearing seeking to

quash the request. The court may, on its own motion, order a parent, legal custodian, or other person who has custody or is requesting custody to undergo such evaluation, treatment, or counseling activities as authorized by law.

Committee Notes

1991 Amendment. This rule allows any party to request an evaluation but provides a mechanism for a hearing to quash the request.

RULE 8.255. GENERAL PROVISIONS FOR HEARINGS

(a) Presence of Counsel. The department must be represented by an attorney at every stage of these proceedings.

(b) Presence of Child.

(1) The child has a right to be present at all hearings.

(2) If the child is present at the hearing, the court may excuse the child from any portion of the hearing when the court determines that it would not be in the child's best interest to remain.

(3) If a child is not present at a hearing, the court shall inquire and determine the reason for the absence of the child. The court shall determine whether it is in the best interest of the child to conduct the hearing without the presence of the child or to continue the hearing to provide the child an opportunity to be present at the hearing.

(4) Any party may file a motion to require or excuse the presence of the child.

(c) Separate Examinations. The child and the parents, caregivers, or legal custodians of the child may be examined separately and apart from each other.

(d) Examination of Child; Special Protections.

(1) Testimony by Child. A child may be called to testify in open court by any party to the proceeding or the court, and may be examined or cross-examined.

(2) In-Camera Examination.

(A) On motion and hearing, the child may be examined by the court outside the presence of other parties as provided by law. The court shall assure that proceedings are recorded, unless otherwise stipulated by the parties.

(B) The motion may be filed by any party or the trial court on its own motion.

(C) The court shall make specific written findings of fact, on the record, as to the basis for its ruling. These findings may include but are not limited to:

(i) the age of the child;

(ii) the nature of the allegation;

(iii) the relationship between the child and the alleged abuser;

(iv) the likelihood that the child would suffer emotional or mental harm if required to testify in open court;

(v) whether the child's testimony is more likely to be truthful if given outside the presence of other parties;

(vi) whether cross-examination would adversely affect the child; and

(vii) the manifest best interest of the child.

(D) The child may be called to testify by means of closed-circuit television or by videotaping as provided by law.

(e) Invoking the Rule. Before the examination of any witness the court may, and on the request of any party must, exclude all other witnesses. The court may cause witnesses to be kept separate and to be prevented from communicating with each other until all are examined.

(f) Continuances. As permitted by law, the court may grant a continuance before or during a hearing for good cause shown by any party.

(g) Record. A record of the testimony in all hearings must be made by an official court reporter, a court-approved stenographer, or a recording device. The records of testimony must be preserved as required by law. Official records of testimony must be transcribed only on order of the court.

(h) Notice. When these rules do not require a specific notice, all parties will be given reasonable notice of any hearing.

(i) Written Notice. The court must provide written notice of the right to participate in a private adoption plan, pursuant to chapter 63, Florida Statutes, when required by law.

Committee Notes

1991 Amendment. (b) This change allows a child to be present instead of mandating the child's presence when the child's presence would not be in his or her best interest. The court is given the discretion to determine the need for the child to be present.

1992 Amendment. This change was made to reflect a moderated standard for in-camera examination of a child less rigid than the criminal law standard adopted by the committee in the 1991 rule revisions.

2005 Amendment. Subdivision (i) was deleted because provisions for general masters were transferred to rule 8.257.

RULE 8.257. GENERAL MAGISTRATES

(a) Appointment. Judges of the circuit court may appoint as many general magistrates from among the members of The Florida Bar in the circuit as the judges find necessary, and the general magistrates shall continue in office until removed by the court. The order of appointment shall be recorded. Every person appointed as a general magistrate shall take the oath required of officers by the Constitution and the oath shall be recorded before the magistrate discharges any duties of that office.

(b) Referral.

(1) Consent. No matter shall be heard by a general magistrate without an appropriate order of referral and the consent to the referral of all parties. Consent, as defined in this rule, to a specific referral, once given, cannot be

withdrawn without good cause shown before the hearing on the merits of the matter referred. Consent may be express or implied in accordance with the requirements of this rule.

(2) Objection. A written objection to the referral to a general magistrate must be filed within 10 days of the service of the order of referral. If the time set for the hearing is less than 10 days after service of the order of referral, the objection must be filed before commencement of the hearing. Failure to file a written objection within the applicable time period is deemed to be consent to the order of referral.

(3) Order.

(A) The order of referral shall contain the following language in bold type:

A REFERRAL TO A GENERAL MAGISTRATE REQUIRES THE CONSENT OF ALL PARTIES. YOU ARE ENTITLED TO HAVE THIS MATTER HEARD BEFORE A JUDGE. IF YOU DO NOT WANT TO HAVE THIS MATTER HEARD BEFORE THE GENERAL MAGISTRATE, YOU MUST FILE A WRITTEN OBJECTION TO THE REFERRAL WITHIN 10 DAYS OF THE TIME OF SERVICE OF THIS ORDER. IF THE TIME SET FOR THE HEARING IS LESS THAN 10 DAYS AFTER THE SERVICE OF THIS ORDER, THE OBJECTION MUST BE MADE BEFORE THE HEARING. FAILURE TO FILE A WRITTEN OBJECTION WITHIN THE APPLICABLE TIME PERIOD IS DEEMED TO BE A CONSENT TO THE REFERRAL.

REVIEW OF THE REPORT AND RECOMMENDATIONS MADE BY THE GENERAL MAGISTRATE SHALL BE BY EXCEPTIONS AS PROVIDED IN FLORIDA RULE OF JUVENILE PROCEDURE 8.257(f). A RECORD, WHICH INCLUDES A TRANSCRIPT OF PROCEEDINGS, ELECTRONIC RECORDING OF PROCEEDINGS, OR STIPULATION BY THE PARTIES OF THE EVIDENCE CONSIDERED BY THE GENERAL MAGISTRATE AT THE PROCEEDINGS, WILL BE REQUIRED TO SUPPORT THE EXCEPTIONS.

(B) The order of referral shall state with specificity the matter or matters being referred. The order of referral shall also state whether electronic recording or a court reporter is provided by the court.

(4) Setting Hearing. When a referral is made to a general magistrate, any party or the general magistrate may set the action for hearing.

(c) General Powers and Duties. Every general magistrate shall perform all of the duties that pertain to the office according to the practice in chancery and rules of court and under the direction of the court. A general magistrate shall be empowered to administer oaths and conduct hearings, which may include the taking of evidence. All grounds for disqualification of a judge shall apply to general magistrates.

(d) Hearings.

(1) The general magistrate shall assign a time and place for proceedings as soon as reasonably possible after the referral is made and give notice to each of the parties either directly or by directing counsel to file and serve a notice of hearing. If any party fails to appear, the general magistrate may proceed ex parte or may adjourn the proceeding to a future day, giving notice of the adjournment to the absent party. The general magistrate shall proceed with reasonable diligence in every referral and with the least delay practicable. Any party may apply to the court for an order to the general magistrate to speed the proceedings and to make the report and to certify to the court the reason for any delay.

(2) The general magistrate shall take testimony and establish a record which may be by electronic means as provided by Florida Rule of Judicial Administration 2.535(g)(3) or by a court reporter. The parties may not waive this requirement.

(3) The general magistrate shall have authority to examine under oath the parties and all witnesses on all matters contained in the referral, to require production of all books, papers, writings, vouchers, and other documents applicable to it, and to examine on oath orally all witnesses produced by the parties. The general magistrate may take all actions concerning evidence that can be taken by the circuit court and in the same manner. The general magistrate shall have the same powers as a circuit judge to use communications equipment as defined and regulated by Florida Rule of Judicial Administration 2.530.

(4) The notice or order setting a matter for hearing shall state whether electronic recording or a court reporter is provided by the court. If the court provides electronic recording, the notice shall also state that any party may provide a court reporter at that party's expense, subject to the court's approval.

(e) Report.

(1) The general magistrate shall file a report that includes findings of fact, conclusions of law, and recommendations and serve copies on all parties. If a court reporter was present, the report shall contain the name and address of the reporter.

(2) The report and recommendations shall contain the following language in bold type:

> **SHOULD YOU WISH TO SEEK REVIEW OF THE REPORT AND RECOMMENDATIONS MADE BY THE GENERAL MAGISTRATE, YOU MUST FILE EXCEPTIONS WITHIN 10 DAYS OF SERVICE OF THE REPORT AND RECOMMENDATIONS IN ACCORDANCE WITH FLORIDA RULE OF JUVENILE PROCEDURE 8.257(f). YOU WILL BE REQUIRED TO PROVIDE THE COURT WITH A RECORD SUFFICIENT TO SUPPORT YOUR EXCEPTIONS WITHIN 10 DAYS OF SERVICE OF THE REPORT AND RECOMMENDATIONS OR YOUR EXCEPTIONS WILL BE DENIED. A RECORD ORDINARILY INCLUDES A TRANSCRIPT OF PROCEEDINGS, ELECTRONIC RECORDING OF PROCEEDINGS, OR STIPULATION BY THE PARTIES OF THE EVIDENCE CONSIDERED BY THE GENERAL MAGISTRATE AT THE PROCEEDINGS. THE PERSON SEEKING REVIEW MUST HAVE THE TRANSCRIPT PREPARED FOR THE COURT'S REVIEW.**

(f) Exceptions. The parties may file exceptions to the report within 10 days from the time it is served on them. Any party may file cross-exceptions within 5 days from the service of the exceptions. However, the filing of cross-exceptions shall not delay the hearing on the exceptions unless good cause is shown. If no exceptions are filed within that period, the court shall take appropriate action on the report. If exceptions are filed, they shall be heard on reasonable notice by either party or the court.

(g) Record.

(1) For the purpose of the hearing on exceptions, a record, substantially in conformity with this rule, shall be provided to the court by the party seeking review. The record shall consist of:

(A) the court file;

(B) all depositions and evidence presented to the general magistrate; and

(C) the transcript of the proceedings, electronic recording of the proceedings, or stipulation by the parties of the evidence considered by the general magistrate at the proceedings.

(2) The transcript of the proceedings, electronic recording of the proceedings, or stipulation by the parties of the evidence considered by the general magistrate at the proceedings, if any, shall be delivered to the judge and provided to all other parties not less than 48 hours before the hearing on exceptions.

(3) If less than a full transcript or electronic recording of the proceedings taken before the general magistrate is ordered prepared by the excepting party, that party shall promptly file a notice setting forth the portions of the transcript or electronic recording that have been ordered. The responding party shall be permitted to designate any additional portions of the transcript or electronic recording necessary to the adjudication of the issues raised in the exceptions or cross-exceptions.

(4) The cost of the original and all copies of the transcript or electronic recording of the proceedings shall be borne initially by the party seeking review. Should any portion of the transcript or electronic recording be required as a result of a designation filed by the responding party, the party making the designation shall bear the initial cost of the additional transcript or electronic recording.

(h) Prohibition on Magistrate Presiding over Certain Hearings. Notwithstanding the provisions of this rule, a general magistrate shall not preside over a shelter hearing under section 39.402, Florida Statutes, an adjudicatory hearing under section 39.507, Florida Statutes, or an adjudicatory hearing under section 39.809, Florida Statutes.

RULE 8.260. ORDERS

(a) General Requirements. All orders of the court must be reduced to writing as soon after they are entered as is consistent with orderly procedure, and must contain specific findings of fact and conclusions of law, and must be signed by the judge as provided by law.

(b) Transmittal to Parties. A copy of all orders must be transmitted by the court or under its direction to all parties at the time of entry of the order.

(c) Other Options. The court may require

(1) that orders be prepared by a party;

(2) that the party serve the order; and

(3) on a case-by-case basis, that proposed orders be furnished to all parties before entry of the order by the court.

(d) Precedence of Orders. Orders of the circuit court hearing dependency matters must be filed in any dissolution or other custody action or proceeding involving the same child. These orders must take precedence over other orders affecting the placement of, access to, parental time with, adoption of, or parental rights and responsibilities for the same minor child, unless jurisdiction has been terminated. These orders may be filed under seal and need not be open to inspection by the public.

RULE 8.265. MOTION FOR REHEARING

(a) Basis. After the court has entered an order, any party may move for rehearing upon one or more of the following grounds:

(1) That the court erred in the decision of any matter of law arising during the hearing.

(2) That a party did not receive a fair and impartial hearing.

(3) That any party required to be present at the hearing was not present.

(4) That there exists new and material evidence, which, if introduced at the hearing would probably have changed the court's decision and could not with reasonable diligence have been discovered before and produced at the hearing.

(5) That the court is without jurisdiction of the proceeding.

(6) That the judgment is contrary to the law and evidence.

(b) Time and Method.

(1) A motion for rehearing may be made and ruled upon immediately after the court announces its judgment but must be made within 10 days of the entry of the order.

(2) If the motion is made in writing, it shall be served as provided in these rules for service of other pleadings.

(3) A motion for rehearing shall not toll the time for the taking of an appeal. The court shall rule on the motion for rehearing within 10 days of filing or it is deemed denied.

(c) Court Action.

(1) A rehearing may be granted to all or any of the parties on all or any part of the issues. All orders granting a rehearing shall state the specific issues to be reheard.

(2) If the motion for rehearing is granted the court may vacate or modify the order or any part of it and allow additional proceedings as it deems just. It may enter a new judgment, and may order or continue the child in a shelter or out-of-home placement pending further proceedings.

(3) The court on its own initiative may vacate or modify any order within the time limitation provided in subdivision (b).

RULE 8.270. RELIEF FROM JUDGMENTS OR ORDERS

(a) Clerical Mistakes. Clerical mistakes in judgments, orders, or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time on its own initiative or on motion of any party,

after such notice, if any, as the court orders. During the pendency of an appeal such mistakes may be so corrected before the record on appeal is docketed in the appellate court and thereafter while the appeal is pending may be so corrected with leave of the appellate court.

(b) Extraordinary Relief. On motion and upon such terms as are just, the court may relieve a party or the party's legal representative from an order, judgment, or proceeding for the following reasons:

(1) Mistake, inadvertence, surprise, or excusable neglect.

(2) Newly discovered evidence which by due diligence could not have been discovered in time to move for rehearing.

(3) Fraud (intrinsic or extrinsic), misrepresentation, or other misconduct of any other party.

(4) That the order or judgment or any part thereof is void.

The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than 1 year after the judgment, order, or proceeding was taken.

(c) Limitation. After the court loses jurisdiction of the cause, as provided by law, a motion for relief of judgment or order under subdivision (b) shall not be heard.

RULE 8.276. APPEAL PROCEDURES

Florida Rule of Appellate Procedure 9.146 generally governs appeals in juvenile dependency and termination of parental rights cases.

RULE 8.285. CRIMINAL CONTEMPT

(a) Direct Contempt. A contempt may be punished summarily if the court saw or heard the conduct constituting the contempt committed in the actual presence of the court. The judgment of guilt of contempt shall include a recital of those facts upon which the adjudication of guilt is based. Prior to the adjudication of guilt the court shall inform the person accused of the accusation and inquire as to whether there is any cause to show why he or she should not be adjudged guilty of contempt by the court and sentenced. The accused shall be given the opportunity to present evidence of excusing or mitigating circumstances. The judgment shall be

signed by the court and entered of record. Sentence shall be pronounced in open court.

(b) Indirect Contempt. An indirect contempt shall be prosecuted in the following manner:

(1) Order to Show Cause. The court on its own motion or upon affidavit of any person having knowledge of the facts may issue and sign an order directed to the one accused of contempt, stating the essential facts constituting the contempt charged and requiring the accused to appear before the court to show cause why he or she should not be held in contempt of court. The order shall specify the time and place of the hearing, with a reasonable time allowed for the preparation of a defense after service of the order on the one accused. It shall be served in the same manner as a summons. Nothing herein shall be construed to prevent the one accused of contempt from waiving the service of process.

(2) Motions; Answer. The accused, personally or by counsel, may move to dismiss the order to show cause, move for a statement of particulars, or answer such order by way of explanation or defense. All motions and the answer shall be in writing unless specified otherwise by the court. The accused's omission to file a motion or answer shall not be deemed an admission of guilt of the contempt charged.

(3) Order of Arrest; Bail. The court may issue an order of arrest of the one accused of contempt if the court has reason to believe the accused will not appear in response to the order to show cause. The accused shall be entitled to bail in the manner provided by law in criminal cases.

(4) Arraignment; Hearing. The accused may be arraigned at the hearing, or prior thereto upon request. A hearing to determine the guilt or innocence of the accused shall follow a plea of not guilty. The court may conduct a hearing without assistance of counsel or may be assisted by the state attorney or by an attorney appointed for the purpose. The accused is entitled to be represented by counsel, have compulsory process for the attendance of witnesses, and may testify in his or her own defense. All issues of law and fact shall be determined by the court.

(5) Disqualification of the Judge. If the contempt charged involves disrespect to or criticism of a judge, the judge shall be disqualified by the chief judge of the circuit.

(6) Verdict; Judgment. At the conclusion of the hearing the court shall sign and enter of record a judgment of guilty or not guilty. There should be included in a judgment of guilty a recital of the facts constituting the contempt of which the accused has been found and adjudicated guilty.

(7) Sentence. Prior to the pronouncement of sentence the court shall inform the accused of the accusation and judgment against him or her and inquire as to whether there is any cause to show why sentence should not be pronounced. The accused shall be afforded the opportunity to present evidence of mitigating circumstances. The sentence shall be pronounced in open court and in the presence of the one found guilty of contempt.

RULE 8.286. CIVIL CONTEMPT

(a) Applicability. This rule governs indirect civil contempt proceedings in matters related to juvenile dependency. The use of civil contempt sanctions under this rule must be limited to those used to compel compliance with a court order or to compensate a movant for losses sustained as a result of a contemnor's willful failure to comply with a court order. Contempt sanctions intended to punish an offender or to vindicate the authority of the court are criminal in nature and are governed by rule 8.285.

(b) Motion and Notice. Civil contempt may be initiated by motion. The motion must recite the essential facts constituting the acts alleged to be contemptuous. No civil contempt may be imposed without notice to the alleged contemnor and without providing the alleged contemnor with an opportunity to be heard. The civil contempt motion and notice of hearing may be served by mail provided notice by mail is reasonably calculated to apprise the alleged contemnor of the pendency of the proceedings. The notice must specify the time and place of the hearing and must contain the following language: "FAILURE TO APPEAR AT THE HEARING MAY RESULT IN THE COURT ISSUING A WRIT OF BODILY ATTACHMENT FOR YOUR ARREST. IF YOU ARE ARRESTED, YOU MAY BE HELD IN JAIL UP TO 48 HOURS BEFORE A HEARING IS HELD."

(c) Hearing. In any civil contempt hearing, after the court makes an express finding that the alleged contemnor had notice of the motion and hearing:

(1) The court shall determine whether the movant has established that a prior order was entered and that the alleged contemnor has failed to comply with all or part of the prior order.

(2) If the court finds the movant has established all of the requirements in subdivision (c)(1) of this rule, the court must,

(A) if the alleged contemnor is present, determine whether the alleged contemnor had the present ability to comply with the prior court order; or

(B) if the alleged contemnor fails to appear, set a reasonable purge based on the circumstances of the parties.

The court may issue a writ of bodily attachment and direct that, upon execution of the writ of bodily attachment, the alleged contemnor be brought before the court within 48 hours for a hearing on whether the alleged contemnor has the present ability to comply with the prior court order and, if so, whether the failure to comply is willful.

(d) Order and Sanctions. After hearing the testimony and evidence presented, the court must enter a written order granting or denying the motion for contempt.

(1) An order finding the alleged contemnor to be in contempt must contain a finding that a prior order was entered, that the alleged contemnor has failed to comply with the prior court order, that the alleged contemnor had the present ability to comply, and that the alleged contemnor willfully failed to comply with the prior court order. The order must contain a recital of the facts on which these findings are based.

(2) If the court grants the motion for contempt, the court may impose appropriate sanctions to obtain compliance with the order including incarceration, attorneys' fees and costs, compensatory or coercive fines, and any other coercive sanction or relief permitted by law provided the order includes a purge provision as set forth in subdivision (e) of this rule.

(e) Purge. If the court orders incarceration, a coercive fine, or any other coercive sanction for failure to comply with a prior order, the court must set conditions for purge of the contempt, based on the contemnor's present ability to comply. The court must include in its order a separate affirmative finding that the contemnor has the present ability to comply with the purge and the factual basis for that finding. The court may grant the contemnor a reasonable time to comply with the purge conditions. If the court orders incarceration but defers incarceration for more than 48 hours to allow the contemnor a reasonable time to comply with the

purge conditions, and the contemnor fails to comply within the time provided, the movant must file an affidavit of noncompliance with the court. The court then may issue a writ of bodily attachment. Upon incarceration, the contemnor must be brought before the court within 48 hours for a determination of whether the contemnor continues to have the present ability to comply with the purge.

(f) Review after Incarceration. Notwithstanding the provisions of this rule, at any time after a contemnor is incarcerated, the court on its own motion or motion of any party may review the contemnor's present ability to comply with the purge and the duration of incarceration and modify any prior orders.

(g) Other Relief. When there is a failure to comply with a court order but the failure is not willful, nothing in this rule shall be construed as precluding the court from granting such relief as may be appropriate under the circumstances.

RULE 8.290. DEPENDENCY MEDIATION

(a) Definitions. The following definitions apply to this rule:

(1) "Dependency matters" means proceedings arising under Chapter 39, Florida Statutes.

(2) "Dependency mediation" means mediation of dependency matters.

(3) "Mediation" means a process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and nonadversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. In mediation, decision-making authority rests with the parties. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem-solving, and exploring settlement alternatives.

(b) Applicability. This rule applies only to mediation of dependency matters.

(c) Compliance with Statutory Time Requirements. Dependency mediation shall be conducted in compliance with the statutory time requirements for dependency matters.

(d) Referral. Except as provided by this rule, all matters and issues described in subdivision (a)(1) may be referred to mediation. All referrals to mediation shall be in written form, shall advise the parties of their right to counsel, and shall set a date for hearing before the court to review the progress of the mediation. The mediator or mediation program shall be appointed by the court or stipulated to by the parties. If the court refers the matter to mediation, the mediation order shall address all applicable provisions of this rule. The mediation order shall be served on all parties and on counsel under the provisions of the Florida Rules of Juvenile Procedure.

(e) Appointment of the Mediator.

(1) Court Appointment. The court, in the order of referral to mediation, shall appoint a certified dependency mediator selected by rotation or by such other procedures as may be adopted by administrative order of the chief judge in the circuit in which the action is pending.

(2) Party Stipulation. Within 10 days of the filing of the order of referral to mediation, the parties may agree upon a stipulation with the court designating:

(A) another certified dependency mediator, other than a senior judge presiding as a judge in that circuit, to replace the one selected by the judge; or

(B) a mediator, other than a senior judge, who is not certified as a mediator but who, in the opinion of the parties and upon review by the presiding judge, is otherwise qualified by training or experience to mediate all or some of the issues in the particular case.

(f) Fees. Dependency mediation referrals may be made to a mediator or mediation program that charges a fee. Any order of referral to a mediator or mediation program charging a fee shall advise the parties that they may timely object to mediation on grounds of financial hardship. On the objection of a party or the court's own motion, the court may, after considering the objecting party's ability to pay and any other pertinent information, reduce or eliminate the fee.

(g) Objection to Mediation. Within 10 days of the filing of the order of referral to mediation, any party or participant ordered to mediation may make a written objection to the court about the order of referral if good cause for such

objection exists. If a party objects, mediation shall not be conducted until the court rules on the objection.

(h) Scheduling. The mediation conference may be held at any stage of the proceedings. Unless otherwise scheduled by the court, the mediator or the mediation program shall schedule the mediation conference.

(i) Disqualification of the Mediator. Any party may move to enter an order disqualifying a mediator for good cause. If the court rules that a mediator is disqualified from mediating a case, an order shall be entered with the name of a qualified replacement. Nothing in this provision shall preclude mediators from disqualifying themselves or refusing any assignment.

(j) Substitute Mediator. If a mediator agreed upon by the parties or appointed by a court cannot serve, a substitute mediator can be agreed upon or appointed in the same manner as the original mediator. A mediator shall not mediate a case assigned to another mediator without the agreement of the parties or approval of the court. A substitute mediator shall have the same qualifications as the original mediator.

(k) Discovery. Unless stipulated by the parties or ordered by the court, the mediation process shall not suspend discovery.

(l) **Appearances.**

(1) Order Naming or Prohibiting Attendance of Parties. The court shall enter an order naming the parties and the participants who must appear at the mediation and any parties or participants who are prohibited from attending the mediation. Additional participants may be included by court order or by mutual agreement of all parties.

(2) Physical Presence of Adult Parties and Participants. Unless otherwise agreed to by the parties or ordered by the court, any party or participant ordered to mediation shall be physically present at the mediation conference. Persons representing an agency, department, or program must have full authority to enter into an agreement that shall be binding on that agency, department, or program. In the discretion of the mediator, and with the agreement of the attending parties, dependency mediation may proceed in the absence of any party or participant ordered to mediation.

(3) Appearance of Counsel. In the discretion of the mediator, and with the agreement of the attending parties, dependency mediation may proceed in the absence of counsel unless otherwise ordered by the court.

(4) Appearance of Child. The court may prohibit the child from appearing at mediation upon determining that such appearance is not in the best interest of the child. No minor child shall be required to appear at mediation unless the court has previously determined by written order that it is in the child's best interest to be physically present. The court shall specify in the written order of referral to mediation any special protections necessary for the child's appearance.

(5) Sanctions for Failure to Appear. If a party or participant ordered to mediation fails to appear at a duly-noticed mediation conference without good cause, the court, on motion of any party or on its own motion, may impose sanctions. Sanctions against the party or participant failing to appear may include one or more of the following: contempt of court, an award of mediator fees, an award of attorney fees, an award of costs, or other remedies as deemed appropriate by the court.

(m) Caucus with Parties and Participants. During the mediation session, the mediator may meet and consult privately with any party, participant or counsel.

(n) Continuances. The mediator may end the mediation session at any time and may set new times for reconvening the mediation. No further notification shall be required for parties or participants present at the mediation session.

(o) Report on Mediation.

(1) If agreement is reached on all or part of any matter or issue, including legal or factual issues to be determined by the court, the agreement shall be immediately reduced to writing, signed by the attending parties, and promptly submitted to the court by the mediator with copies to all parties and counsel.

(2) If the parties do not reach an agreement as to any matter as a result of mediation, the mediator shall report the lack of an agreement to the court without comment or recommendation.

(p) Court Hearing and Order On Mediated Agreement. On receipt of a full or partial mediation agreement, the court shall hold a hearing and enter an order accepting or rejecting the agreement consistent with the best interest of the

child. The court may modify the terms of the agreement with the consent of all parties to the agreement.

(q) Imposition of Sanctions On Breach of Agreement. In the event of any breach or failure to perform under the court–approved agreement, the court, on a motion of any party or on its own motion, may impose sanctions. The sanctions may include contempt of court, vacating the agreement, imposition of costs and attorney fees, or any other remedy deemed appropriate by the court.

Committee Notes

1997 Adoption. In considering the provision regarding the appearance of the child found in subsection (l)(4), the Supreme Court Mediation and Arbitration Rules Committee considered issues concerning the child's right to participate and be heard in mediation and the need to protect the child from participating in proceedings when such participation would not be in the best interest of the child. The Committee has addressed only the issue of mandating participation of the child in mediation. In circumstances where the court has not mandated that the child appear in mediation, the Committee believes that, in the absence of an order prohibiting the child from mediation, the participation of the child in mediation will be determined by the parties.

Whenever the court, pursuant to subdivision (p) determines whether to accept, reject, or modify the mediation agreement, the Committee believes that the court shall act in accordance with the confidentiality requirements of chapter 44, Florida Statutes.

RULE 8.292. APPOINTMENT AND DISCHARGE OF SURROGATE PARENT

(a) Appointment. Unless appointed by the district school superintendent, the court must appoint a surrogate parent for a child known to the department who has or is suspected of having a disability when

(1) after reasonable efforts, no parent can be located; or

(2) a court of competent jurisdiction over a child under Chapter 39, Florida Statutes, has determined that no person has the authority under the Individuals with Disabilities Education Act, including the parent or parents subject to the dependency action, or no person has the authority, willingness, or ability to serve as the educational decision maker for the child without judicial action.

(b) Who May Be Appointed. The surrogate parent must meet the minimum criteria established by law.

(c) Recognition of Surrogate Parent. The dependency court and school district must recognize the initial individual appointed as surrogate parent.

(d) Duties and Responsibilities. The surrogate parent must be acquainted with the child and become knowledgeable about the child's disability and education needs and

(1) must represent the child in all matters relating to identification, evaluation, and educational placement and the provision of a free and appropriate education to the child;

(2) must represent the interests and safeguard the rights of the child in educational decisions that affect the child, and enjoy all the procedural safeguards afforded a parent regarding the identification, evaluation, and educational placement of a student with a disability or a student who is suspected of having a disability; and

(3) does not have the authority to represent the interests of the child regarding the child's care, maintenance, custody, residential placement, or any other area not specifically related to the education of the child, unless the same person is appointed by the court for those purposes.

(e) Notice of Appointment. When the court appoints a surrogate parent, notice must be provided as soon as practicable to the child's school.

(f) Substitution or Discharge. The court may, through a determination of the best interest of the child or as otherwise established by law, find that it is appropriate to substitute or discharge the surrogate parent. The surrogate parent must continue in the appointed role until discharged.

B. TAKING CHILDREN INTO CUSTODY AND SHELTER HEARINGS

RULE 8.300. TAKING INTO CUSTODY

(a) Affidavit. An affidavit or verified petition may be filed alleging facts under existing law sufficient to establish grounds to take a child into custody. The affidavit or verified petition shall:

(1) be in writing and signed;

(2) specify the name, address, date of birth, and sex of the child, or, if unknown, designate the child by any name or description by which he or she can be identified with reasonable certainty;

(3) specify that the child is of an age subject to the jurisdiction of the court; and

(4) state the reasons the child should be taken into custody.

(b) Criteria for Order. The court may issue an order to take a child into custody based on sworn testimony meeting the criteria in subdivision (a).

(c) Order. The order to take into custody shall:

(1) be in writing and signed;

(2) specify the name, address, and sex of the child or, if unknown, designate the child by any name or description by which he or she can be identified with reasonable certainty;

(3) specify that the child is of an age subject to the jurisdiction of the court;

(4) state the reasons the child should be taken into custody;

(5) order that the child be held in a suitable place pending transfer of physical custody to an authorized agent of the department; and

(6) state the date when issued, and the county and court where issued.

RULE 8.305. SHELTER PETITION, HEARING, AND ORDER

(a) Shelter Petition. If a child has been or is to be removed from the home and maintained in an out-of-home placement for more than 24 hours, the person requesting placement shall file a written petition that shall:

(1) specify the name, address, date of birth, and sex of the child or, if unknown, designate the child by any name or description by which he or she can be identified with reasonable certainty and shall indicate whether the child has a

special need requiring appointment of counsel as defined in section 39.01305, Florida Statutes;

(2) specify the name and address, if known, of the child's parents or legal custodian and how each was notified of the shelter hearing;

(3) if the child has been removed from the home, state the date and time of the removal;

(4) specify that the child is of an age subject to the jurisdiction of the court;

(5) state the reasons the child needs to be placed in a shelter;

(6) list the reasonable efforts, if any, that were made by the department to prevent or eliminate the need for the removal or continued removal of the child from the home or, if no such efforts were made, a description of the emergency that prevented these efforts;

(7) recommend where the child is to be placed or the agency to be responsible for placement;

(8) if the children are currently not placed together, specify the reasonable efforts of the department to keep the siblings together after the removal from the home, why a foster home is not available to place the siblings, or why it is not in the best interest of the child that all the siblings be placed together in out-of-home care;

(9) specify ongoing visitation or interaction between the siblings or if sibling visitation or interaction is not recommended, specify why visitation or interaction would be contrary to the safety or well-being of the child; and

(10) be signed by the petitioner and, if represented by counsel, by the petitioner's attorney.

(b) Shelter Hearing.

(1) The parents or legal custodians of the child shall be given actual notice of the date, time, and location of the shelter hearing. If the parents are outside the jurisdiction of the court, are not known, cannot be located, or refuse or evade service, they shall be given such notice as best ensures their actual

knowledge of the date, time, and location of the shelter hearing. If the parents or legal custodians are not present at the hearing, the person providing, or attempting to provide, notice to the parents or legal custodians shall advise the court in person or by sworn affidavit of the attempts made to provide notice and the results of those attempts.

(2) The court shall conduct an informal hearing on the petition within the time limits provided by law. The court shall determine at the hearing the existence of probable cause to believe the child is dependent and whether the other criteria provided by law for placement in a shelter have been met. The shelter hearing may be continued for up to 72 hours with the child remaining in shelter care if either:

(A) the parents or legal custodians appear for the shelter hearing without legal counsel and request a continuance to consult with legal counsel; or

(B) the court determines that additional time is necessary to obtain and review documents pertaining to the family to appropriately determine the risk to the child.

(3) The issue of probable cause shall be determined in a nonadversarial manner, applying the standard of proof necessary for an arrest warrant.

(4) At the hearing, all interested persons present shall have an opportunity to be heard and present evidence on the criteria for placement provided by law.

(5) The court may base its determination on a sworn complaint, testimony, or an affidavit and may hear all relevant and material evidence, including oral and written reports, to the extent of its probative value even though it would not be competent at an adjudicatory hearing.

(6) The court shall advise the parent or legal custodian of:

(A) the right to be represented by counsel as provided by law;

(B) the reason the child is in custody and why continued placement is requested;

(C) the right to present placement alternatives; and

(D) the time, date, and location of the next hearing and of the importance of the parents' or legal custodians' active participation in subsequent proceedings and hearings.

(7) The court shall appoint:

(A) a guardian ad litem to represent the child unless the court finds representation unnecessary;

(B) an attorney to represent the child if the court finds the appointment necessary or required by law; and

(C) an attorney for indigent parents unless waived by the parent.

(8) The court shall determine visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child.

(9) If the identity of a parent is unknown, the court must conduct the inquiry required by law.

(10) The court shall inquire of the parents whether the parents have relatives who might be considered for placement of the child. The parents shall provide to the court and all parties identification and location information regarding the relatives. The court shall advise the parents that the parents have a continuing duty to inform the department of any relative who should be considered for placement of the child.

(11) The court shall advise the parents in plain language what is expected of them to achieve reunification with their child, including that:

(A) parents must take action to comply with the case plan so permanency with the child may occur within the shortest period of time possible, but no later than 1 year after removal or adjudication of the child;

(B) parents must stay in contact with their attorney and their case manager and provide updated contact information if the parents' phone number, address, or e-mail address changes;

(C) parents must notify the parties and the court of barriers to completing case plan tasks within a reasonable time after discovering such barriers; and

(D) if the parents fail to substantially comply with the case plan their parental rights may be terminated and the child's out-of-home placement may become permanent.

(12) The court must request that the parents consent to provide access to the child's medical records and to the child's child care records, early education program records, or other educational records and provide information to the court, the department, or its contract agencies, and any guardian ad litem or attorney for the child. If a parent is unavailable, is unable to consent, or withholds consent and the court determines access to the records and information is necessary to provide services for the child, the court shall issue an order granting access.

(13) The court may order the parents to provide all known medical information to the department and to any others granted access.

(14) If the child has or is suspected of having a disability and the parent is unavailable pursuant to law, the court must appoint a surrogate parent or refer the child to the district school superintendent for appointment of a surrogate parent.

(15) If the shelter hearing is conducted by a judge other than a judge assigned to hear dependency cases, a judge assigned to hear dependency cases shall hold a shelter review on the status of the child within 2 working days after the shelter hearing.

(c) Shelter Order. An order granting shelter care must identify the parties present at the hearing and contain written findings that:

(1) placement in shelter care is necessary based on the criteria provided by law;

(2) placement in shelter care is in the best interest of the child;

(3) the department made reasonable efforts to keep the siblings together after the removal from the home and specifies if the children are currently not placed together, why a foster home is not available or why it is not in the best interest of the child that all the siblings be placed together in out-of-home care;

(4) specifies on-going visitation or interaction between the siblings or if sibling visitation or interaction is not recommended, specifies why visitation or interaction would be contrary to the safety or well-being of the child;

(5) continuation of the child in the home is contrary to the welfare of the child because the home situation presents a substantial and immediate danger to the child's physical, mental, or emotional health or safety that cannot be mitigated by the provision of preventive services;

(6) there is probable cause to believe the child is dependent;

(7) the department has made reasonable efforts to prevent or eliminate the need for removal of the child from the home, including a description of which specific services, if available, could prevent or eliminate the need for removal or continued removal from the home, the date by which the services are expected to become available, and, if services are not available to prevent or eliminate the need for removal or continued removal of the child from the home, an explanation of why the services are not available for the child;

(8) the court notified the parents, relatives who are providing out-of-home care for the child, or legal custodians of the time, date, and location of the next dependency hearing, and of the importance of their active participation in all subsequent proceedings and hearing;

(9) the court notified the parents or legal custodians of their right to counsel as provided by law;

(10) the court notified relatives who are providing out-of-home care for a child, as a result of the shelter petition being granted, that they have the right to attend all subsequent hearings, to submit reports to the court, and to speak to the court regarding the child, if they so desire; and

(11) the department has placement and care responsibility for any child who is not placed in the care of a parent at the conclusion of the shelter hearing.

(d) Release from Shelter Care. No child shall be released from shelter care after a shelter order has been entered except on order of the court unless the shelter order authorized release by the department.

C. PETITION, ARRAIGNMENT, ADJUDICATION, AND DISPOSITION

RULE 8.310. DEPENDENCY PETITIONS

(a) Contents.

(1) A dependency petition may be filed as provided by law. Each petition shall be entitled a petition for dependency and shall allege sufficient facts showing the child to be dependent based upon applicable law.

(2) The petition shall contain allegations as to the identity and residence of the parents or legal custodians, if known.

(3) The petition shall identify the age, sex, and name of the child. Two or more children may be the subject of the same petition.

(4) Two or more allegations of dependency may appear in the same petition, in separate counts. The petition need not contain allegations of acts or omissions by both parents.

(5) The petition must describe what voluntary services, safety planning and/or dependency mediation the parents or legal custodians were offered and the outcome of each.

(6) The petition shall identify each child who has a special need requiring appointment of counsel as defined in section 39.01305, Florida Statutes.

(b) Verification. The petition shall be signed stating under oath the signer's good faith in filing the petition. No objection to a petition on the grounds that it was not signed or verified, as herein provided, shall be entertained after a plea to the merits.

(c) Amendments. At any time prior to the conclusion of an adjudicatory hearing, an amended petition may be filed or the petition may be amended by motion; however, after a written answer or plan has been filed, amendments shall be permitted only with the permission of the court, unless all parties consent. Amendments shall be freely permitted in the interest of justice and the welfare of the child. A continuance may be granted on motion and a showing that the amendment prejudices or materially affects any party.

(d) Defects and Variances. No petition or any count thereof shall be dismissed, or any judgment vacated, on account of any defect in the form of the petition or of misjoinder of counts. If the court is of the opinion that the petition is so vague, indistinct, and indefinite as to mislead the child, parent, or legal custodian and prejudice any of them in the preparation of a defense, the petitioner may be required to furnish a more definite statement.

(e) Voluntary Dismissal. The petitioner without leave of the court, at any time prior to entry of an order of adjudication, may request a voluntary dismissal of the petition or any allegations of the petition by serving a notice requesting dismissal on all parties, or, if during a hearing, by so stating on the record. The petition or any allegations in the petition shall be dismissed. If the petition is dismissed, the court loses jurisdiction unless another party adopts the petition within 72 hours.

Committee Notes

1991 Amendment. (c) The time limit for amending a petition has been extended to be consistent with civil pleading procedures. The best interest of the child requires liberal amendments. The procedures for determining if a party has been prejudiced have not been changed.

(e) This section has been reworded to provide a procedure for notice to all parties before dismissal and to allow adoption of a petition by another party.

RULE 8.315. ARRAIGNMENTS AND PREHEARING CONFERENCES

(a) Arraignment.

(1) Before the adjudicatory hearing, the court must conduct a hearing to determine whether an admission, consent, or denial to the petition shall be entered, and whether the parties are represented by counsel or are entitled to appointed counsel as provided by law.

(2) If an admission or consent is entered and no denial is entered by any other parent or legal custodian, the court must enter a written order finding dependency based on the allegations of the dependency petition by a preponderance of the evidence. The court shall schedule a disposition hearing to be conducted within 15 days. If a denial is entered, the court shall set an adjudicatory hearing within the period of time provided by law and appoint counsel when required.

(3) If one parent enters an admission or consent and the other parent who is present enters a denial to the allegations of the dependency petition, the court must enter a written order finding dependency based on the allegations of the dependency petition that pertain to the parent who enters an admission or consent by a preponderance of the evidence. The court must then reserve ruling on whether the parent who entered the denial contributed to the dependency status of the child pursuant to the statutory definition of a dependent child until the parent enters an admission or consent to the dependency petition, the court conducts an adjudicatory hearing, or the issue is otherwise resolved.

(4) If one parent enters an admission or consent and the identity or location of the other parent is unknown, the court must enter a written order finding dependency based on the allegations of the dependency petition by a preponderance of the evidence. The court must then reserve ruling on whether the parent whose identity or location is unknown contributed to the dependency status of the child pursuant to the statutory definition of a dependent child until the parent enters an admission or consent to the dependency petition, the court conducts an adjudicatory hearing, or the court proceeds as provided by law regarding a parent whose identity or location is unknown.

(5) If the court enters a written order finding dependency, the court must schedule a disposition hearing to be conducted within 15 days. If a denial is entered, the court must set an adjudicatory hearing within the period of time provided by law and appoint counsel when required.

(b) Withdrawal of Plea. The court may for good cause, at any time before the beginning of a disposition hearing, permit an admission of the allegations of the petition or a consent to dependency to be withdrawn and, if an adjudication has been entered, set aside the adjudication. In a subsequent adjudicatory hearing the court shall disregard an admission or consent that has been withdrawn.

(c) Prehearing Conference. Before any adjudicatory hearing, the court may set or the parties may request that a prehearing conference be held to determine the order in which each party may present witnesses or evidence, the order in which cross-examination and argument shall occur, and any other matters that may aid in the conduct of the adjudicatory hearing to prevent any undue delay in the adjudicatory hearing. The court may also enter findings on the record of any stipulations entered into by the parties and consider any other matters that may aid in the conduct of the adjudicatory hearing.

(d) Status Hearing. Within 60 days of the filing of the petition, a status hearing must be held with all parties present unless an adjudicatory or disposition hearing has begun. Subsequent status hearings must be held every 30 days unless an adjudicatory or disposition hearing has begun.

Committee Notes

1991 Amendment. (d) This section requires a status hearing every 30 days to ensure prompt resolution of the case while preserving the rights of all parties.

RULE 8.320. PROVIDING COUNSEL TO PARTIES

(a) Duty of the Court.

(1) At each stage of the dependency proceeding, the court shall advise the parent of the right to have counsel present.

(2) The court shall appoint counsel to indigent parents or others who are so entitled as provided by law, unless appointment of counsel is waived by that person.

(3) The court shall ascertain whether the right to counsel is understood.

(4) At each stage of the dependency proceeding, the court shall appoint an attorney to represent a child with special needs as defined in chapter 39, Florida Statutes, and who is not already represented by an attorney.

(b) Waiver of Counsel.

(1) No waiver of counsel shall be accepted where it appears that the parent is unable to make an intelligent and understanding choice because of age, education, experience, the nature or complexity of the case, or other factors.

(2) A waiver of counsel made in court shall be of record. The court shall question the party in sufficient detail to ascertain that the waiver is made knowingly, intelligently, and voluntarily.

(3) If a waiver is accepted at any stage of the proceedings, the offer of assistance of counsel shall be renewed by the court at each subsequent stage of the proceedings at which the party appears without counsel.

RULE 8.325. ANSWERS AND PLEADINGS

(a) No Answer Required. No written answer to the petition need be filed by the parent or legal custodian. The parent or legal custodian of the child may enter an oral or written answer to the petition or remain silent.

(b) Denial of Allegations. If the parent or legal custodian denies the allegations of the petition, remains silent, or pleads evasively, the court shall enter a denial of dependency and set the case for an adjudicatory hearing.

(c) Admission of or Consent to Dependency. The parent or legal custodian may admit or consent to a finding of dependency. The court shall determine that any admission or consent to a finding of dependency is made voluntarily and with a full understanding of the nature of the allegations and the possible consequences of the admission or consent, and that the parent has been advised of the right to be represented by counsel. The court shall incorporate these findings into its order in addition to findings of fact specifying the act or acts causing dependency, by whom committed, and facts on which the findings are based.

RULE 8.330. ADJUDICATORY HEARINGS

(a) Hearing by Judge. The adjudicatory hearing shall be conducted by the judge, without a jury, utilizing the rules of evidence in use in civil cases. At this hearing the court shall determine whether the allegations of the dependency petition have been sustained by a preponderance of the evidence. If the court is of the opinion that the allegations are sustained by clear and convincing evidence, it may enter an order so stating.

(b) Examination of Witnesses. A party may call any person as a witness. A party shall have the right to examine or cross-examine all witnesses. However, the child and the parents, caregivers, or legal custodians of the child may be examined separately and apart from each other.

(c) Presence of Parties. All parties have the right to be present at all hearings. A party may appear in person or, at the discretion of the court for good cause shown, by an audio or audiovisual device. No party shall be excluded from any hearing unless so ordered by the court for disruptive behavior or as provided by law. If a person appears for the arraignment hearing and the court orders that person to personally appear at the adjudicatory hearing for dependency, stating the date, time, and place of the adjudicatory hearing, then that person’s failure to

appear for the scheduled adjudicatory hearing constitutes consent to a dependency adjudication.

(d) Joint and Separate Hearings. When 2 or more children are alleged to be dependent children, the hearing may be held simultaneously when the several children involved are related to each other or involved in the same case, unless the court orders separate hearings.

(e) Motion for Judgment of Dismissal. In all proceedings, if at the close of the evidence for the petitioner the court is of the opinion that the evidence is insufficient to warrant a finding of dependency, it may, and on the motion of any party shall, enter an order dismissing the petition for insufficiency of the evidence or find that allegations in the petition have not been sustained. If the court finds that allegations in the petition have not been sustained but does not dismiss the petition, the parties, including all parents, shall continue to receive pleadings, notices, and documents and to have the right to be heard.

(f) Dismissal. If the court shall find that the allegations in the petition have not been sustained, it shall enter an order dismissing the case for insufficiency of the evidence or find that allegations in the petition have not been sustained. If the court finds that allegations in the petition have not been sustained but does not dismiss the petition, the parties, including all parents, shall continue to receive pleadings, notices, and documents and to have the right to be heard.

Committee Notes

1991 Amendment. (a) This change gives the court the option of making a finding based on a higher burden of proof to eliminate the need for a repetitive hearing on the same evidence if a termination of parental rights petition is filed.

RULE 8.332. ORDER FINDING DEPENDENCY

(a) Finding of Dependency. In all cases in which dependency is established, the court must enter a written order stating the legal basis for a finding of dependency, specifying the facts upon which the finding of dependency is based, and stating whether the court made the finding by a preponderance of the evidence or by clear and convincing evidence. The court must include the dates of the adjudicatory hearing, if any, in the order.

(b) Adjudication of Dependency.

(1) If the court finds that the child named in the petition is dependent, the court must enter an order adjudicating the child dependent if the child is placed or will continue to be placed in an out-of-home placement. Following a finding of dependency, the court must schedule a disposition hearing within 30 days after the last day of the adjudicatory hearing pursuant to these rules.

(2) If the court enters findings that only one parent contributed to the dependency status of the child but allegations of dependency remain unresolved as to the other parent, the court must enter a written order finding dependency based on the allegations of the dependency petition concerning the one parent. The court must then reserve ruling on findings regarding the other parent based on the unresolved allegations until the parent enters an admission or consent to the dependency petition, the court conducts an evidentiary hearing on the findings, the court proceeds as provided by law regarding a parent whose identity or location is unknown, or the issue is otherwise resolved.

(3) The court may enter an order adjudicating the child dependent if the child remains in or is returned to the home.

(4) For as long as a court maintains jurisdiction over a dependency case, only one order adjudicating each child in the case dependent shall be entered. This order establishes the legal status of the child for purposes of proceedings under Chapter 39, Florida Statutes, and may be based on the conduct of one parent, both parents, or a legal custodian. With the exception of proceedings pursuant to a termination of parental rights, the child's dependency status may not be retried or readjudicated. All subsequent orders finding that a parent contributed to the dependency status of the child shall supplement the initial order of adjudication.

(c) Withhold of Adjudication of Dependency.

(1) If the court finds that the child named in the petition is dependent, but finds that no action other than supervision in the child's home is required, it may enter an order briefly stating the facts on which its finding is based, but withholding an order of adjudication and placing the child in the child's home under the supervision of the department. The department must file a case plan and the court must review the case plan pursuant to these rules.

(2) If the court later finds that the parents of the child have not complied with the conditions of supervision imposed, including the case plan, the court may, after a hearing to establish the noncompliance, but without further evidence of the state of dependency, enter an order of adjudication and shall

thereafter have full authority under this chapter to provide for the child as adjudicated. If the child is to remain in an out-of-home placement by order of the court, the court must adjudicate the child dependent. If the court adjudicates the child dependent, the court must then conduct a disposition hearing.

(d) Failure to Substantially Comply. The court must advise the parents in plain language that:

(1) parents must take action to comply with the case plan so permanency with the child may occur within the shortest period of time possible, but no later than 1 year after removal or adjudication of the child;

(2) parents must stay in contact with their attorney and their case manager and provide updated contact information if the parents' phone number, address, or e-mail address changes;

(3) parents must notify the parties and the court of barriers to completing case plan tasks within a reasonable time after discovering such barriers; and

(4) if the parents fail to substantially comply with the case plan, their parental rights may be terminated and the child's out-of-home placement may become permanent.

(e) Inquiry Regarding Relatives for Placement. If the child is in out-of-home care, the court must inquire of the parent or parents whether the parent or parents have relatives who might be considered as placement for the child. The parent or parents must provide to the court and all parties identification and location information for the relatives.

RULE 8.335. ALTERNATIVES PENDING DISPOSITION

If the court finds that the evidence supports the allegations of the petition, it may make a finding of dependency as provided by law. If the reports required by law are available, the court may proceed to disposition or continue the case for a disposition hearing. If the case is continued, the court may refer the case to appropriate agencies for additional study and recommendation. The court may order the child continued in placement, designate the placement or the agency that will be responsible for the child's placement, and enter such other orders deemed necessary to protect the health, safety, and well-being of the child, including diagnosis, evaluation, treatment, and visitation.

RULE 8.340. DISPOSITION HEARINGS

(a) Information Available to Court. At the disposition hearing, the court, after establishing compliance with the dispositional considerations, determinations, and discussions required by law, may receive any relevant and material evidence helpful in determining the proper disposition to be made. It must include written reports required by law, and may include, but is not limited to, any psychiatric or psychological evaluations of the child or his or her parent, caregiver, or legal custodian that may be obtained and that are relevant and material. Such evidence may be received by the court and may be relied upon to the extent of its probative value, even though not competent in an adjudicatory hearing.

(b) Disclosure to Parties. All parties are entitled to disclosure of all information in all reports submitted to the court.

(c) Orders of Disposition. The court shall in its written order of disposition include:

(1) the placement or custody of the child;

(2) special conditions of placement and visitation;

(3) evaluation, counseling, treatment activities, and other actions to be taken by the parties, if ordered;

(4) persons or entities responsible for supervising or monitoring services to the child and parent;

(5) continuation or discharge of the guardian ad litem, as appropriate;

(6) date, time, and location of next scheduled review hearing, as required by law;

(7) child support payments, if the child is in an out-of-home placement;

(8) if the child is placed in foster care, the reasons why the child was not placed in the legal custody of an adult relative, legal custodian, or other adult approved by the court and a further determination as to whether diligent

efforts were made by the department to locate an adult relative, legal custodian, or other adult willing to care for the child instead of placement with the department;

(9) such other requirements to protect the health, safety, and well-being of the child, to preserve the stability of the child's child care, early education program, or any other educational placement, and to promote family preservation or reunification whenever possible; and

(10) approval of the case plan and any reports required by law as filed with the court. If the court does not approve the case plan at the disposition hearing, the court must set a hearing within 30 days after the disposition hearing to review and approve the case plan.

Committee Notes

1992 Amendment. Dismissal of a petition is not appropriate after adjudication.

RULE 8.345. POST-DISPOSITION RELIEF

(a) Motion for Modification of Placement. At any time before a child is residing in the permanent placement approved at the permanency hearing, a child who has been placed in his or her own home, in the home of a relative, or in some other place, under the supervision or legal custody of the department, may be brought before the court by the department or any interested person on a motion for modification of placement. If neither the department, the child, the parents, the legal custodian, nor any appointed guardian ad litem or attorney ad litem object to the change, then the court may enter an order making the change in placement without a hearing. If the department, the child, the parents, the legal custodian, or any appointed guardian ad litem or attorney ad litem object to the change of placement, the court shall conduct a hearing and thereafter enter an order changing the placement, modifying the conditions of placement, continuing placement as previously ordered, or placing the child with the department or a licensed child-caring agency.

(1) In cases in which the issue before the court is whether a child should be reunited with a parent, and the child is currently placed with someone other than a parent, the court must review the conditions for return and determine whether the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home with an in-home safety plan prepared or approved by the department

will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health.

(2) In cases in which the issue before the court is whether a child who is placed in the custody of a parent should be reunited with the other parent upon a finding that the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home of the other parent with an in-home safety plan prepared or approved by the department will not be detrimental to the child, the court must determine that the safety, well-being, and physical, mental, and emotional health of the child would not be endangered by reunification and that reunification would be in the best interest of the child.

(b) Motion for Termination of Supervision or Jurisdiction. Any party requesting termination of agency supervision or the jurisdiction of the court or both shall do so by written motion or in a written report to the court. The court must hear all parties present and enter an order terminating supervision or terminating jurisdiction and supervision or continuing them as previously ordered. The court shall not terminate jurisdiction unless the child is returned to the parent and has been in the placement for at least 6 months, the child is adopted, or the child attains the age of 18, unless the court has extended jurisdiction.

RULE 8.347. MOTION TO SUPPLEMENT ORDER OF ADJUDICATION, DISPOSITION ORDER, AND CASE PLAN

(a) Motion. After the court has entered an order of adjudication of dependency, any party may file a motion for the court to supplement the order of adjudication with findings that a parent or legal custodian contributed to the dependency status of the child pursuant to the statutory definition of a dependent child. The motion may also request that the court supplement the disposition order and the case plan.

(b) Contents.

(1) The motion must identify the age, sex, and name of the children whose parent or legal custodian is the subject of the motion.

(2) The motion must specifically identify the parent or legal custodian who is the subject of the motion.

(3) The motion must allege sufficient facts showing that a parent or legal custodian contributed to the dependency status of the child pursuant to the statutory definition of a dependent child.

(c) Verification. The motion must be signed under oath, stating that the signer is filing the motion in good faith.

(d) Amendments. At any time prior to the conclusion of an evidentiary hearing on the motion, an amended motion may be filed or the motion may be amended by oral motion. A continuance may be granted on motion and a showing that the amendment prejudices or materially affects any party.

(e) Notice.

(1) In General. Parents or legal custodians who have previously been properly served with the dependency petition or who have previously appeared in the dependency proceeding shall be served with a notice of hearing and copies of the motion and the initial order of adjudication of dependency in the same manner as the service of documents that are filed after the service of the initial dependency petition as provided in these rules. The notice shall require the person on whom it is served to appear for the preliminary hearing on the motion at a time and place specified, not less than 72 hours after service of the motion. The document containing the notice to respond or appear 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 PRELIMINARY HEARING ON THE MOTION CONSTITUTES YOUR CONSENT TO THE COURT'S FINDING THAT YOU CONTRIBUTED TO THE DEPENDENCY STATUS OF THE CHILD PURSUANT TO THE STATUTORY DEFINITION OF A DEPENDENT CHILD AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD (OR CHILDREN)."

(2) Summons.

(A) Parents or legal custodians who have not been properly served with the dependency petition or who have not previously appeared in the dependency proceeding must be properly served with a summons and copies of the motion and the initial order of adjudication of dependency. The summons must require the person on whom it is served to appear for a preliminary hearing on the motion at a time and place specified, not less than 72 hours after service of the summons. The summons 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 PRELIMINARY HEARING ON THE MOTION CONSTITUTES YOUR CONSENT TO THE COURT'S FINDING THAT YOU CONTRIBUTED TO THE DEPENDENCY STATUS OF THE CHILD PURSUANT TO THE STATUTORY DEFINITION OF A DEPENDENT CHILD AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD (OR CHILDREN)."

(B) Upon the filing of the motion and upon request, the clerk shall issue a summons.

(C) The movant shall not be required to serve a summons on a parent or legal custodian who has previously been properly served with the dependency petition or who has appeared in the dependency proceeding.

(D) The summons shall be served in the same manner as service of a dependency petition as required by law.

(E) Service by publication of the motion shall not be required.

(F) If the location of the party to be served is unknown, the court may enter an order granting the motion only if the movant has properly served the person subject to the motion, the person subject to the motion has appeared in the proceeding, or the movant has conducted a diligent search and filed with the court an affidavit of diligent search.

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

(f) Preliminary Hearing on Motion.

(1) The court must conduct a preliminary hearing and determine whether the parent or legal custodian who is the subject of the motion:

(A) has been properly served with the summons or notice, and with copies of the motion and initial order of adjudication of dependency;

(B) is represented by counsel or is entitled to appointed counsel as provided by law; and

(C) wishes to challenge the motion or consent to the court granting the motion.

(2) If the parent or legal custodian who is the subject of the motion wishes to challenge the motion, the court must schedule an evidentiary hearing on the motion within 30 days.

(3) If the parent or legal custodian who is the subject of the motion wishes to consent to the motion without admitting or denying the allegations of the motion, the court shall enter an order supplementing the initial order of adjudication of dependency based on the sworn allegations of the motion. Failure of the person properly served with notice to personally appear at the preliminary hearing on the motion constitutes the person's consent to the court's finding that the person contributed to the dependency status of the child pursuant to the statutory definition of a dependent child.

(g) Evidentiary Hearing.

(1) Hearing Procedures. The hearing shall be conducted in the same manner and with the same procedures as the adjudicatory hearing on the dependency petition as provided in these rules.

(2) Motion for Judgment Denying Motion. In all proceedings, if at the close of the evidence for the movant, the court is of the opinion that the evidence is insufficient to warrant findings that a parent or legal custodian contributed to the dependency status of the child pursuant to the statutory definition of a dependent child, it may, and on the motion of any party must, enter an order denying the motion for insufficiency of the evidence.

(3) Denial of Motion. If the court, at the conclusion of the evidence, finds that the allegations in the motion have not been sustained, the court shall enter an order denying the motion.

(4) Granting of the Motion. If the court finds that the movant has proven the allegations of the motion, the court shall enter an order granting the motion as provided in these rules.

(5) Failure to Appear. If a person appears for the preliminary hearing on the motion and the court orders that person to personally appear at the evidentiary hearing on the motion, stating the date, time, and place of the evidentiary hearing, then that person's failure to appear for the scheduled

evidentiary hearing constitutes consent to the court's finding that the person contributed to the dependency status of the child pursuant to the statutory definition of a dependent child.

(h) Supplemental Order of Adjudication.

(1) If the parent or legal custodian consents to the motion and its allegations or if the court finds that the movant has proven the allegations of the motion at an evidentiary hearing, the court shall enter a written order granting the motion and specifying facts that support findings that a parent or legal custodian contributed to the dependency status of the child pursuant to the statutory definition of a dependent child and stating whether the court made the finding by a preponderance of the evidence or by clear and convincing evidence.

(2) If necessary, the court shall schedule a supplemental disposition hearing within 15 days.

(3) The court shall advise the parent who is the subject of the motion that if the parent fails to substantially comply with the case plan, parental rights may be terminated.

(4) If the child is in out-of-home placement, the court shall inquire of the parents whether the parents have relatives who might be considered as placement for the child. The parents shall provide to the court and to all parties the identity and location of the relatives.

(i) Supplemental Disposition Hearing.

(1) Hearing. If necessary, the court shall conduct a supplemental disposition hearing pursuant to the same procedures for a disposition hearing and case plan review hearing as provided by law.

(2) Supplemental Reports and Case Plan.

(A) A written case plan and any reports required by law prepared by an authorized agent of the department must be filed with the court, served upon the parents of the child, provided to the representative of the guardian ad litem program, if the program has been appointed, and provided to all other parties not less than 72 hours before the supplemental disposition hearing.

(B) The court may grant an exception to the requirement for any reports required by law by separate order or within the judge's order of disposition upon a finding that all the family and child information required by law is available in other documents filed with the court.

(3) Supplemental Order of Disposition. The court shall in its written supplemental order of disposition include:

(A) the placement or custody of the child;

(B) special conditions of placement and visitation;

(C) evaluation, counseling, treatment activities, and other actions to be taken by the parties, when ordered;

(D) the names of the supervising or monitoring agencies, and the continuation or discharge of the guardian ad litem, when appropriate;

(E) the date, time, and location for the next case review as required by law;

(F) child support payments, if the child is in an out-of-home placement;

(G) if the child is placed in foster care, the reasons why the child was not placed in the legal custody of an adult relative, legal custodian, or other adult approved by the court;

(H) approval of the case plan and any reports required by law or direction to amend the case plan within 30 days; and

(I) such other requirements as are deemed necessary to protect the health, safety, and well-being of the child.

RULE 8.350. PLACEMENT OF CHILD INTO RESIDENTIAL TREATMENT CENTER AFTER ADJUDICATION OF DEPENDENCY

(a) Placement.

(1) Treatment Center Defined. Any reference in this rule to a residential treatment center is to a residential treatment center or facility licensed under section 394.875, Florida Statutes, for residential mental health treatment. Any reference to hospital is to a hospital licensed under chapter 395, Florida Statutes, for residential mental health treatment. This rule does not apply to placement under sections 394.463 or 394.467, Florida Statutes.

(2) Basis for Placement. The placement of any child who has been adjudicated dependent for residential mental health treatment shall be as provided by law.

(3) Assessment by Qualified Evaluator. Whenever the department believes that a child in its legal custody may require placement in a residential treatment center or hospital, the department shall arrange to have the child assessed by a qualified evaluator as provided by law and shall file notice of this with the court and all parties. Upon the filing of this notice by the department, the court shall appoint a guardian ad litem for the child, if one has not already been appointed, and shall also appoint an attorney for the child. All appointments pursuant to this rule shall conform to the provisions of rule 8.231. Both the guardian ad litem and attorney shall meet the child and shall have the opportunity to discuss the child's suitability for residential treatment with the qualified evaluator conducting the assessment. Upon the completion of the evaluator's written assessment, the department shall provide a copy to the court and to all parties. The guardian ad litem shall also provide a written report to the court and to all parties indicating the guardian ad litem's recommendation as to the child's placement in residential treatment and the child's wishes.

(4) Motion for Placement. If the department seeks to place the child in a residential treatment center or hospital, the department shall immediately file a motion for placement of the child with the court. This motion shall include a statement as to why the child is suitable for this placement and why less restrictive alternatives are not appropriate and also shall include the written findings of the qualified evaluator. The motion shall state whether all parties, including the child, are in agreement. Copies of the motion must be served on the child's attorney and all parties and participants.

(5) Immediate Placement. If the evaluator's written assessment indicates that the child requires immediate placement in a residential treatment center or hospital and that such placement cannot wait for a hearing, then the

department may place the child pending a hearing, unless the court orders otherwise.

(6) Guardian ad Litem. The guardian ad litem must be represented by an attorney at all proceedings under this rule, unless the guardian ad litem is acting as an attorney.

(7) Status Hearing. Upon the filing of a motion for placement, the court shall set the matter for a status hearing within 48 hours, excluding weekends and holidays. The department shall timely provide notice of the date, time, and place of the hearing to all parties and participants.

(8) Notice of Hearing. The child's attorney or guardian ad litem shall notify the child of the date, time, and place of the hearing. No hearing shall proceed without the presence of the child's attorney. The guardian ad litem may be excused by the court for good cause shown.

(9) Disagreement with Placement. If no party disagrees with the department's motion at the status hearing, then the motion for placement may be approved by the court. However, if any party, including the child, disagrees, then the court shall set the matter for hearing within 10 working days.

(10) Presence of Child. The child shall be present at the hearing unless the court determines pursuant to subdivision (c) that a court appearance is not in the child's best interest. In such circumstances, the child shall be provided the opportunity to express his or her views to the court by a method deemed appropriate by the court.

(11) Hearing on Placement.

(A) At the hearing, the court shall consider, at a minimum, all of the following:

(i) based on an independent assessment of the child, the recommendation of a department representative or authorized agent that the residential treatment or hospitalization is in the child's best interest and a showing that the placement is the least restrictive available alternative;

(ii) the recommendation of the guardian ad litem;

(iii) the written findings of the evaluation and suitability assessment prepared by a qualified evaluator; and

(iv) the views regarding placement in residential treatment that the child expresses to the court.

(B) All parties shall be permitted to present evidence and witnesses concerning the suitability of the placement.

(C) If the court determines that the child is not suitable for residential treatment, the court shall order the department to place the child in the least restrictive setting that is best suited to meet the child's needs.

(b) Continuing Residential Placement Reviews.

(1) The court shall conduct a hearing to review the status of the child's residential treatment plan no later than 60 days after the child's admission to the residential treatment program. An independent review of the child's progress toward achieving the goals and objectives of the treatment plan must be completed by a qualified evaluator and submitted to the court, the child's attorney, and all parties in writing at least 72 hours before the 60-day review hearing.

(2) Review hearings shall be conducted every 3 months thereafter, until the child is placed in a less restrictive setting. At each 3-month review hearing, if the child is not represented by an attorney, the court shall appoint counsel. At the 3-month review hearing the court shall determine whether the child disagrees with continued placement.

(3) If the court determines at any hearing that the child is not suitable for continued residential treatment, the court shall order the department to place the child in the least restrictive setting that is best suited to meet the child's needs.

(c) Presence of Child. The child shall be present at all court hearings unless the court finds that the child's mental or physical condition is such that a court appearance is not in the child's best interest. In such circumstances, the child shall be provided the opportunity to express his or her views to the court by a method deemed appropriate by the court.

(d) Standard of Proof. At the hearing, the court shall determine whether the evidence supporting involuntary commitment of a dependent child to a residential mental health treatment facility is clear and convincing.

RULE 8.355. ADMINISTRATION OF PSYCHOTROPIC MEDICATION TO A CHILD IN SHELTER CARE OR IN FOSTER CARE WHEN PARENTAL CONSENT HAS NOT BEEN OBTAINED

(a) Motion for Court Authorization for Administration of Psychotropic Medications.

(1) Whenever the department believes that a child in its physical or legal custody requires the administration of a psychotropic medication, and the child's parents or legal guardians have not provided express and informed consent as provided by law, the department or its agent shall file a motion with the court to authorize the administration of the psychotropic medication before the administration of the medication, except as provided in subdivision (c) of this rule. In all cases in which a motion is required, the motion shall include the following information:

(A) the written report of the department describing the efforts made to enable the prescribing physician or psychiatric nurse to obtain express and informed consent for providing the medication to the child and describing other treatments considered or recommended for the child;

(B) the prescribing physician's or psychiatric nurse's signed medical report, as required by law; and

(C) whether the prescribing physician or psychiatric nurse has obtained the child's assent to take the medication.

(2) If the child declines to assent to the proposed administration of psychotropic medication the court shall appoint an attorney to represent the child and a hearing shall be held on the department's motion. The appointment shall conform to the provisions of rule 8.231.

(3) The department must serve a copy of the motion, and notify all parties and the child's attorney, if appointed, of its proposed administration of psychotropic medication to the child in writing, or by whatever other method best

ensures that all parties receive notification of the proposed action, within 48 hours after filing the motion for court authorization.

(4) If any party other than the child objects to the proposed administration of the psychotropic medication to the child, that party must file its objection within 2 working days after being notified of the department's motion.

(b) Court Action on Department's Motion for Administration of Psychotropic Medication.

(1) If the child assents and no party timely files an objection to the department's motion, the court may enter its order authorizing the proposed administration of the psychotropic medication without a hearing. Based on its determination of the best interests of the child, the court may order additional medical consultation or require the department to obtain a second opinion within a reasonable time, not more than 21 calendar days. When the court orders an additional medical consultation or second medical opinion, the department shall file a written report including the results of this additional consultation or a copy of the second medical opinion with the court within the time required by the court, and shall serve a copy of the report as required by subdivision (a)(2) of this rule.

(2) If the child does not assent to the medication or any party timely files its objection to the proposed administration of the psychotropic medication to the child, the court shall hold a hearing as soon as possible on the department's motion.

(A) At such hearing, the medical report of the prescribing physician or psychiatric nurse is admissible in evidence.

(B) At such hearing, the court shall ask the department whether additional medical, mental health, behavioral, counseling, or other services are being provided to the child that the prescribing physician or psychiatric nurse considers to be necessary or beneficial in treating the child's medical condition, and which the physician or psychiatric nurse recommends or expects to be provided to the child with the medication.

(C) The court may order additional medical consultation or a second medical opinion, as provided in subdivision (b)(1) of this rule.

(D) After considering the department's motion and any testimony received, the court may order that the department provide or continue to

provide the proposed psychotropic medication to the child, on a determination that it is in the child's best interest to do so.

(c) Emergency Situations.

(1) Shelter Care. When a child is initially removed from the home and taken into custody under section 39.401, Florida Statutes, and the department continues to administer a current prescription of psychotropic medication to the child, the department shall request court authorization for the continued administration of the medication at the shelter hearing. This request shall be included in the shelter petition.

(A) The department shall provide all information in its possession to the court in support of its request at the shelter hearing. The court may authorize the continued administration of the psychotropic medication only until the arraignment hearing on the petition for adjudication, or for 28 days following the date of the child's removal, whichever occurs first.

(B) When the department believes, based on the required physician's evaluation, that it is appropriate to continue the psychotropic medication beyond the time authorized by the court at the shelter hearing, the department shall file a motion seeking continued court authorization at the same time as it files the dependency petition, within 21 days after the shelter hearing.

(2) When Delay Would Cause Significant Harm. Whenever the department believes, based on the certification of the prescribing physician or psychiatric nurse, that delay in providing the prescribed psychotropic medication to the child would, more likely than not, cause significant harm to the child, the department must submit a motion to the court seeking continuation of the medication within 3 working days after the department begins providing the medication to the child.

(A) The motion seeking authorization for the continued administration of the psychotropic medication to the child shall include all information required in subdivision (a)(1) of this rule. The required medical report must also include the specific reasons why the child may experience significant harm, and the nature and the extent of the potential harm, resulting from a delay in authorizing the prescribed medication.

(B) The department shall serve the motion on all parties within 3 working days after the department begins providing the medication to the child.

(C) The court shall hear the department's motion at the next regularly scheduled court hearing required by law, or within 30 days after the date of the prescription, whichever occurs sooner. However, if any party files an objection to the motion, the court shall hold a hearing within 7 days.

(3) In Emergency Psychiatric Placements. The department may authorize the administration of psychotropic medications to a child in its custody in advance of a court order in hospitals, crisis stabilization units, and in statewide inpatient psychiatric programs. Should the department do so, it must seek court authorization for the continued administration of the medication as required in subdivision (a) of this rule.

D. CASE PLANS

RULE 8.400. CASE PLAN DEVELOPMENT

(a) Case Planning Conference. The case plan must be developed in a face-to-face conference with the parents, the guardian ad litem, attorney ad litem and, if appropriate, the child and the temporary custodian of the child.

(b) Contents. The case plan must be written simply and clearly in English and the principal language of the parents, if possible. Each case plan must contain:

(1) a description of the problem being addressed, including the parent's behavior or acts resulting in risk to the child and the reason for the intervention by the department;

(2) a permanency goal;

(3) if it is a concurrent plan, a description of the permanency goal of reunification with the parent or legal custodian and one of the remaining permanency goals;

(4) the date the compliance period expires;

(5) a written notice to the parent that it is the parent's responsibility to take action to comply with the case plan so permanency with the child may

occur within the shortest period of time possible, but no later than 1 year after removal or adjudication of the child; the parent must notify the parties and the court of barriers to completing case plan tasks within a reasonable time after discovering such barriers if the parties are not actively working to overcome them; failure of the parent to substantially comply with the case plan may result in the termination of parental rights, and that a material breach of the case plan by the parent's action or inaction may result in the filing of a petition for termination of parental rights sooner than the expiration of the compliance period; and

(6) if the parent is incarcerated, the list of services available at the facility.

(c) Expiration of Case Plan. The case plan compliance period expires no later than 12 months after the date the child was initially removed from the home or the date the case plan was accepted by the court, whichever occurs first.

(d) Department Responsibility.

(1) The department shall prepare a draft of a case plan for each child receiving services under Chapter 39, Florida Statutes.

(2) The department shall document, in writing, a parent's unwillingness or inability to participate in the development of the case plan, provide the written documentation to the parent when available for the court record, and prepare a case plan.

(3) Before signing the case plan, the department must explain the provisions of the plan to all persons involved in its implementation, including, when appropriate, the child. The department shall ensure that the parent has contact information for all entities necessary to complete the tasks in the plan. The department must explain the strategies included in the plan which the parent can use to overcome barriers to case plan compliance and shall explain that if a barrier is discovered and the parties are not actively working to overcome such barrier, the parent must notify the parties and the court within a reasonable time after discovering such barrier.

(4) After the case plan has been developed, and before acceptance by the court, the department shall make the appropriate referrals for services that will allow the parents to begin the agreed-upon tasks and services immediately if the parents agree to begin compliance.

(5) The department must immediately give the parties, including the child if appropriate, a signed copy of the agreed-upon case plan.

(6) The department must prepare, but need not submit to the court, a case plan for a child who will be in care no longer than 30 days unless that child is placed in out of home care a second time within a 12-month period.

(7) The department must prepare a case plan for a child in out of home care within 60 days after the department removes the child from the home and shall submit the plan to the court before the disposition hearing for the court to review and approve.

(8) Not less than 3 business days before the disposition or case plan review hearing, the department must file a case plan with the court.

(9) After jurisdiction attaches, the department shall file with the court all case plans, including all case plans prepared before jurisdiction of the court attached. The department shall provide a copy of the case plans filed to all the parties whose whereabouts are known, not less than 3 business days before the disposition or case plan review hearing.

(10) The department must attach a copy of the child's transition plan, if applicable, to the case plan.

(e) Signature. The case plan must be signed by all parties except the child, if the child is not of an age or capacity to participate in the case planning process.

(f) Service. Each party, including the child, if appropriate, must be provided with a copy of the case plan not less than 3 business days before the disposition or case plan review hearing. If the location of a parent is unknown, this fact must be documented in writing and included in the plan.

RULE 8.401. CASE PLAN DEVELOPMENT FOR YOUNG ADULTS

(a) Case Planning Conference. The case plan must be developed in a face-to-face conference with the young adult, the guardian ad litem, attorney ad litem and, when appropriate, the legal guardian of the young adult, if the young adult is not of the capacity to participate in the case planning process.

(b) Contents. The case plan must be written simply and clearly in English and the principal language of the young adult. Each case plan must contain:

(1) a description of the services, including independent living services, to be provided to the young adult;

(2) a copy of the young adult's transition plan;

(3) the permanency goal of transition from licensed care to independent living; and

(4) the date the compliance period expires.

(c) Department Responsibility.

(1) After the case plan has been developed, the department must prepare the written case plan for each young adult receiving services under Chapter 39, Florida Statutes.

(2) After the case plan has been developed, and before acceptance by the court, the department must make the appropriate referrals for services that will allow the young adult to begin receiving the agreed-upon services immediately.

(3) The department must immediately provide the young adult a signed copy of the agreed-upon case plan.

(4) Not less than 3 business days before a judicial review or permanency hearing, the department must file the case plan with the court.

(5) The department must attach a copy of the young adult's transition plan to the case plan.

(d) Signature. The case plan must be signed by the young adult, all parties and, when appropriate, the legal guardian if the young adult is not of the capacity to participate in the case planning process.

(e) Service. Each party must be served with a copy of the case plan not less than 3 business days before the judicial review hearing. If the location of the young adult is unknown, this fact must be documented in writing and filed with the court.

(f) Re-admitted to Care. If the department petitions the court for reinstatement of jurisdiction after a young adult has been re-admitted to care under Chapter 39, Florida Statutes, the department must file an updated case plan.

RULE 8.410. APPROVAL OF CASE PLANS

(a) Hearing. The court shall review the contents of the case plan at the disposition or case plan review hearing unless a continuance for the filing of the case plan has been granted by the court.

(b) Determinations by Court. At the hearing, the court shall determine if:

(1) The plan is consistent with the previous orders of the court placing the child in care.

(2) The plan is consistent with the requirements for the content of a case plan as provided by law.

(3) The parents were advised of their right to have counsel present at all prior hearings and the parents were advised of their right to participate in the preparation of the case plan and to have counsel or any other person assist in the preparation of the case plan.

(4) The case plan is meaningful and designed to address the facts, circumstances, and problems on which the court based its order of dependency for the child.

(5) The plan adequately addresses the goals and needs of the child.

(c) Amendment of Initial Case Plan. During the hearing, if the court determines that the case plan does not meet statutory requirements and include previous court orders, it shall order the parties to make amendments to the plan. The amended plan must be submitted to the court within 30 days for another hearing and approval. A copy of the amended plan must be provided to each party, if the location of the party is known, at least 3 business days before filing with the court. If the parties do not agree on the final terms, the court shall order those conditions and tasks it believes must be accomplished to obtain permanency for the child. In addition, the court may order the department to provide those services necessary to assist in achieving the goal of the case plan.

(d) Entry of Findings. The court shall enter its findings with respect to the review of the case plan in writing and make specific findings on each element required by law to be included in a case plan.

(e) Review Hearing. The court will set a hearing to review the performance of the parties to the case plan no later than 90 days after the disposition hearing or the hearing at which the case plan was approved, 6 months from the date on which the child was removed from the home, or 6 months from the date of the last judicial review, whichever comes first.

RULE 8.415. JUDICIAL REVIEW OF DEPENDENCY CASES

(a) Required Review. All dependent children must have their status reviewed as provided by law. Any party may petition the court for a judicial review as provided by law.

(b) Scheduling Hearings.

(1) Initial Review Hearing. The court must determine when the first review hearing must be held and the clerk of the court must immediately schedule the review hearing. In no case may the hearing be scheduled for later than 6 months from the date of removal from the home or 90 days from the disposition or case plan approval hearing, whichever comes first. In every case, the court must conduct a judicial review at least every 6 months.

(2) Subsequent Review Hearings. At each judicial review hearing, the court must schedule the next judicial review hearing which must be conducted within 6 months. The clerk of the court, at the judicial review hearing, must provide the parties, the social service agency charged with the supervision of care, custody, or guardianship of the child, the foster parent or legal custodian in whose home the child resides, any preadoptive parent, and such other persons as the court may direct with written notice of the date, time, and location of the next judicial review hearing.

(3) Review Hearings for Children 17 Years of Age. The court must hold a judicial review hearing within 90 days after a child's 17th birthday. The court must also issue an order, separate from the order on judicial review, that the specific disabilities of nonage of the child have been removed pursuant to sections 743.044, 743.045, 743.046, and 743.047, Florida Statutes, as well as any other disabilities of nonage that the court finds to be in the child's best interest to remove. The court must continue to hold timely judicial review hearings. The

department must update the child's transition plan before each judicial review hearing as required by law. If necessary, the court may review the status of the child more frequently during the year before the child's 18th birthday. At the last review hearing before the child reaches 18 years of age, the court must also address whether the child plans to remain in foster care, and, if so, ensure that the child's transition plan complies with the law. The court must approve the child's transition plan before the child's 18th birthday.

(4) Review Hearings for Young Adults in Foster Care. The court must review the status of a young adult at least every six months and must hold a permanency review hearing at least annually while the young adult remains in foster care. The young adult or any other party to the dependency case may request an additional hearing or judicial review.

(c) Report. In all cases, the department or its agent must prepare a report to the court. The report must contain facts showing the court to have jurisdiction of the cause as a dependency case. It must contain information as to the identity and residence of the parent, if known, and the legal custodian, the dates of the original dependency adjudication and any subsequent judicial review proceedings, the results of any safe-harbor placement assessment including the status of the child's placement, and a request for one or more of the following forms of relief:

(1) that the child's placement be changed;

(2) that the case plan be continued to permit the parents or social service agency to complete the tasks assigned to them in the agreement;

(3) that proceedings be instituted to terminate parental rights and legally free the child for adoption; or

(4) that the child has a special need as defined in section 39.01305, Florida Statutes, who is not represented by an attorney, and who requires appointment of an attorney.

(d) Service. A copy of the report containing recommendations and, if not previously provided by the court, a notice of review hearing must be served on all persons who are required by law to be served at least 72 hours before the judicial review hearing.

(e) Information Available to Court. At the judicial review hearing the court may receive any relevant and material evidence pertinent to the cause. This

must include written reports required by law and may include, but must not be limited to, any psychiatric or psychological evaluations of the child or parent, caregiver, or legal custodian that may be obtained and that are material and relevant. This evidence may be received by the court and relied on to the extent of its probative value, even though it may not be competent in an adjudicatory hearing.

(f) Court Action.

(1) The court must hold a hearing to review the compliance of the parties with the case plan and to determine what assigned tasks were and were not accomplished and the reasons for any noncompliance. The court must also determine the frequency, kind, and duration of contracts among siblings who have been separated during placement, as well as any efforts undertaken to reunite separated siblings, if doing so is in the best interest of each child.

(2) If the court determines that the circumstances that caused the out-of-home placement, and any issues subsequently identified, have been remedied to the extent that returning the child to the home with an in-home safety plan prepared or approved by the department will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health, the court must return the child to the custody of the parents.

(3) If the court finds that the social service agency has not complied with its obligations, the court may find the social service agency to be in contempt, must order the social service agency to submit its plan for compliance with the case plan, and must require the social service agency to show why the child could not be safely returned to the home of the parents. If the court finds that the child could not be safely returned to the parents, it must extend the case plan for a period of not more than 6 months to allow the social service agency to comply with its obligations under the case plan.

(4) At any judicial review held under section 39.701(3), Florida Statutes, if, in the opinion of the court, the department has not met its obligations to the child as stated in the written case plan or in the provision of independent living services, the court may issue an order directing the department to show cause as to why it has not done so. If the department cannot justify its noncompliance, the court may give the department 30 days within which to comply and, on failure to comply, the court may hold the department in contempt.

(5) The court shall appoint an attorney to represent a child with special needs as required by rule 8.231, and who is not already represented by an attorney.

(6) If, at any judicial review, the court determines that the child shall remain in out-of-home care in a placement other than with a parent, the court shall order that the department has placement and care responsibility for the child.

(7) The court must enter a written order on the conclusion of the review hearing including a statement of the facts, those findings it was directed to determine by law, a determination of the future course of the proceedings, and the date, time, and place of the next hearing.

(8) When a young adult is in extended foster care, each judicial review order shall provide that the department has placement and care responsibility for the young adult. When a young adult is in extended foster care, the court shall enter an order at least every 12 months that includes a finding of whether the department has made reasonable efforts to finalize the permanency plan currently in effect.

(g) Jurisdiction.

(1) When a child is returned to the parents, the court must not terminate its jurisdiction over the child until 6 months after the return. Based on a report of the department and any other relevant factors, the court must then determine whether jurisdiction should be continued or terminated. If its jurisdiction is to be terminated, it must enter an order to that effect.

(2) When a child has not been returned to the parent, but has been permanently committed to the department for subsequent adoption, the court must continue to hold judicial review hearings on the status of the child at least every 6 months until the adoption is finalized. These hearings must be held in accordance with these rules.

(3) If a young adult petitions the court at any time before his or her 19th birthday requesting the court's continued jurisdiction, the court may retain or reinstate jurisdiction for a period of time not to continue beyond the date of the young adult's 19th birthday for the purpose of determining whether appropriate services that were required to be provided to the young adult before reaching 18 years of age have been provided.

(4) If a young adult has chosen to remain in extended foster care after he or she has reached 18 years of age, the department may not close a case and the court may not terminate jurisdiction until the court finds, following a hearing, that the appropriate statutory criteria have been met.

(5) If the young adult elects to voluntarily leave extended foster care for the sole purpose of ending a removal episode and immediately thereafter executes a voluntary placement agreement with the department to reenroll in extended foster care, the court shall enter an order finding that the prior removal episode has ended. Under these circumstances, the court maintains jurisdiction and a petition to reinstate jurisdiction as provided by law is not required. When a young adult enters extended foster care by executing a voluntary placement agreement, the court shall enter an order within 180 days after execution of the agreement that determines whether the placement is in the best interest of the young adult.

(6) If a petition for special immigrant juvenile status and an application for adjustment of status have been filed on behalf of a foster child and the petition and application have not been granted by the time the child reaches 18 years of age, the court may retain jurisdiction solely for the purpose of allowing the continued consideration of the petition and application by federal authorities. Review hearings must be set solely for the purpose of determining the status of the petition and application. The court's jurisdiction must terminate on the final decision of the federal authorities, or on the immigrant child's 22nd birthday, whichever occurs first.

(h) Administrative Review. The department, under a formal agreement with the court in particular cases, may conduct administrative reviews instead of judicial reviews for children in out-of-home placement. Notice must be provided to all parties. An administrative review may not be substituted for the first judicial review or any subsequent 6-month review. Any party may petition the court for a judicial review as provided by law.

(i) Concurrent Planning.

(1) At the initial judicial review hearing, the court must make findings regarding the likelihood of the child's reunification with the parent or legal custodian within 12 months after the removal of the child from the home. In making such findings, the court shall consider the level of the parent or legal custodian's compliance with the case plan and demonstrated change in protective capacities compared to that necessary to achieve timely reunification within 12

months after the removal of the child from the home. The court shall also consider the frequency, duration, manner, and level of engagement of the parent or legal custodian's visitation with the child in compliance with the case plan.

(2) If the court makes a written finding that it is not likely that the child will be reunified with the parent or legal custodian within 12 months after the child was removed from the home, the department must file a motion to amend the case plan and declare that it will use concurrent planning for the case plan.

(3) The department must file the motion to amend the case plan no later than 10 business days after receiving the written finding of the court and attach the proposed amended case plan to the motion.

(4) If concurrent planning is already being used, the case plan must document the efforts the department is making to complete the concurrent goal.

Committee Notes

1991 Adoption. The rule allows for certain forms of relief pertinent to foster care review. It allows the court to order commencement of a termination of parental rights proceeding if the parents are not in compliance. The court is also permitted to extend or modify the plan.

RULE 8.420. CASE PLAN AMENDMENTS

(a) Modifications. After the case plan has been developed, the tasks and services agreed upon in the plan may not be changed or altered except as follows.

(1) The case plan may be amended at any time to change the goal of the plan, employ the use of concurrent planning, add or remove tasks the parent must complete to substantially comply with the plan, provide appropriate services for the child, and update the child's health, mental health, and education records.

(2) The case plan may be amended on approval of the court if all parties are in agreement regarding the amendments to the plan and the amended plan is signed by all parties and submitted to the court with a memorandum of explanation.

(3) The case plan may be amended by the court or on motion of any party at any hearing to change the goal of the plan, employ the use of concurrent planning, or add or remove the tasks the parent must complete in order

to substantially comply with the plan, if there is a preponderance of evidence demonstrating the need for the amendment.

(4) The case plan may be amended by the court or on motion of any party at any hearing to provide appropriate services to the child if there is competent evidence demonstrating the need for the amendment.

(5) The case plan is deemed amended as to the child's health, mental health, and education records when the child's updated health and education records are filed by the department.

When determining whether to amend the case plan, the court must consider the length of time the case has been open, the level of parental engagement to date, the number of case plan tasks completed, the child's type of placement and attachment, and the potential for successful reunification.

(b) Basis to Amend the Case Plan. The need to amend the case plan may be based on information discovered or circumstances arising after the approval of the case plan for:

(1) a previously unaddressed condition that, without services, may prevent the child from safely returning to or remaining in the home;

(2) the child's need for permanency;

(3) the failure of a party to substantially comply with a task in the original case plan, including the ineffectiveness of a previously offered service;

(4) an error or oversight in the case plan;

(5) information discovered or circumstances arising after the approval of the plan regarding the provision of safe and proper care for the child; or

(6) incarceration of a parent after a case plan has been developed if the parent's incarceration has an impact on permanency for the child, including, but not limited to:

(A) modification of provisions regarding visitation and contact with the child;

(B) identification of services within the facility; or

(C) changing the permanency goal or establishing a concurrent case plan goal.

(c) Service. A copy of the amended plan must be immediately given to all parties.

RULE 8.425. PERMANENCY HEARINGS

(a) Required Review. A permanency hearing must be held no later than 12 months after the date the child was removed from the home or within 30 days after a court determines that reasonable efforts to return a child to either parent are not required, whichever occurs first. A permanency hearing must be held at least every 12 months for any child who continues to be supervised by the department or awaits adoption.

(b) Determinations at Hearing.

(1) The court shall determine:

(A) whether the current permanency goal for the child is appropriate or should be changed;

(B) when the child will achieve one of the permanency goals;

(C) whether the department has made reasonable efforts to finalize the permanency plan currently in effect; and

(D) whether the frequency, duration, manner, and level of engagement of the parent or legal guardian's visitation with the child meets the case plan requirements.

(2) The court shall approve a permanency goal for the child as provided by law choosing from the following options, listed in order of preference:

(A) reunification;

(B) adoption, if a petition for termination of parental rights has been or will be filed;

(C) permanent guardianship of a dependent child under section 39.6221, Florida Statutes;

(D) permanent placement with a fit and willing relative under section 39.6231, Florida Statutes; or

(E) placement in another planned permanent living arrangement under section 39.6241, Florida Statutes.

(3) The best interest of the child is the primary consideration in determining the permanency goal. The court must also consider the reasonable preference of the child if the court has found the child to be of sufficient intelligence, understanding, and experience to express a preference and any recommendation of the guardian ad litem.

(c) Case Plan. The case plan must list the tasks necessary to finalize the permanency placement and shall be amended at the permanency hearing if necessary. If a concurrent case plan is in place, the court shall approve a single goal that is in the child's best interest.

(d) Permanency Order.

(1) The findings of the court regarding reasonable efforts to finalize the permanency plan must be explicitly documented, made on a case-by-case basis, and stated in the court order.

(2) The court shall enter an order approving the permanency goal for the child.

(3) If the court approves a permanency goal of permanent guardianship of a dependent child, placement with a fit and willing relative, or another planned permanent living arrangement, the court shall make findings as to why this permanent placement is established without adoption of the child to follow. The department and the guardian ad litem must provide the court with a recommended list and description of services needed by the child, such as independent living services and medical, dental, educational, or psychological referrals, and a recommended list and description of services needed by his or her caregiver.

(4) If the court establishes a permanent guardianship for the child, the court's written order shall:

(A) transfer parental rights with respect to the child relating to protection, education, care and control of the person, custody of the person, and decision-making on behalf of the child to the permanent guardian;

(B) list the circumstances or reasons why the child's parents are not fit to care for the child and why reunification is not possible by referring to specific findings of fact made in its order adjudicating the child dependent or by making separate findings of fact;

(C) state the reasons why a permanent guardianship is being established instead of adoption;

(D) specify the frequency and nature of visitation or contact between the child and his or her parents, siblings, and grandparents; and

(E) require that the permanent guardian not return the child to the physical care and custody of the person from whom the child was removed without the approval of the court; and

(F) state whether the child demonstrates a strong attachment to the prospective permanent guardian and such guardian has a strong commitment to permanently caring for the child.

(5) The court shall retain jurisdiction over the case and the child shall remain in the custody of the permanent guardian unless the order creating the permanent guardianship is modified by the court. The court shall discontinue regular review hearings and relieve the department of the responsibility for supervising the placement of the child. Notwithstanding the retention of jurisdiction, the placement shall be considered permanency for the child.

(6) If the court permanently places a child with a fit and willing relative, the court's written order shall:

(A) list the circumstances or reasons why reunification is not possible by referring to specific findings of fact made in its order adjudicating the child dependent or by making separate findings of fact;

(B) state the reasons why permanent placement with a fit and willing relative is being established instead of adoption;

(C) specify the frequency and nature of visitation or contact between the child and his or her parents, siblings, and grandparents; and

(D) require that the relative not return the child to the physical care and custody of the person from whom the child was removed without the approval of the court.

(7) If the court establishes another planned permanent living arrangement as the child's permanency option:

(A) The court must find that a more permanent placement, such as adoption, permanent guardianship, or placement with a fit and willing relative, is not in the best interests of the child.

(B) The department shall document reasons why the placement will endure and how the proposed arrangement will be more stable and secure than ordinary foster care.

(C) The court must find that the health, safety, and well-being of the child will not be jeopardized by such an arrangement.

(D) The court must find that compelling reasons exist to show that placement in another planned permanent living arrangement is the most appropriate permanency goal.

(e) Entry of Separate Order Establishing Permanency. If the court permanently places a child in a permanent guardianship or with a fit and willing relative, the court shall enter a separate order establishing the authority of the permanent guardian or relative to care for the child, reciting that individual's powers and authority with respect to the child and providing any other information the court deems proper which can be provided to persons who are not parties to the proceeding as necessary, notwithstanding the confidentiality provisions of Chapter 39, Florida Statutes.

(f) Recommendations for Sustaining Permanency. If the court approves a goal of placement with a fit and willing relative or another planned permanent living arrangement, the department and the guardian ad litem must provide the court with a recommended list and description of services needed by the child, and a recommended list and description of services needed by his or her caregiver.

RULE 8.430. MODIFICATION OF PERMANENCY ORDER

(a) Best Interests of Child. The permanency placement is intended to continue until the child reaches the age of majority and may not be disturbed absent a finding by the court that the circumstances of the permanency placement are no longer in the best interest of the child.

(b) Request for Modification by a Parent.

(1) If, after a child is residing in the permanent placement approved at the permanency hearing, a parent who has not had his or her parental rights terminated makes a motion for reunification or increased contact with the child, the court shall first hold a hearing to determine whether the dependency case should be reopened and whether there should be a modification of the order. At the hearing, the parent must demonstrate that the safety, well-being, and physical, mental, and emotional health of the child is not endangered by the modification.

(2) The court shall base its decision concerning any motion by a parent for reunification or increased contact with a child on the effect of the decision on the safety, well-being, and physical and emotional health of the child. Factors that must be considered and addressed in the findings of fact of the order on the motion must include:

(A) the compliance or noncompliance of the parent with the case plan;

(B) the circumstances which caused the child's dependency and whether those circumstances have been resolved;

(C) the stability and length of the child's placement;

(D) the preference of the child, if the child is of sufficient age and understanding to express a preference;

(E) the recommendation of the current custodian; and

(F) the recommendation of the guardian ad litem, if one has been appointed.

RULE 8.435. REINSTATEMENT OF JURISDICTION FOR YOUNG ADULT

(a) Petition for Reinstatement of Jurisdiction.

(1) If a young adult who is between the ages of 18 and 21, or 22 if the young adult has a disability, is re-admitted to foster care, the department shall petition the court to reinstate jurisdiction over the young adult.

(2) The petition for reinstatement of jurisdiction must be in writing and specify that the young adult meets the eligibility requirements for readmission to foster care as provided by law. The petition shall indicate whether the young adult has a special need requiring appointment of counsel as required by section 39.01305, Florida Statutes. The petition is not required to be sworn and notarized.

(3) The department shall serve the young adult and any party a copy of the petition for reinstatement of jurisdiction.

(b) Hearing on Petition for Reinstatement of Jurisdiction.

(1) Upon filing of the petition for reinstatement of jurisdiction, the court shall schedule and conduct a hearing on the petition for reinstatement of jurisdiction.

(2) The department shall serve the young adult and any party a notice of the hearing on the petition for reinstatement of jurisdiction.

(c) Order on Petition for Reinstatement of Jurisdiction.

(1) If the department establishes that the young adult meets the eligibility requirements for readmission to foster care as provided by law, the court shall enter an order reinstating jurisdiction over the young adult.

(2) In the order reinstating jurisdiction, the court shall schedule a judicial review hearing to take place within 6 months.

(3) The court shall appoint an attorney to represent a young adult with special needs as defined in section 39.01305, Florida Statutes, who is not already represented by an attorney.

E. TERMINATION OF PARENTAL RIGHTS

RULE 8.500. PETITION

(a) Initiation of Proceedings.

(1) All proceedings seeking the termination of parental rights to a child shall be initiated by the filing of an original petition in the pending dependency action, if any.

(2) A petition for termination of parental rights may be filed at any time by the department, the guardian ad litem, or any person having knowledge of the facts. Each petition shall be titled a petition for termination of parental rights.

(3) When provided by law, a separate petition for dependency need not be filed.

(b) Contents.

(1) The petition shall contain allegations as to the identity and residence of the parents, if known.

(2) The petition shall identify the age, sex, and name of the child. Two or more children may be the subject of the same petition.

(3) The petition shall include facts supporting allegations that each of the applicable statutory elements for termination of parental rights has been met.

(4) When required by law, the petition shall contain a showing that the parents were offered a case plan and did not substantially comply with it.

(5) The petition shall contain an allegation that the parents will be informed of the availability of private placement of the child with an adoption entity, as defined in chapter 63, Florida Statutes.

(6) The petition shall have a certified copy of the birth certificate of each child named in it attached unless the petitioner, after diligent search and inquiry, is unable to produce it, in which case the petition shall state the date and place of birth of each child, unless these matters cannot be ascertained after diligent search and inquiry or for other good cause.

(c) Verification. The petition shall be signed under oath stating the good faith of the petitioner in filing it. No objection to a petition on the grounds that it was not signed or verified as required shall be entertained after a plea to the merits.

(d) Amendments. At any time before the conclusion of an adjudicatory hearing, an amended petition may be filed or the petition may be amended by motion. However, after a written answer has been filed or the adjudicatory hearing has commenced, amendments shall be permitted only with the permission of the court unless all parties consent. Amendments shall be freely permitted in the interest of justice and the welfare of the child. A continuance shall be granted on motion and a showing that the amendment prejudices or materially affects any party.

(e) Defects and Variances. No petition or any count of it shall be dismissed, or any judgment vacated, because of any defect in the form of the petition or of misjoinder of counts. If the court is of the opinion that the petition is so vague, indistinct, and indefinite as to mislead the parent and prejudice him or her in the preparation of a defense, the petitioner will be required to furnish a more definite statement.

(f) Voluntary Dismissal. The petitioner, without leave of the court, at any time before entry of an order of adjudication, may request a voluntary dismissal of the petition by serving a notice of request of dismissal on all parties or, if during a hearing, by so stating on the record. The petition shall be dismissed and the court loses jurisdiction unless another party adopts the petition within 72 hours. Unless otherwise stated, the dismissal shall be without prejudice.

(g) Parental Consent.

(1) The parents of the child may consent to the petition for termination of parental rights at any time, in writing or orally, on the record.

(2) If, before the filing of the petition for termination of parental rights, the parents have consented to the termination of parental rights and executed surrenders and waivers of notice of hearing as provided by law, this shall be alleged in the petition and copies shall be attached to the petition and presented to the court.

(3) If the parents appear and enter an oral consent on the record to the termination of parental rights, the court shall determine the basis on which a

factual finding may be made and shall incorporate these findings into its order of disposition.

RULE 8.505. PROCESS AND SERVICE

(a) Personal Service. On the filing of a petition requesting the termination of parental rights, a copy of the petition and notice of the date, time, and place of the advisory hearing must be personally served on:

(1) the parents;

(2) the legal custodians or caregivers of the child;

(3) if the natural parents are dead or unknown, a living relative of the child, unless on diligent search and inquiry no relative can be found;

(4) any person who has physical custody of the child;

(5) any grandparents entitled by law to notice of the adoption proceeding;

(6) any prospective parent identified by law, unless a court order has been entered which indicates no further notice is required, or if the prospective father executes an affidavit of nonpaternity or a consent to termination of his parental rights which is accepted by the court after notice and opportunity to be heard by all parties to address the best interests of the child in accepting such affidavit;

(7) the guardian ad litem for the child or the representative of the guardian ad litem program, if the program has been appointed;

(8) the attorney ad litem for the child if one has been appointed; and

(9) any other person as provided by law.

(b) Contents. The document containing the notice to appear shall notify the required persons of the filing of the petition and 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 ADVISORY HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (THESE CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS NOTICE."

(c) Constructive Service. Parties whose identities are known and on whom personal service of process cannot be effected shall be served by publication as provided by law. The notice of action shall contain the initials of the child and the child's date of birth. There shall be no other identifying information of the child in the notice of action. The notice of action shall include the full name and last known address of the person subject to the notice. The notice of action shall not contain the name or any other identifying information of the other parents or prospective parents who are not subject to the notice.

(d) Waiver of Service. Service of process may be waived, as provided by law, for persons who have executed a written surrender of the child to the department.

RULE 8.510. ADVISORY HEARING AND PRETRIAL STATUS CONFERENCES

(a) Advisory Hearing.

(1) An advisory hearing on the petition to terminate parental rights must be held as soon as possible after service of process can be effected, but no less than 72 hours following service of process. Personal appearance of any person at the advisory hearing eliminates the time requirement for serving process on that person.

(2) The court must:

(A) advise the parents of their right to counsel including the right to an effective attorney and appoint an attorney in accordance with legal requirements;

(B) advise the parents of the availability of private placement of the child with an adoption entity, as defined in chapter 63, Florida Statutes;

(C) determine whether an admission, consent, or denial to the petition shall be entered; and

(D) appoint a guardian ad litem if one has not already been appointed.

(3) If a parent served with notice fails to personally appear at the advisory hearing, the court shall enter a consent to the termination of parental rights petition for the parent who failed to personally appear.

(4) If an admission or consent is entered by all parents for a named child included in the petition for termination of parental rights and the court finds that termination of parental rights is in the best interest of the child, the court shall proceed to disposition alternatives as provided by law.

(5) If a denial is entered, the court shall set an adjudicatory hearing within the period of time provided by law or grant a continuance until the parties have sufficient time to proceed to an adjudicatory hearing.

(b) Pretrial Status Conference. Not less than 10 days before the adjudicatory hearing on a petition for involuntary termination of parental rights, the court shall conduct a pretrial status conference to determine the order in which each party may present witnesses or evidence, the order in which cross-examination and argument shall occur, and any other matters that may aid in the conduct of the adjudicatory hearing.

(c) Voluntary Terminations. An advisory hearing may not be held if a petition is filed seeking an adjudication to voluntarily terminate parental rights. Adjudicatory hearings for petitions for voluntary termination must be set within 21 days of the filing of the petition. Notice of intent to rely on this subdivision must be filed with the court as required by law.

RULE 8.515. PROVIDING COUNSEL TO PARTIES

(a) Duty of the Court.

(1) At each hearing, the court shall advise unrepresented parents of their right to have counsel present, unless the parents have voluntarily executed a

written surrender of the child and consent to the entry of a court order terminating parental rights.

(2) The court shall appoint counsel for indigent parents as provided by law. The court may appoint counsel for other parties as provided by law.

(3) The court shall ascertain whether the right to counsel is understood. If the right to counsel is waived by any parent the court shall ascertain if the right to counsel is knowingly and intelligently waived.

(4) The court shall enter its findings with respect to the appointment or waiver of counsel of indigent parents or the waiver of the right to have counsel present.

(5) Once counsel has been retained or appointed to represent a parent, the attorney shall continue to represent the parent throughout the proceedings or until the court has approved discontinuing the attorney-client relationship. If the attorney-client relationship is discontinued, the court shall advise the parent of the right to have new counsel retained or appointed for the remainder of the proceedings.

(b) Waiver of Counsel.

(1) No waiver shall be accepted if it appears that the parent is unable to make an intelligent and understanding choice because of mental condition, age, education, experience, the nature or complexity of the case, or other factors.

(2) A waiver of counsel shall be made in court and be of record. The court shall question the parent in sufficient detail to ascertain that the waiver is made knowingly and intelligently.

(3) If a waiver is accepted at any hearing, the offer of assistance of counsel shall be renewed by the court at each subsequent hearing at which the parent appears without counsel.

RULE 8.517. WITHDRAWAL AND APPOINTMENT OF ATTORNEY

(a) Withdrawal of Attorney after Order Adjudicating Child Dependent. After an order of adjudication of dependency or an order of dependency disposition has been entered, the attorney of record for a parent or

legal custodian in a dependency proceeding shall not be permitted to withdraw as the attorney until the following have occurred:

(1) The attorney certifies that after discussing appellate remedies with the parent or legal custodian, the parent or legal custodian does not elects not to appeal the order; or

(2) The attorney certifies that after discussing appellate remedies with the parent or legal custodian, the parent or legal custodian elects to appeal the order, and

(A) a notice of appeal containing the signatures of the attorney and the parent or legal custodian has been filed or a notice of appeal containing the signature only of the attorney has been filed if the parent or legal custodian elects to appeal but is unable to personally timely sign the notice and that an amended notice of appeal containing the parent's or legal custodian's signature will be filed;

(B) directions to clerk, if necessary, have been filed;

(C) a motion to transcribe the requisite proceedings has been filed;

(D) a designation to the court reporter specifying the proceedings that must be transcribed in order to obtain review of the issues on appeal and designating the parties to receive a copy of the transcripts has been filed; and

(E) an order appointing appellate counsel, if any, has been entered.

Conformed copies of each of these documents shall be attached to the motion to withdraw.

(3) If the attorney is unable to contact the parent or legal custodian regarding appellate remedies, the attorney certifies and describes the efforts made to contact the parent or legal custodian.

(b) Withdrawal of Attorney after Order Terminating Parental Rights. After an order terminating parental rights has been entered, the attorney of

record for a parent in a termination of parental rights proceeding shall not be permitted to withdraw as attorney until the following have occurred:

(1) Discussion of Appeal.

(A) The attorney certifies that after discussing appellate remedies with the parent, the parent elects not to appeal the order terminating parental rights; or

(B) The attorney certifies that after discussing appellate remedies with the parent, the parent elects to appeal the order terminating parental rights; and

(i) a notice of appeal containing the signatures of the attorney and the parent has been filed or a notice of appeal containing the signature only of the attorney has been filed if the parent elects to appeal but is unable to personally timely sign the notice and that an amended notice of appeal containing the parent's signature will be filed;

(ii) directions to clerk, if necessary, have been filed;

(iii) a motion to transcribe the requisite proceedings has been filed;

(iv) a designation to the court reporter specifying the proceedings that must be transcribed in order to obtain review of the issues on appeal and designating the parties to receive a copy of the transcripts has been filed; and

(v) an order appointing appellate counsel, if any, has been entered.

Conformed copies of each of these documents shall be attached to the motion to withdraw.

(2) Discussion of Ineffective Assistance of Counsel Claim.

(A) The attorney certifies that after discussing the right of a parent to file a motion claiming ineffective assistance of counsel, the parent elects not to file the motion, or

(B) The attorney certifies that after discussing the right of the parent to file a motion claiming ineffective assistance of counsel, the parent elects to file a motion. Consequently, the attorney must immediately seek to withdraw from representation of the parent.

(3) Inability to Discuss Remedies. If the attorney is unable to contact the parent regarding appellate remedies and the right to file a motion claiming ineffective assistance of counsel, the attorney certifies and describes the efforts made to contact the parent.

(c) Appointment of Appellate Counsel. If the court permits the attorney to withdraw, the court must expeditiously appoint appellate counsel for indigent parents pursuant to law. The indigent parent is not entitled to a court-appointed attorney in any trial court proceeding regarding a motion claiming ineffective assistance of counsel. However, a parent may independently retain an attorney to assist in any trial court proceeding regarding a motion claiming ineffective assistance of counsel.

(d) Service of Order Appointing Attorney. Following rendition of an order appointing appellate counsel, the court must serve the order on the appointed appellate counsel and the clerk of the appellate court.

Committee Note

Amendment 2017. Significant amendments were made to create a process for claiming ineffective assistance of counsel in termination of parental rights proceedings. *J.B., etc. v. Florida Department of Children and Families*, 170 So. 3d 780 (Fla. 2015). A parent's right to appointed counsel is governed by sections 39.013(9)a. and 27.511, Florida Statutes.

RULE 8.520. ANSWERS AND RESPONSIVE PLEADINGS

(a) No Written Answer Required. No answer to the petition need be filed by the parent. The parent of the child may enter an oral or written answer to the petition or appear and remain silent.

(b) Plea of Denial. If the parent denies the allegations of the petition, appears and remains silent, or pleads evasively, the court shall enter a denial and shall set the case for an adjudicatory hearing.

(c) Plea of Admission or Consent. If the parent appears and enters a plea of admission or consent to the termination of parental rights, the court shall determine that the admission or consent is made voluntarily and with a full understanding of the nature of the allegations and the possible consequences of the plea and that the parent has been advised of the right to be represented by counsel. The court shall incorporate these findings into its order of disposition, in addition to findings of fact specifying the act or acts causing the termination of parental rights.

RULE 8.525. ADJUDICATORY HEARINGS

(a) Hearing by Judge. The adjudicatory hearing shall be conducted by the judge without a jury using the rules of evidence for civil cases. At this hearing the court shall determine whether the elements required by law for termination of parental rights have been established by clear and convincing evidence.

(b) Time of Hearing. The adjudicatory hearing shall be held within 45 days after the advisory hearing, unless all necessary parties stipulate to some other hearing date. Reasonable continuances may be granted for purposes of investigation, discovery, procuring counsel or witnesses, or for other good cause shown.

(c) Examination of Witnesses. A party may call any person, including a child, as a witness. A party shall have the right to examine or cross-examine all witnesses.

(d) Presence of Parties. All parties have the right to be present at all termination hearings. A party may appear in person or, at the discretion of the court for good cause shown, by an audio or audiovisual device. No party shall be excluded from any hearing unless so ordered by the court for disruptive behavior or as provided by law. If a parent appears for the advisory hearing and the court orders that parent to personally appear at the adjudicatory hearing for the petition for termination of parental rights, stating the date, time, and location of this hearing, then failure of that parent to personally appear at the adjudicatory hearing shall constitute consent for termination of parental rights.

(e) Examination of Child. The court may hear the testimony of the child outside the physical presence of the parties as provided by rule 8.255. Counsel for the parties shall be present during all examinations. The court may limit the manner in which counsel examine the child.

(f) Previous Testimony Admissible. To avoid unnecessary duplication of expenses, in-court testimony previously given at any properly noticed hearing may be admitted, without regard to the availability of the witnesses, if the recorded testimony itself is made available. Consideration of previous testimony does not preclude the parties from calling the witness to answer supplemental questions.

(g) Joint and Separate Hearings. When 2 or more children are the subject of a petition for termination of parental rights, the hearings may be held simultaneously if the children are related to each other or involved in the same case, unless the court orders separate hearings.

(h) Motion for Judgment of Dismissal. In all termination of parental rights proceedings, if at the close of the evidence for the petitioner the parents move for a judgment of dismissal and the court is of the opinion that the evidence is insufficient to sustain the grounds for termination alleged in the petition, it shall enter an order denying the termination and proceed with dispositional alternatives as provided by law.

(i) Advisement of Right to Appeal and File Ineffective Assistance of Counsel Motion. At the conclusion of the adjudicatory hearing, the court must orally inform the parents of the right to appeal any order terminating parental rights to the district court of appeal and the right to file a motion in the circuit court claiming that counsel provided ineffective assistance.

(j) Order.

(1) Terminating Parental Rights.

(A) If the court finds after all of the evidence has been presented that the elements and one of the grounds for termination of parental rights have been established by clear and convincing evidence, the court shall enter a written order terminating parental rights and proceed with dispositional alternatives as provided by law within 30 days after conclusion of the adjudicatory hearing.

(B) The order must contain the findings of fact and conclusions of law on which the decision was based. The court shall include the dates of the adjudicatory hearing in the order.

(C) The order must include a brief statement informing the parents of the right to appeal the order to the district court of appeal and the right to

file a motion in the circuit court alleging that counsel provided ineffective assistance and a brief explanation of the procedure for filing such a claim.

(D) The parties may stipulate, or the court may order, that parents or relatives of the parent whose rights are terminated be allowed to maintain some contact with the child. If the court orders continued contact, the nature and frequency of this contact must be stated in a written order. The visitation order may be reviewed on motion of any party, including a prospective adoptive parent, and must be reviewed by the court at the time the child is placed for adoption.

(2) Denying Termination of Parental Rights. If the court finds after all of the evidence has been presented that the grounds for termination of parental rights have not been established by clear and convincing evidence, but that the grounds for dependency have been established by a preponderance of the evidence, the court shall adjudicate or readjudicate the child dependent and proceed with dispositional alternatives as provided by law.

(3) Dismissing Petition. If the court finds after all of the evidence has been presented that the allegations in the petition do not establish grounds for dependency or termination of parental rights, it shall enter an order dismissing the petition.

RULE 8.530. PARENT'S MOTION CLAIMING INEFFECTIVE ASSISTANCE OF COUNSEL FOLLOWING ORDER TERMINATING PARENTAL RIGHTS

(a) Duty of the Court to Advise. At the conclusion of the termination of parental rights adjudicatory hearing, the court must orally inform the parents who are represented by an attorney of the right to appeal an order terminating parental rights to the district court of appeal and the right to file a motion in the circuit court claiming that an attorney provided ineffective assistance if the court enters an order terminating parental rights. In addition, the written order terminating parental rights must include a brief statement informing the parents of the right to file a motion claiming ineffective assistance of counsel and a brief explanation of the procedure for filing the motion.

(b) Duty of Attorney to Advise. After entry of an order terminating parental rights, an attorney must discuss appellate remedies with the parent and determine whether the parent elects to appeal the order terminating parental rights. The attorney must also inquire whether the parent intends to file a motion claiming

ineffective assistance of counsel. If the parent states an intention to file a motion claiming ineffective assistance of counsel, then the attorney must immediately seek withdrawal pursuant to these rules.

(c) Motion and Jurisdiction. After the court has entered a written order terminating parental rights, a parent may file a motion in the circuit court claiming that the parent's attorney provided ineffective assistance. If a notice of appeal of the order terminating parental rights is filed, the trial court continues to have jurisdiction to consider a motion claiming ineffective assistance of counsel.

(d) Court-Appointed Attorney.

(1) An indigent parent is not entitled to a court-appointed attorney to assist the parent in preparing, filing, or litigating a motion claiming ineffective assistance of counsel. However, the parent may independently obtain an attorney to represent the parent in pursuing the motion.

(2) An indigent parent is otherwise entitled to a court-appointed attorney as provided by law in both the trial and appellate court in a termination of parental rights proceeding, and is entitled to a court-appointed attorney concerning appellate review of the trial court's order on the motion for ineffective assistance of counsel.

(e) Time Limitations. A motion claiming ineffective assistance of counsel must be filed within 20 days of the date the court entered the written order terminating parental rights.

(f) Toll of Time for Appeal. The timely filing of a motion claiming ineffective assistance of counsel tolls rendition of the order terminating parental rights for purposes of appeal until the circuit court enters an order on the motion or for 50 days from the date the court entered the written order terminating parental rights, whichever occurs first.

(g) Contents of Motion.

(1) The motion must be in writing and under oath stating that all of the facts stated are true and correct.

(2) The motion must contain the case name and number and identify the date the written order terminating parental rights was entered.

(3) The motion must contain the current mailing address and e-mail address, if any, and the phone number(s) of the parent filing the motion for the purpose of receiving notices and orders.

(4) The motion must identify specific acts or omissions in the attorney's representation of the parent during the termination of parental rights proceedings that constituted a failure to provide reasonable, professional assistance and explain how the acts or omissions prejudiced the parent's case to such an extent that but for counsel's deficient performance the parent's rights would not have been terminated.

(h) Amendments to Motion. If the motion claiming ineffective assistance of counsel is timely filed, the parent may file amended motions without permission of the court within 20 days from the date the court entered the written order terminating parental rights. The court may order the moving parent to file an amended motion as provided in this rule.

(i) Delivery of Motion to Judge. On filing of the motion, the clerk of court must immediately provide the motion and court file to the judge who entered the order terminating parental rights.

(j) Response to Motion. No answer or responsive pleading is required from any other party to the termination of parental rights proceeding.

(k) Service of the Motion. The parent claiming ineffective assistance of counsel must serve the motion on all parties to the termination of parental rights proceeding and to the attorney the parent claims provided ineffective assistance.

(*l*) Summary Denial of Motion.

(1) Untimely Motion. The court must enter an order within 5 days from the date the motion or amended motion was filed summarily denying with prejudice any motion filed after the 20-day limitation for filing. The order shall be considered the final order for purposes of appeal.

(2) Insufficient Motion. If the motion or amended motion is legally insufficient as alleged, the court may enter an order summarily denying the motion within 5 days from the date the motion or amended motion was filed. A motion is legally insufficient when the allegations of ineffective assistance of counsel during the termination of parental rights proceedings, if taken as true, did not prejudice the parent's case to such an extent that but for counsel's deficient

performance the parent's rights would not have been terminated. The order denying a motion as legally insufficient must set forth the basis for the conclusion the motion is legally insufficient. The court must not summarily deny a motion as insufficient for reasons other than legally insufficient allegations claiming ineffective assistance of counsel. If the court denies the motion as legally insufficient and does not direct the filing of an amended motion, then the order shall be considered the final order for purposes of appeal.

(m) Order for Amended Motion. If the motion or amended motion is legally insufficient as alleged, the court may enter an order within 5 days from the date the motion, or amended motion, was filed authorizing the moving parent to file an amended motion within 10 days of the date of the written order permitting amendment.

(n) Evidentiary Hearing on Motion.

(1) Scheduling of Hearing. If the motion is timely and, in the court's opinion, contains sufficient allegations, the court must conduct an evidentiary hearing as expeditiously as possible in light of the other time limitations in this rule.

(2) Notice of Hearing. The court must issue a notice of the hearing on the motion to the parties and participants of the termination of parental rights proceeding and to the attorney who the parent claimed provided ineffective assistance. The notice must state the issues to be determined and that the moving parent is required to present evidence at the hearing on the motion.

(3) Record of Termination of Parental Rights Adjudicatory Hearing. If necessary, the court may order an expedited record for review, which may include an electronic recording in lieu of a transcript, of the termination of parental rights adjudicatory hearing. If the judge conducting the motion hearing is different from the judge who presided at the termination of parental rights adjudicatory hearing, the court must order an expedited record for review, which may include an electronic recording in lieu of a transcript, of the termination of parental rights adjudicatory hearing.

(4) Burden to Present Evidence and Proof. At the evidentiary hearing, the moving parent has the burden of presenting evidence and the burden of proving specific acts or omissions of an attorney's representation of the parent during the termination of parental rights proceedings that constituted a failure to provide reasonable, professional assistance, and how the errors or omissions

prejudiced the parent's case to such an extent that but for counsel's deficient performance the parent's rights would not have been terminated. All other parties may present evidence regarding the claims raised.

(5) Order from Evidentiary Hearing. At the conclusion of the hearing on the motion, the court must enter an order granting or denying the motion within 5 days from the evidentiary hearing.

(A) Grant of Motion. If the court determines that the attorney during the termination of parental rights proceedings failed to provide reasonable, professional assistance and that the errors or omissions prejudiced the parent's case to such an extent that but for counsel's deficient performance the parent's rights would not have been terminated, the court must enter an order granting the motion stating the reasons for granting the motion and vacating the order terminating parental rights without prejudice. In the order, the court must schedule an adjudicatory hearing on the petition for termination of parental rights to take place no later than 45 days from the order granting the motion. The court must then appoint an attorney to represent the parent in further proceedings, as provided by law.

(B) Denial of Motion. If the court determines that the attorney during the termination of parental rights proceedings provided reasonable, professional assistance or determines that no errors or omissions prejudiced the parent's case in the termination proceedings to such an extent that but for counsel's deficient performance the parent's rights would not have been terminated, the court must enter an order denying the motion, stating the reasons for denial. The order resolves all the claims raised in the motion and shall be considered the final order for purposes of appeal.

(o) Failure to Enter Order. If the court does not enter an order granting or denying the motion within 50 days from the date the court entered the written order terminating parental rights, the motion shall be deemed denied with prejudice.

(p) Service of Order. The clerk of the court must serve any order entered under this rule on the parties, including to the moving parent at the parent's address on file with the clerk, within 48 hours from the rendition of the order indicating the date of service by an appropriate certificate of service.

(q) Successive Motions. No second or successive motion claiming ineffective assistance of counsel shall be allowed except as provided in this rule.

No motion for rehearing shall be allowed in response to the court's ruling on the motion claiming ineffective assistance of counsel.

(r) Appeals. Florida Rule of Appellate Procedure 9.146 applies to the appeal of an order on a motion claiming ineffective assistance of counsel in termination of parental rights proceedings.

RULE 8.535. POSTDISPOSITION HEARINGS

(a) Initial Hearing. If the court terminates parental rights, a postdisposition hearing must be set within 30 days after the date of disposition. At the hearing, the department or licensed child-placing agency shall provide to the court a plan for permanency for the child.

(b) Subsequent Hearings. Following the initial postdisposition hearing, the court shall hold hearings every 6 months to review progress being made toward permanency for the child until the child is adopted or reaches the age of 18, whichever occurs first. Review hearings for alternative forms of permanent placement shall be held as provided by law.

(c) Continuing Jurisdiction. The court that terminates the parental rights to a child under chapter 39, Florida Statutes, shall retain exclusive jurisdiction in all matters pertaining to the child's adoption under chapter 63, Florida Statutes. The petition for adoption must be filed in the division of the circuit court that entered the judgment terminating parental rights, unless a motion for change of venue is granted as provided by law.

(d) Withholding Consent to Adopt.

(1) When a petition for adoption and a favorable home study under section 39.812(5), Florida Statutes, have been filed and the department's consent has not been filed, the court shall conduct a hearing to determine if the department has unreasonably withheld consent.

(2) In reviewing whether the department unreasonably withheld its consent to adopt, the court shall determine whether the department abused its discretion by withholding consent to the adoption by the petitioner. In making this determination, the court shall consider all relevant information, including information obtained or otherwise used by the department in selecting the adoptive family, pursuant to Florida Administrative Code Chapter 65C.

(3) If the court determines that the department unreasonably withheld consent to adopt, and the petitioner has filed with the court a favorable home study as required by law, the court shall incorporate its findings into a written order with specific findings of fact as to how the department abused its discretion in withholding its consent to adopt, and the consent of the department shall be waived.

PART IV. PROCEEDINGS FOR FAMILIES AND CHILDREN IN NEED OF SERVICES

RULE 8.601. COMMENCEMENT OF PROCEEDINGS

(a) Pleadings. All proceedings shall be initiated by the filing of:

(1) a request to take into custody;

(2) a petition for children in need of services; or

(3) a shelter petition.

(b) File to Be Opened. Upon commencement of any proceeding, the clerk shall open a file and assign a case number.

RULE 8.603. APPLICATION OF UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT

Any pleading filed commencing proceedings as set forth in rule 8.601 shall be accompanied by an affidavit, to the extent of affiant's personal knowledge, under the Uniform Child Custody Jurisdiction and Enforcement Act. Each party has a continuing duty to inform the court of any custody, dependency, or children in need of services proceeding in this or any other state of which the party obtains information during the proceeding.

RULE 8.605. TRANSFER OF CASES

(a) Transfer of Cases Within the State of Florida. After the commencement of a proceeding pursuant to rule 8.601, the court may transfer any case after adjudication, when adjudication is withheld, or before adjudication where witnesses are available in another jurisdiction, to the circuit court for the county in which is located the domicile or usual residence of the child or such other circuit as the court may determine to be for the best interest of the child and

to promote the efficient administration of justice. The transferring court shall enter an order transferring its jurisdiction and certifying the case to the proper court, furnishing all parties, the clerk, and the state attorney of the receiving court a copy of the order of transfer within 5 days. The clerk shall also transmit a certified copy of the file to the receiving court within 5 days.

(b) Transfer of Cases Among States. If it should appear at any time that an action involving the child is pending in another state, the court may transfer jurisdiction, stay the proceedings, or dismiss the action as provided by law.

RULE 8.610. PARTIES

(a) Definitions. For the purposes of these rules the terms "party" and "parties" shall include the petitioner, the child, the parent, the guardian ad litem where appointed, the custodian, and every person upon whom service of summons is required by law.

(b) Other Parties. The state attorney's office, the Department of Children and Family Services, or the Department of Juvenile Justice may become a party upon notice to all other parties and the court. The court may add additional parties.

RULE 8.615. PROVIDING COUNSEL TO PARTIES

(a) Duty of the Court.

(1) At each stage of the proceeding the court shall advise all parties of their right to have counsel present. The court shall appoint counsel to insolvent persons who are so entitled as provided by law. The court shall ascertain whether the right to counsel is understood and, where appropriate, knowingly and intelligently waived. The court shall enter its findings in writing with respect to the appointment or waiver of counsel for insolvent parties.

(2) The court may appoint an attorney for the child or parent, guardian, or custodian of the child as provided by law.

(b) Waiver of Counsel.

(1) No waiver shall be accepted where it appears that the party is unable to make an intelligent and understanding choice because of mental

condition, age, education, experience, the nature or complexity of the case, or other factors.

(2) A waiver of counsel shall be made in court and be of record.

(3) If a waiver is accepted at any stage of the proceedings, the offer of assistance of counsel shall be renewed by the court at each subsequent stage of the proceedings at which the party appears without counsel.

RULE 8.617. GUARDIAN AD LITEM

(a) Appointment. At any stage of the proceedings any party may request, or the court may appoint, a guardian ad litem to represent any child alleged to be in need of services or from a family in need of services.

(b) Qualifications; Responsibilities. The guardian ad litem shall be an attorney or other responsible adult and shall have the following responsibilities:

(1) To investigate the allegations of the petition and any subsequent matters arising in the case and, unless excused by the court, to file a written report. This report shall include a statement of the wishes of the child and the recommendations of the guardian ad litem and shall be provided to all parties and the court at least 48 hours before the disposition hearing.

(2) To be present at all court hearings unless excused by the court.

(3) To represent the interest of the child until the jurisdiction of the court over the child terminates or until excused by the court.

(4) To perform such other duties and undertake such other responsibilities as the court may direct.

(c) Bond Not Required. A guardian ad litem shall not be required to post bond but shall file an acceptance of the office.

(d) Receiving Service. A guardian ad litem shall be entitled to receive service of pleadings and papers as provided by rule 8.635.

(e) Lay Guardians' Duties. The duties of lay guardians shall not include the practice of law.

(f) Substitution or Discharge. The court, on its own motion or that of any party, including the child, may substitute or discharge the guardian ad litem for reasonable cause.

RULE 8.620. STYLE OF PLEADINGS AND ORDERS

All pleadings and orders shall be styled: "In the interest of ....., a child", or "In the interest of ....., children."

RULE 8.625. GENERAL PROVISIONS FOR HEARINGS

(a) Presence of Counsel. The Department of Children and Family Services or the Department of Juvenile Justice must be represented by an attorney at every stage of these proceedings when such department is a party.

(b) Presence of Child. The child shall be present unless the child's presence is waived. If the child is present at the beginning of a hearing and during the progress of the hearing voluntarily absents himself or herself from the presence of the court without leave of the court, or is removed from the presence of the court because of disruptive conduct during the hearing, the hearing shall not be postponed or delayed, but shall proceed in all respects as if the child were present in court at all times.

(c) In Camera Proceedings. The child may be examined by the court outside the presence of other parties under circumstances as provided by law. The court shall assure that the proceedings are recorded unless otherwise stipulated by the parties.

(d) Invoking the Rule. Before the examination of any witness the court may, and on the request of any party shall, exclude all other witnesses. The court may cause witnesses to be kept separate and to be prevented from communicating with each other until all are examined.

(e) Continuances. The court may grant a continuance before or during a hearing for good cause shown by any party.

(f) Record. A record of the testimony in all hearings shall be made by an official court reporter, a court-approved stenographer, or a recording device. The records of testimony shall be preserved as required by law. Official records of testimony shall be transcribed only on order of the court.

(g) Notice. Where these rules do not require a specific notice, all parties will be given reasonable notice of any hearing.

(h) Magistrates. Pursuant to the Florida Rules of Civil Procedure, both general and special magistrates may be appointed to hear issues involved in proceedings under this part.

RULE 8.630. COMPUTATION AND ENLARGEMENT OF TIME

(a) Computation. Computation of time shall be governed by Florida Rule of Judicial Administration, except for rule 8.655, to which 2.514(a)(2)(C) shall not apply and the statutory time period shall govern.

(b) Enlargement of Time. When by these rules, by a notice given thereunder, or by order of court an act is required or allowed to be done at or within a specified time, the court for good cause shown may, at any time in its discretion, (1) with or without notice order the period enlarged if the request is made before the expiration of the period originally prescribed or as extended by a previous order, or (2) upon motion made and notice after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but it may not, except as provided by law or elsewhere in these rules, extend the time for making motion for new trial, for rehearing, or for vacation of judgment or for taking an appeal. This rule shall not be construed to apply to detention or shelter hearings.

(c) Time for Service of Motions and Notice of Hearing. 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.

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 document is signed in accordance with the applicable rules of court.

(i) Service on Attorneys. Upon appearing in any proceeding, an attorney must 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. 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 on the day it is sent and must be treated as service by mail for the computation of time. 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 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 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.

RULE 8.640. PLEADINGS TO BE SIGNED

(a) Pleadings 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 the attorney, whose Florida Bar number, address, and telephone number, including area code, shall be stated, and who shall be duly licensed to practice law in Florida. 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 need not be verified or accompanied by affidavit.

(b) Pleadings to Be Signed by Unrepresented Party. A party who is unrepresented shall sign a written pleading or other paper to be filed and state the party's address and telephone number, including area code.

(c) 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.

Committee Notes

1992 Amendment. (a) and (c) The language from (a) 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 to proposed revisions to rules 8.085 and 8.230.

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

RULE 8.645. ORDERS

Upon the conclusion of all hearings, the court shall enter its decisions in a written order. All orders of the court shall be reduced to writing as soon after they are entered as is consistent with orderly procedure and shall contain findings of fact and conclusions of law.

RULE 8.650. TAKING INTO CUSTODY

(a) Affidavit. An affidavit may be filed by any person alleging facts under existing law sufficient to establish grounds to take a child into custody. The affidavit shall:

(1) be in writing and signed;

(2) specify the name, address, and sex of the child or, if unknown, designate the child by any name or description by which the child can be identified with reasonable certainty;

(3) specify that the child is of an age subject to the jurisdiction of the court; and

(4) state the reasons why the child is being taken into custody.

(b) Criteria for Order. The court may issue an order to take a child into custody based on sworn testimony meeting the criteria set forth in subdivision (a).

(c) Order. The order to take into custody shall:

(1) be in writing and signed;

(2) specify the name, address, and sex of the child or, if unknown, designate the child by any name or description by which the child can be identified with reasonable certainty;

(3) specify that the child is of an age subject to the jurisdiction of the court;

(4) state the reasons why the child is being taken into custody;

(5) order that the child be placed in a suitable place pending a shelter hearing as provided by law; and

(6) state the date when issued and the county and court where issued.

RULE 8.655. SHELTER PETITION, HEARING, AND ORDER

(a) Shelter Petition. If a child is to be placed in a shelter after being taken into custody for a period longer than 24 hours, the person requesting placement shall file a written petition which shall:

(1) specify the name, address, and sex of the child, or, if unknown, designate the child by any name or description by which the child can be identified with reasonable certainty;

(2) specify that the child is of an age subject to the jurisdiction of the court;

(3) state the reasons why the child needs to be placed in a shelter;

(4) recommend where the child is to be placed or the agency to be responsible for placement;

(5) be signed by the attorney for the petitioner; and

(6) include a certificate of service to all parties and their attorneys of record.

(b) Shelter Hearing.

(1) The petitioner shall make a diligent effort to notify the parent or custodian of the child and shall notify his or her attorney of record of the date, time, and place of the hearing. The petitioner shall list all parties notified of the hearing on the certificate of service on the shelter petition.

(2) The court shall conduct an informal hearing on the petition within the time period provided by law. The court shall determine at the hearing whether the criteria provided by law for placement in a shelter have been met.

(3) At the hearing all interested persons present shall have an opportunity to be heard on the criteria for placement as provided by law.

(4) The court may base its determination on a sworn complaint, testimony, or affidavit and may hear all relevant and material evidence, including oral and written reports, to the extent of its probative value even though it would not be competent at an adjudicatory hearing.

(5) The court shall advise the parties of:

(A) their right to be represented by counsel as provided by law;

(B) the reason for the child being in custody and why continued placement is requested; and

(C) their right to present placement alternatives.

(c) Shelter Order. The order shall be in writing and shall:

(1) state the name, age, and sex of the child and, if the child's age is unknown, that the child is believed to be of an age which makes him or her subject to the jurisdiction of the court;

(2) include findings as provided by law;

(3) designate the place where the child is to be placed or the person or agency that will be responsible for this placement along with any special conditions found to be necessary;

(4) state the date and time where issued;

(5) indicate when the child shall be released from the shelter or set a review of shelter hearing within the time limits provided by law; and

(6) include a certificate of service to all parties and their attorneys of record.

(d) Release From Shelter Care. No child shall be released from shelter after a shelter order has been entered except on order of the court unless the shelter order authorizes release by the department.

RULE 8.660. PETITIONS

(a) Contents of Petition.

(1) Only those authorized by law may file a petition alleging that a child is in need of services. Each petition shall be entitled a petition for child(ren) in need of services and shall allege sufficient facts showing the child to be in need of services based upon applicable law.

(2) The petition shall contain allegations as to the identity and residence of the parents or custodians, if known.

(3) The petition shall identify the age, sex, and name of the child. Two or more children may be the subject of the same petition.

(4) More than one allegation of children in need of services may appear on the same petition, in separate counts.

(b) Verification. The petition shall be signed by the petitioner, stating under oath the petitioner's good faith. No objection to the petition on the grounds that it was not signed or verified, as herein provided, shall be entertained after a plea to the merits.

(c) Amendments. At any time before or during an adjudicatory hearing, an amended petition may be filed or the petition may be amended by motion. Amendments shall be freely permitted in the interest of justice and the welfare of the child. A continuance may be granted upon motion and a showing that the amendment prejudices or materially affects any party.

(d) Defects and Variances. No petition or any count thereof shall be dismissed, or any judgment vacated, on account of any defect in the form of the petition or of misjoinder of counts. If the court is of the opinion that the petition is so vague, indistinct, and indefinite as to mislead the child, parent, or custodian and prejudice any of them in the preparation of a defense, the petitioner may be required to furnish a more definite statement.

(e) Voluntary Dismissal. At any time before entry of an order of adjudication, the child(ren) in need of services petition may be voluntarily dismissed by petitioner without leave of the court by serving a notice of dismissal on all parties, or, if during a hearing, by so stating on the record. Unless otherwise stated, the dismissal shall be without prejudice.

RULE 8.665. ANSWERS, ARRAIGNMENTS, AND PREHEARING CONFERENCES

(a) Answers. The child, parent, or custodian of the child may enter an oral or written answer to the petition or remain silent. If the child remains silent or pleads evasively, or the parent, guardian, or legal custodian denies it, the court shall enter a denial of the petition. The court shall determine that any admission or consent to the petition is made voluntarily and with a full understanding of the nature of the allegations and the possible consequences of such admission or consent and that the parties have been advised of the right to be represented by counsel. The court shall incorporate these findings into its order in addition to findings of fact specifying the act or acts, by whom committed, and facts upon which the findings are based. If the answer admits the allegations of the petition it shall constitute consent to a predisposition study.

(b) Arraignment. If a written answer has not been filed by the child, parent, guardian, or legal custodian before the adjudicatory hearing, the court shall

conduct a hearing to determine whether an admission, consent, or denial of the petition shall be entered and whether the parties are represented by counsel or are entitled to appointed counsel as pro-vided by law. If an admission or consent is entered, the court shall proceed as set forth in rule 8.690. If a denial is entered the court shall set an adjudicatory hearing within the period of time provided by law and appoint counsel when required.

(c) Withdrawal of Plea. The court may at any time before the beginning of a disposition hearing permit an admission of the allegations of the petition to be withdrawn and, if an adjudication has been entered thereon, set aside such adjudication. In the subsequent adjudicatory hearing the court shall disregard an admission that has been withdrawn.

(d) Prehearing Conference. Before the conduct of any adjudicatory hearing the court may set or the parties may request that a prehearing conference be held to determine the order in which each party may present witnesses or evidence and the order in which cross-examination and argument shall occur. The court also may enter findings on the record of any stipulations entered into by the parties and consider any other matters which may aid in the conduct of the adjudicatory hearing.

RULE 8.670. MOTIONS

(a) Motions in General. An application to the court for an order shall be made by a motion which shall be in writing, unless made during a hearing; be signed by the party making the motion or by the party's attorney; state with particularity the grounds therefor; and set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in the written notice of the hearing of the motion.

(b) Motion to Dismiss. Any party may file a motion to dismiss any petition or other pleading, setting forth the grounds on which the motion is based. If a motion to dismiss is granted where a child is being detained under an order, the child may be continued in shelter under previous order of the court upon the representation that a new or amended petition will be filed.

(c) Motion to Sever. A motion may be made to sever 2 or more counts of a multicount petition or to sever the cases of 2 or more children alleged to be in need of services in the same petition. The court may grant motions for severance of jointly brought cases for good cause shown.

RULE 8.675. EXAMINATIONS, EVALUATION, AND TREATMENT

(a) Child. Mental or physical examination of a child may be obtained as provided by law.

(b) Parent, Guardian, or Other Person Requesting Custody. At any time after the filing of a petition, when the mental or physical condition, including the blood group, of a parent, guardian, or other person requesting custody of a child is in controversy, the court may order the person to submit to a physical or mental examination by a qualified professional. The order may be made only on good cause shown and on notice to the person as to the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made. The court may, on its own motion or the motion of any party, order a parent, guardian, or other person requesting custody of the child to undergo such evaluation, treatment, or counseling activities as authorized by law.

RULE 8.680. DISCOVERY

Discovery will be allowed only upon order of the court and then as provided by rule 8.245.

Committee Notes

1992 Amendment. The present wording is somewhat ambiguous in the use of the word "and." The change clarifies the committee's intent.

RULE 8.685. ADJUDICATORY HEARINGS

(a) Hearing by Judge. The adjudicatory hearing shall be conducted by the judge without a jury utilizing the rules of evidence. At this hearing the court shall determine whether the allegations of the petition have been sustained.

(b) Examination of Witnesses. Any party shall have the right to examine and cross-examine the witnesses.

(c) Presence of Parties. All parties have the right to be present at all adjudicatory hearings. No party shall be excluded from the hearing unless so ordered by the court for disruptive behavior.

(d) Joint and Separate Hearings. When 2 or more children are alleged to be children in need of services, the hearing may be held simultaneously when

the several children involved are related to each other or involved in the same case, unless the court orders separate hearings.

(e) Motion for Judgment of Dismissal. In all proceedings if at the close of the evidence for the petitioner the court is of the opinion that the evidence is insufficient as a matter of law to warrant a finding of child(ren) in need of services, it may, and on the motion of any party shall, enter an order dismissing the petition for insufficiency of evidence.

(f) Findings and Orders. If the court finds that the evidence supports the allegations of the petition, it may make a finding that the child is in need of services as provided by law. In all cases the court shall enter a written order specifying the facts upon which the findings are based. If the predisposition and other reports required by law are unavailable, or by order of the court, any portion of the disposition hearing may be reset within a reasonable time. If the case is continued the court may refer the case to appropriate agencies for additional study and recommendation. The court may order the child into a suitable placement under such reasonable conditions as the court may direct.

RULE 8.690. DISPOSITION HEARINGS

(a) Information Available to Court. At the disposition hearing the court, after establishing compliance with the dispositional considerations, determinations, and discussions required by law, may receive any relevant and material evidence helpful in determining the proper disposition to be made. It shall include written reports required by law and may include evaluations of the child or the parent or custodian that may be obtained and that are relevant and material. Such evidence may be received by the court and may be relied upon to the extent of its probative value even though not competent in an adjudicatory hearing.

(b) Disclosure to Parties. All parties shall be entitled to disclosure of all information in all reports submitted to the court.

(c) Orders of Disposition. The court shall in its written order of disposition include:

(1) the placement or custody of the child;

(2) special conditions of placement and visitation;

(3) evaluation, counseling, treatment activities, and other actions to be taken by the parties where ordered;

(4) supervising or monitoring agencies and continuation or discharge of the guardian ad litem, when appropriate;

(5) the period of time or date for subsequent case review when required by law; and

(6) such other requirements deemed necessary to protect the health, safety, and well-being of the child.

(d) Out-of-Home Placement. If the court places the child in out-of-home placement, subsequent proceedings shall be governed by part IIID of these rules.

RULE 8.695. POSTDISPOSITION RELIEF

(a) Modification of Placement. A child who has been placed in the child's own home, in the home of a relative, or in some other place under the supervision of the department may be brought before the court by the parent, guardian, or any interested person on a motion for modification of placement. Upon notice to all parties, the court shall conduct a hearing and enter an order changing the placement, modifying the conditions of placement, continuing placement as previously ordered, or placing the child with the department or a licensed child-caring agency.

(b) Motion for Termination of Supervision or Jurisdiction. Any party requesting termination of agency supervision or the jurisdiction of the court, or both, shall do so by motion. The court shall hear all parties present and enter an order terminating supervision or terminating jurisdiction and supervision or continuing them as previously ordered. The court shall not terminate jurisdiction unless the child is returned to the parent or placed with a legal guardian.

PART V. OTHER PROCEEDINGS

A. GUARDIAN ADVOCATES FOR DRUG-DEPENDENT NEWBORNS

RULE 8.705. COMMENCEMENT OF PROCEEDINGS

(a) Petition to Be Filed. All proceedings under this part shall be initiated by the filing of a petition for the appointment of a guardian advocate.

(b) File to Be Opened. Upon commencement of any proceeding, the clerk shall open a file and assign a case number.

RULE 8.710. PARTIES

(a) Definitions. For the purpose of these rules the terms "party" and "parties" shall include the petitioner, the child, the parent, the guardian ad litem where appointed, the custodian, and every person upon whom service of summons is required by law.

(b) Other Parties. The state attorney's office or the Department of Children and Family Services may become a party upon notice to all other parties and notice to the court. The court may add additional parties.

RULE 8.715. GUARDIAN AD LITEM

The court may appoint a guardian ad litem to represent the interests of the child.

RULE 8.720. PROCESS AND SERVICE

(a) Summons.

(1) Personal appearance of a person in a hearing before the court shall obviate the necessity of serving process upon that person.

(2) Upon the filing of the petition, and upon request of the petitioner, the clerk or deputy clerk shall issue a summons.

(3) 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. The summons shall be directed to and shall be served upon the parents. It shall not be necessary to the validity of the proceedings that the parents be present if their identity or presence is unknown after a diligent search and inquiry have been made; if they have become residents of a state other than this state; or if they evade service or ignore summons, but in this event the person who made the search and inquiry shall file a certificate of those facts.

(b) Subpoenas. Upon the application of a party, the clerk or deputy 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.

RULE 8.725. PETITION

(a) Contents of Petition.

(1) The petition shall allege sufficient facts showing grounds for appointment of a guardian advocate based upon applicable law.

(2) The petition shall contain allegations as to the identity and residence of the parents or custodians, if known.

(3) The petition shall identify the age, sex, and name of the child. Two or more children may be the subject of the same petition.

(b) Voluntary Dismissal. The petitioner without leave of the court, at any time prior to the entry of the order, may request a voluntary dismissal of the petition by serving a notice of request for dismissal on all parties or, if during a hearing, by so stating on the record. The petition shall be dismissed and the court loses jurisdiction unless another party adopts the petition within 48 hours. Unless otherwise stated, the dismissal shall be without prejudice.

RULE 8.730. HEARING

(a) Time Limit. All hearings shall be carried out as provided by law within the time limits proscribed therein.

(b) Orders.

(1) In all cases at the conclusion of the hearing the court shall enter a written order granting or denying the petition.

(2) An order granting the appointment of a guardian advocate shall specify the term of appointment and not exceed that provided by law.

RULE 8.735. REVIEW AND REMOVAL

(a) Review by Court. The court may review the appointment of a guardian advocate at any time but shall review the appointment within the time limits as provided by law.

(b) Reauthorization or Removal. The reauthorization or removal of the guardian advocate shall be governed as provided by law.

B. JUDICIAL WAIVER OF PARENTAL NOTICEOF TERMINATION OF PREGNANCY

RULE 8.800. APPLICABILITY

These rules apply to proceedings instituted pursuant to section 390.01114, Florida Statutes.

RULE 8.805. COMMENCEMENT OF PROCEEDINGS

(a) Petition to Be Filed. Proceedings for a judicial waiver of parental consent or notice of and consent to termination of pregnancy shall be commenced by the filing of a petition in circuit court.

(b) Pseudonymous Petitions. Petitions filed under a pseudonym or initials shall be filed simultaneously with a sworn statement containing the minor's true name, date of birth, address and the case number. A certified copy of this Sworn Statement of True Name and Pseudonym shall be given to the minor at the time it is filed. The original sworn statement shall be kept under seal at all times and may only be opened at the minor's request or by court order.

(c) Notice Under Pseudonymous Petitions. So that the minor may receive notice in a safe and secure manner, the minor shall elect to receive notice through the address and phone number of a trusted third person or by personally contacting the clerk's office. If the minor elects to personally contact the clerk's office, she must still provide an address and phone number of a third person through which to receive notice in the event that the court needs to provide notice at a time other than when the minor personally contacts the clerk's office.

(d) Procedures Upon Filing Petition. Upon the filing of a petition, the clerk of the circuit court shall immediately:

(1) open a new file and assign a new case number;

(2) provide the minor with a certified copy of Form 8.988, Sworn Statement of True Name and Pseudonym;

(3) provide the minor with Form 8.989, Advisory Notice to Minor;

(4) present the petition to the court for scheduling of the hearing and appointment of counsel, if requested; and

(5) provide notice of the hearing to the minor. If it is not possible for the clerk to immediately provide notice at the time the minor files the petition, the clerk shall provide notice through the method elected by the minor in the petition.

(e) Fees and Costs. No filing fees or court costs shall be assessed against any pregnant minor who petitions a court for a waiver of parental consent or notice.

RULE 8.810. PETITION

The petition shall include:

(a) the pseudonym or initials of the minor;

(b) the age of the minor;

(c) a statement that the minor is pregnant and consent or notice and consent has not been waived;

(d) a statement that the minor desires to terminate her pregnancy without consent from or notice to and consent from a parent or legal guardian; and

(e) a short and plain statement of facts to establish any of the following:

(1) The minor is sufficiently mature to decide whether to terminate her pregnancy.

(2) The minor is a victim of child abuse or sexual abuse by one or both of her parents or a legal guardian.

(3) Consent from or notification to and consent from the parent or legal guardian is not in the best interests of the minor.

RULE 8.815. COUNSEL

As provided by law, the circuit court shall advise the minor that she has a right to court-appointed counsel at no cost. The court shall, upon request, provide counsel for the minor at least 24 hours before the court proceeding.

RULE 8.820. HEARING

(a) Hearing by Judge. A judge shall conduct an informal hearing on the petition within the time limits provided by law and these rules. General magistrates and special magistrates shall not hear a petition for a judicial waiver.

(b) Evidence. The judge shall hear evidence relating to the emotional development, maturity, intellect, and understanding of the minor, and all other relevant evidence.

(c) Burdens of Proof.

(1) A finding that the minor is sufficiently mature to decide whether to terminate her pregnancy requires proof by clear and convincing evidence.

(2) A finding that the minor is a victim of child abuse or sexual abuse inflicted by one or both of her parents or a legal guardian requires proof by a preponderance of the evidence.

(3) A finding that consent from or notification to and consent from a parent or legal guardian is not in the best interests of the minor requires proof by clear and convincing evidence.

(d) Time Limits. As provided by law:

(1) Cases commenced under this rule take precedence over other pending matters as necessary to ensure that the court can make its ruling and issue

written findings of fact and conclusions of law within 3 business days of the filing of the petition.

(2) The 3-business-day time limit may be extended at the request of the minor; however, the court remains under an obligation to rule on the petition as soon as practically possible.

(3) If the court fails to rule within the 3-business-day period and an extension has not been requested by the minor, the minor may immediately thereafter petition the chief judge of the circuit for a hearing. The chief judge must ensure that a hearing is held within 48 hours after receipt of the minor's petition, and an order is entered within 24 hours after the hearing.

(e) Confidentiality of Hearings. Hearings under this part shall be closed to the public and all records thereof shall remain confidential as provided by law. Persons other than the petitioner may be permitted to attend the hearing at the request of the petitioner. The court shall advise all persons in attendance that the hearing is confidential. Subject to a judge's availability as required under law, hearings held under this part must be held in chambers or in a similarly private and informal setting within the courthouse.

RULE 8.825. ORDER AND JUDGMENT

At the conclusion of the hearing, the court shall issue written and specific findings of fact and conclusions of law in support of its decision, including findings of fact and conclusions of law relating to the maturity of the minor, and order that a confidential record be maintained.

RULE 8.830. TRANSCRIPTS

A court that conducts proceedings pursuant to these rules shall provide for a written transcript of all testimony and proceedings as provided by law.

RULE 8.835. CONFIDENTIALITY OF RECORDS

(a) As provided by law, any information including the petition, documents, transcripts, recordings of cases, and any other information that could be used to identify a minor who has petitioned the court for a judicial waiver of parental notice of termination of pregnancy is confidential and exempt from section 119.07(1), Florida Statutes, and section 24(a), Article I, of the State Constitution.

(b) So that the minor shall remain anonymous, the court file shall be sealed unless otherwise ordered by the court.

RULE 8.840. REMAND OF PROCEEDINGS

In the event the minor appeals a determination by the circuit court under these rules and the appellate court remands the matter to the trial court, the trial court must enter its ruling within 3 business days after the remand.

C. TRUANCY PROCEEDINGS

RULE 8.850. APPLICABILITY

These rules apply to proceedings instituted under section 984.151, Florida Statutes.

RULE 8.855. COMMENCEMENT OF PROCEEDINGS

(a) Petition to Be Filed. Proceedings to determine or enforce truancy actions under this section must be commenced by filing a petition in the circuit court in the circuit in which the student is enrolled.

(b) Jurisdiction. While original jurisdiction to hear a truancy petition shall be in the circuit court, a general or special magistrate may be used in these proceedings, pursuant to Supreme Court rules.

(c) Summons. Upon the filing of a petition, the clerk shall issue a summons to the parent, guardian, or legal custodian of the student, or if the student is in foster care, the case manager, directing that person and the student to appear for a hearing at a time and place specified in the summons.

RULE 8.860. PETITION

(a) Contents. The petition shall include:

(1) The name, age, and address of the student;

(2) The name and address of the student's parent, guardian, or legal custodian and, if the student is in foster care, the case manager;

(3) The name and address of the school in which the student is enrolled;

(4) A statement that outlines the efforts the school has made to get the student to attend school;

(5) The number of out of school contacts between the school system and the student's parent, guardian, or legal custodian; and

(6) The number of days, by date, the student has missed school.

(b) Sworn by Superintendent. The petition shall be sworn to by the superintendent of the school system involved or his or her designee.

RULE 8.865. HEARINGS

(a) Time Requirements. Once the petition is filed, the court shall hear the petition within 30 days.

(b) Attendance Required. The student and the student's parent, guardian, or legal custodian or, if the student is in foster care, the case manager, shall attend the hearing.

RULE 8.870. ORDER

(a) Requirement to Attend School. If the court determines that a student did miss any of the alleged days, the court shall order the student to attend school and the parent, guardian, legal custodian, or, if the student is in foster care, the case manager, to ensure that the student attends school.

(b) Other Sanctions. If the court determines that a student did miss any of the alleged days, the court may order any of the following:

(1) The student to participate in alternative sanctions to include mandatory attendance at alternative classes to be followed by mandatory community service hours for up to six months;

(2) The student or the student's parent, guardian, or legal custodian, to participate in homemaker or parent aid services;

(3) The student or the student's parent, guardian, or legal custodian to participate in and complete intensive crisis counseling and/or community mental health services;

(4) The student and the student's parent, guardian, or legal custodian to participate in services provided by voluntary or community agencies as available;

(5) The student or the student's parent, guardian, or legal custodian to participate in vocational, job training, or employment services.

(c) Referral to Case Staffing Committee. If the student does not successfully complete the sanctions ordered, the case shall be referred to the case staffing committee, with a recommendation to file a child in need of services petition under Chapter 984, Florida Statutes.

(d) Participation by Parent, Guardian, Legal Custodian, or Student. The parent, guardian, or legal custodian and the student shall participate as ordered or required by the court, in any sanction or services ordered pursuant to this rule.

(e) Enforcement by Contempt. The court shall enforce such requirements through its contempt power, pursuant to Chapter 984, Florida Statutes.

PART VI. FORMS FOR USE WITH RULES OF JUVENILE PROCEDURE

The following forms are sufficient for the matters that are covered by them. So long as the substance is expressed without prolixity, the forms may be varied to meet the facts of a particular case. Captions, verifications, and certificates of service, except for the designation of the paper, are omitted from most forms. General forms for these are provided at the beginning of the forms.

[Editor's Note: The Florida Supreme Court's per curiam opinion of December 24, 1980 (393 So.2d 1077) in which the forms appear provides: "Nothing in the Forms shall be deemed to be a part of these Rules."]

Committee Notes

1991 Amendment. These forms have been updated to conform to revisions to Chapter 39, Florida Statutes, and the Florida Rules of Juvenile Procedure. As the court has stated before, the forms are not intended to be part of the rules and are provided for convenience only.

A. GENERAL FORMS

FORM 8.901. CAPTION OF PLEADINGS AND ORDERS

NAME OF COURT

In the Interest of

....., ...a child/children.....

.....(Designation of Pleading or Order).....

FORM 8.902. VERIFICATION

STATE OF FLORIDA

COUNTY OF .....

Before me, the undersigned authority, personally appeared .....(name)....., who, being sworn, says the .....(document)..... is filed in good faith and on information, knowledge, and belief is true.

Sworn to and subscribed before me on .....(date).....

_____

(Title)

Committee Notes

1991 Adoption. The above verification should be added to petitions and motions as required by law.

FORM 8.903. CERTIFICATE OF SERVICE

I certify that a copy of .....(document)..... has been furnished to .....(name(s))..... by .....e-mail/U.S. mail/hand delivery/fax..... on .....(date).....

_____

(Title)

Committee Notes

1991 Adoption. The above may be added to petitions, orders, and other forms as required.

FORM 8.904. AFFIDAVIT FOR ORDER TO TAKE INTO CUSTODY

AFFIDAVIT

STATE OF FLORIDA

COUNTY OF .....

Before me, the undersigned authority, personally appeared affiant, who, being sworn, made the following allegation of facts: ..... and requested that the court issue an order to take into custody the below.....named/described..... children.

Name(s) …….

Age(s) …….Sex …….

Date(s) of Birth …….

Race …….

Address …….

Identifying Description …….

Parent/Custodian…….

Address ……..

_____

Affiant

_____

.....Address.....

FORM 8.905. ORDER TO TAKE INTO CUSTODY

ORDER TO TAKE INTO CUSTODY

TO: …….

A .....verified petition/affidavit..... having been filed in this case, alleging facts which under existing law are determined to be sufficient to authorize taking into custody the below-.....named/identified..... .....child/children....., believed to be of an age subject to the juvenile jurisdiction of the circuit court; therefore

You are commanded to take the following .....child/children..... into custody:

Name(s)…….

Age(s) ……. Sex …….

Date(s) of Birth …….

Race …….

Address …….

Identifying Description …….

Parent/Custodian …….

Address . …….

For the following reasons:…….

Upon taking the .....child/children..... into custody, you will deliver .....him/her/them..... to: …….to be held pending a .....detention/shelter..... hearing or upon further order of this court.

ORDERED in the circuit court in and for ..... County, Florida, on .....(date).....

Circuit Judge

RETURN

This order to take into custody was executed at ..... m., on .....(date)....., by the undersigned.

(Title)

RETURN TO ISSUING COURT UPON THE CHILD'S 19TH BIRTHDAY

FORM 8.906. RELEASE ORDER

RELEASE ORDER

The court now finding that the above-named .....child/children....., previously .....placed in shelter care/detained....., should be released.

It is ADJUDGED:

1. That …….shall be released immediately to …….

2. It is FURTHER ADJUDGED that ……..

ORDERED in the circuit court in and for …….County, Florida, on .....(date).....

Circuit Judge

FORM 8.907. TRANSFER ORDER

TRANSFER ORDER

This case being before this court for consideration of transfer to a court having juvenile jurisdiction in another county, the court finds:

1. That on .....(date)....., following a hearing on the petition of ....., the court .....entered an order of adjudication/withheld adjudication/accepted a plan of proposed treatment, training, or conduct.....

2. That it would be in the best interest of the above-named .....child/children..... that this case be transferred to the circuit court of another county because: .....

3. That a dispositional order .....was/was not..... made in this case.

It is recommended to the receiving court that: .....

It is ADJUDGED:

1. That the jurisdiction of this court in this case and of the .....child/children..... involved is transferred to the circuit court in and for ..... County, Florida, of the ..... Judicial Circuit, for any and all proceedings deemed necessary.

2. That within 5 days from the date of this order the clerk of this court shall forward a certified copy of:

(a) The order of transfer, which shall include but not be limited to:

(i) Specific offense that the child was found to have committed;

(ii) Degree of offense;

(iii) Name of parent/custodian to be summoned;

(iv) Address at which the child should be summoned for disposition;

(v) Name and address of the victim; and

(vi) Whether the child was represented by counsel.

(b) A certified copy of the delinquency petition;

(c) A copy of the juvenile referral or complaint; and

(d) Any reports and all previous orders including orders appointing counsel entered by the court in the interest of that child.

These documents shall be forwarded to the clerk of the receiving court; state attorney of the receiving court; public defender of the receiving court, if counsel previously has been appointed; and …….

ORDERED in the circuit court in and for ..... County, Florida, on .....(date).....

_____

Circuit Judge

FORM 8.908. SUMMONS

SUMMONS

STATE OF FLORIDA

TO ....., ...a child/children..... and ....., ...parent(s)/custodian.....:

A petition under oath has been filed in this court alleging the above-named .....child/children..... to be ..... under the laws of the State of Florida, a copy of which was attached hereto;

You are to appear before the Honorable ....., Circuit Judge, at .....m., on .....(date)....., at the county courthouse of ..... County, at ....., Florida for the hearing of this petition. The .....parent(s)/custodian..... .....is/are..... required to produce the .....child/children..... at that time and place unless the .....child/children..... .....is/are..... in detention or shelter care at that time.

COMMENT: The following paragraph must be in bold, 14 pt. Times New Roman or Courier font.

If you are a person with a disability who needs any accommodation to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact .....(name, address, telephone number)..... at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you are hearing or voice impaired, call 711.

You may be held in contempt of court if you fail to appear.

WITNESS my hand and seal of this court at ..... County, Florida, on .....(date).....

……., Clerk of Circuit Court

…….County, Florida

By: _____ D.C.,

FORM 8.909. PLAN FOR TREATMENT, TRAINING, OR CONDUCT

PLAN FOR TREATMENT, TRAINING, OR CONDUCT

TO: ……., Circuit Judge

Instead of a plea to the petition filed on .....(date)....., alleging the above-named .....child/children..... to be ……., the following proposed plan for treatment, training, or conduct, formulated in conjunction with the supervising agency, is now submitted, with the request that it be accepted by the court and that prosecution of the said petition be deferred.

This agreement is entered into with full knowledge and disclosure of all the facts and circumstances of this case, and in consideration thereof, and the promise of fulfillment of its terms and conditions, each of the undersigned agrees as follows: …….

It is further agreed:

1. That the speedy trial rule is waived,

2. That a hearing for the acceptance of this plan .....is/is not..... waived,

3. That this plan, as agreed to here, shall be in effect until .....

In witness whereof the undersigned have affixed their hands on .....(date).....

_____

Child

_____

.....Parent(s) or Custodian(s).....

_____

Attorney for

.....Child/Parent(s)/Custodian(s).....

……., Department of Juvenile Justice, Supervising Agency, Recommends: .....Acceptance/Rejection.....

_____

Authorized Agent

CONSENT IN DELINQUENCY CASES

The undersigned, being familiar with the contents of this plan for treatment, training, or conduct and the delinquency petition on which it is based, consents to defer prosecution of the petition.

Dated: …….

…….

State Attorney

By:_____

Assistant State Attorney

ORDER

The foregoing plan for treatment, training, or conduct having been properly submitted and having been given consideration by the court,

It is ADJUDGED:

1. That the plan is approved and the parties thereto shall comply with its terms and conditions.

2. That the plan is disapproved and an adjudicatory hearing on the petition shall be scheduled.

ORDERED at ....., ... County, Florida, on .....(date).....

Circuit Judge

FORM 8.911. UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT AFFIDAVIT

See Fla. Sup. Ct. App. Fam. L. Form 12.902(d).

FORM 8.912. PETITION TO SHOW CAUSE

PETITION BY AFFIDAVIT FOR ORDERTO SHOW CAUSE

1. This is a proceeding for an order to show why the below-named witness, ..., should not be held in contempt of court.

2. Petitioner is .....(title)......

3. A subpoena was duly served on .....(name)....., at .....(time)..... by .....(name)..... who was then and there authorized to serve said subpoena. A copy of the receipt evidencing service is attached and incorporated by reference. Said .....(name)..... did not appear on .....(date)....., at .....(time)..... in response to that subpoena and to this date has not appeared.

WHEREFORE, the undersigned does respectfully request the court to issue an order to direct .....(name)..... to appear before the court to show cause why .....(name)..... should not be held in contempt of court.

Petitioner

FORM 8.913. ORDER TO SHOW CAUSE

ORDER TO SHOW CAUSE

This cause came on to be heard on the petition for order to show cause directed to .....(name)..... for failure .....(specify)..... on .....(date)..... (See attached affidavit.)

NOW, THEREFORE, you, ...(name)....., are hereby ORDERED to appear before this court located at ....., on .....(date)....., at .....(time)....., to show cause why you should not be held in contempt of this court, for your failure to .....(specify).....

DONE AND ORDERED on .....(date)....., at ....., ... County, Florida.

Circuit Judge

B. DELINQUENCY FORMS

FORM 8.929. DETENTION ORDER

DETENTION HEARING ORDER

Pick up order for absconding from:

..... home detention

..... probation

..... commitment

..... other: .....

Present before the court:

..... the child;

....(name)....., Assistant State Attorney;

....(name)....., Assistant Public Defender/defense attorney;

....(name)....., parent/legal guardian;

....(name)....., DJJ juvenile probation officer;

....(name)....., Department of Children and Family Services

....(name)....., guardian ad litem

DJJ Supervision status:

..... None

..... Home detention

..... Probation

..... Committed to ..... level

..... CINS/FINS

..... Conditional release

Other court involvement:

Dependency: ..... Yes ..... No ..... Unknown

Domestic relations: ..... Yes ..... No ..... Unknown

Domestic violence: ..... Yes ..... No ..... Unknown

The court finds that the child was taken into custody at ..... a.m./p.m., on .....(date).....

Probable cause that the child committed delinquent acts was:

..... found.

..... not found.

..... reset within 48 hours of custody.

Risk assessment instrument (RAI) score: .....

Score amended to: .....

..... Meets detention criteria.

IT IS ORDERED that the above-named child be:

..... released to the custody of .....(name).....

..... held in secure detention for domestic violence charge under section 985.245, Florida Statutes.

The court finds:

..... respite care is not available for the child; and

..... it is necessary to place the child in secure detention to protect the victim from injury.

..... detained by the Department of Juvenile Justice in

..... home detention.

..... home detention with electronic monitoring.

..... secure detention.

with the following special conditions:

..... attend school regularly.

..... attend evaluation as follows:

..... physical.

..... psychological.

..... ADM.

..... other .....

..... no (..... harmful) contact with .....(name).....

..... drug testing.

..... no drug and alcohol use.

..... other: .....

..... released from detention and returned to the child's nonresidential commitment program.

Reasons for court ordering more restrictive placement than RAI score:…….

It is FURTHER ORDERED that unless an adjudicatory hearing has begun or a subsequent modification order is entered, the child shall be released no later than 5:00 p.m. on .....(date)..... to .....(name(s))....., who is/are

..... the parent(s)

..... a relative

..... foster care

..... ……. program

....him/her..... self

..... other .....

IT IS FURTHER ORDERED under section 985.039, Florida Statutes

..... The parent/guardian of the child, ...(name)....., shall pay to the Department of Juvenile Justice, 2737 Centerview Drive, Tallahassee, FL 32399-3100, $5 per day for each day the juvenile is in secure detention.

..... The parent/guardian of the child, ...(name)....., shall pay to the Department of Juvenile Justice, 2737 Centerview Drive, Tallahassee, FL 32399-3100, $1 per day for each day the child is in home detention.

..... The parent/guardian of the child, ...(name)....., shall pay to the Department of Juvenile Justice, 2737 Centerview Drive, Tallahassee, FL 32399-3100, a REDUCED rate of $..... per day for each day the child is in detention status. This reduced fee is based on the court's finding

..... that the parent/guardian was the victim of the delinquent act or violation of law for which the child is currently detained and is cooperating in the investigation of the offense; or

..... of indigency or significant financial hardship. The facts supporting this finding are: .....

..... The parent/guardian of the child, ...(name)....., ...(address)....., shall be liable for .....% of the payment. The parent/guardian of the child, ...(name)....., ...(address)....., shall be liable for .....% of the payment.

..... The .....supervision fee/cost of care..... is WAIVED based on the court's finding

..... that the parent/guardian was the victim of the delinquent act or violation of law for which the child is currently detained and is cooperating in the investigation of the offense; or

..... of indigency or significant financial hardship. The facts supporting this finding are: .....

If the child's case is dismissed or if the child is found not guilty of the charges or court order, then the parent/guardian shall not be liable for fees under this order.

Unless modified by subsequent notice, the NEXT COURT APPEARANCE:

..... will be at .....(time)..... on .....(date)..... at .....(location).....

..... is to be set.

COMMENT: The following paragraph must be in bold, 14 pt. Times New Roman or Courier font.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact .....(name, address, telephone number)..... at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you are hearing or voice impaired, call 711.

Note: The child's parent/legal guardian shall advise Clerk's Office and DJJ of any address change.

..... Department of Juvenile Justice shall transfer the child to ..... Detention Center.

Other: .....

DONE AND ORDERED in ..... County, Florida at ..... a.m./p.m. on .....(date).....

_____

Circuit Judge

Copies to: .....

FORM 8.930. JUVENILE NOTICE TO APPEAR

JUVENILE NOTICE TO APPEAR

DATE ..... AGENCY ……..

CASE NO. …….

PARENT, ADULT RELATIVE, LEGAL GUARDIAN .....(name).....

I am the .....(relationship to child)..... of .....(child's name)..... and promise to ensure that the child appears on .....(date)..... at .....(time)..... at .....(location)..... I also promise immediately to notify the office of the state attorney at .....(telephone number)..... and the clerk of the court at .....(telephone number)..... of any change in the child's address.

_____

Signature of Parent/Adult

Relative/Legal Guardian

.....(address).....

.....(telephone number).....

.....(date).....

.....(address and telephone number of child, if different).....

- - - - - - - - - - - - - - -

I, ...(child's name)....., understand that I have been charged with a law violation, ...(offense(s))....., and that I am being released at this time to the custody of .....(parent, adult relative, or legal guardian's name).....

I promise to appear on .....(date)..... at .....(time)..... at .....(location)....., and to appear as required for any additional conferences or appearances scheduled by DJJ or the court. I understand that my failure to appear shall result in a custody order being issued and that I will be picked up and taken to detention.

_____

Child's Signature

Date .....

Arresting Officer .....

Releasing officer or DJJ
counselor authorizing release

DJJ Intake Telephone Number ……

ATTACH TO ARREST AFFIDAVIT

FORM 8.931. DELINQUENCY PETITION

PETITION

Your petitioner respectfully represents that ……. whose date(s) of birth …. is/are ….. and who reside(s) at ……. ...is/ are ….. delinquent and that this court has jurisdiction of this cause because of the following allegations of facts:…….

That the parents or custodians are:

…….. …….

Mother Residence

…….. …….

Father Residence

…….. …….

Custodian Residence

WHEREFORE, your petitioner requests process may issue to bring the above-named parties before the court on a day and time designated to be dealt with according to law.

Dated: .....

Petitioner

FORM 8.932. APPLICATION FOR COUNSEL AND ORDER

APPLICATION FOR COUNSEL

AND ORDER

STATE OF FLORIDA

COUNTY OF .....

Before me, the undersigned authority, personally appeared affiant, who, being duly sworn, says:

1. That I understand a delinquency complaint has been made against me and, being advised of my right to an attorney, now request appointment of counsel.

2. Being without sufficient funds, property or assets of any kind, I will be deprived of my right to representation unless I am adjudged insolvent and counsel appointed to represent me.

3. That I have been informed that a lien for the value of the legal services rendered to me by the public defender may be imposed by law on any property I now or may hereafter have in this state.

Dated: .....

Affiant Child

STATEMENT OF PARENT(S)

The undersigned are informed and understand that liability for cost of representation of this child by the public defender can be assessed against the parent(s) by court order in an amount not to exceed the amount provided by law.

Parent

Parent

ORDER

The court finds that this child is indigent, as defined by law, and is desirous of counsel; it is, therefore,

ORDERED

1. That this child is declared to be insolvent.

2. That ....., Public Defender for the ..... Judicial Circuit, State of Florida, is hereby appointed as counsel to represent this child in all matters in defense of the delinquency complaint herein made.

DONE AND ORDERED in the circuit court in and for ..... County, Florida, on .....(date).....

Circuit Judge

FORM 8.933. WAIVER OF COUNSEL

WAIVER OF COUNSEL

I, the undersigned child, ... years of age, understand:

(1) That a complaint of delinquency alleging that I did: ..... has been made against me;

(2) That I have a right to a lawyer and that if I am unable to pay a lawyer and wish to have one appointed, a lawyer will be provided immediately.

I understand this right to and offer of a lawyer and, being aware of the effect of this waiver, I knowingly, intelligently, understandingly and of my own free will now choose to and, by the signing of this waiver, do hereby waive my right to a lawyer and elect to proceed in this case without benefit of a lawyer.

Date: .....

_____

Child

This waiver of counsel was signed in the presence of the undersigned witnesses who, by their signature, attest to its voluntary execution by this child.

Witness:_____

Witness:_____

STATEMENT OF PARENT

OR RESPONSIBLE ADULT

This waiver of counsel was read by me and explained fully to this child in my presence. I understand the right of this child to an attorney and as the ……. of this child I consent to a waiver of this right.

Date:…….

- - - - - - - - - - - - - - -

ORDER ASSESSING ATTORNEY'S FEE

The child herein, having been represented by the Public Defender in this cause pursuant to section 27.52, Florida Statutes, it is

ORDERED AND ADJUDGED that a reasonable attorney's fee for services rendered by the Public Defender to the child in this cause is $..... and that said fee is hereby assessed against ....., the father, and ....., the mother, in favor of the State of Florida.

DONE AND ORDERED at ....., Florida, on .....(date).....

Circuit Judge

FORM 8.934. ORDER TO DETERMINE MENTAL CONDITION

ORDER TO DETERMINE

MENTAL CONDITION

It having been made known to the court and the court finding that reasonable grounds exist to believe that this child may be incompetent to proceed with an adjudicatory hearing, and that a hearing should be scheduled to examine this child and determine .....his/her..... mental condition, it is

ADJUDGED:

1. That all proceedings in this case are now stayed, pending further order of this court.

2. That a hearing to determine the mental condition of this child is scheduled before me at ..... m., on .....(date).....

3. That the following named persons are hereby appointed as disinterested qualified experts to examine this child as to competency and to testify as to the child's mental condition at the hearing above scheduled:

(1) ....

Name Address

(2) ....

Name Address

(3) ....

Name Address

4. That this child shall be held temporarily in the custody of ....., who shall produce the child for examination by the above-named at a time and place to be arranged.

ORDERED at ....., ... County, Florida, on .....(date).....

Circuit Judge

FORM 8.935. ORDER OF INCOMPETENCY

ORDER OF INCOMPETENCY

The above-named child being before the court for inquiry into .....his/her..... mental condition and a determination of .....his/her..... competency to proceed with an adjudicatory hearing, from the evidence the court finds:

That the said child is mentally incompetent to proceed with the adjudicatory hearing.

It is, therefore, ADJUDGED that proceedings shall be commenced immediately for the involuntary hospitalization of this child by ....., as provided by law, and the said child shall ..... pending disposition of those proceedings.

All proceedings in this case are stayed pending such action.

ORDERED at ....., Florida, on .....(date).....

Circuit Judge

FORM 8.936. ORDER OF COMPETENCY

ORDER OF COMPETENCY

The above-named child being before the court for inquiry into .....his/her..... mental condition and a determination of .....his/her..... competency to proceed with an adjudicatory hearing, from the evidence the court finds:

That the child is mentally competent to proceed with the adjudicatory hearing.

It is, therefore, ADJUDGED that the adjudicatory hearing in this case shall .....commence/resume..... at ..... m., on .....(date).....

ORDERED at ....., Florida, on .....(date).....

Circuit Judge

FORM 8.937. DEMAND FOR VOLUNTARY WAIVER

DEMAND FOR VOLUNTARY WAIVER

OF JURISDICTION

The child files this demand for voluntary waiver of jurisdiction pursuant to rule 8.105, Florida Rules of Juvenile Procedure, and shows that the child desires the court to waive

jurisdiction and certify the case for trial in adult court as if the child were an adult to face adult punishments or penalties.

Date: .....

Child

Parent/Legal Guardian

FORM 8.938. ORDER OF VOLUNTARY WAIVER

VOLUNTARY WAIVER ORDER

Upon the demand for voluntary waiver filed by the child, it is hereby ORDERED AND ADJUDGED as follows:

1. A demand for voluntary waiver of jurisdiction was filed by the child and parent/legal guardian on .....(date).....

2. The court waives jurisdiction to try the child pursuant to chapter 985, Florida Statutes.

3. The above cause is certified for trial as if the child were an adult.

4. A certified copy of this order shall be furnished to the clerk of the court having jurisdiction to try the child as an adult and to the prosecuting officer of said child.

5. The child shall be forthwith delivered to the sheriff of the county in which the court that is to try the child is located. Bond is set at $.....

DONE AND ORDERED in chambers at ....., ...(date).....

Circuit Judge

FORM 8.939. MOTION FOR INVOLUNTARY WAIVER

MOTION FOR INVOLUNTARY WAIVER

The State of Florida, having considered the recommendation of the intake officer, petitions the court to waive jurisdiction pursuant to rule 8.105, Florida Rules of Juvenile Procedure, and shows:

The child was 14 or more years of age at the alleged time of commission of the violation of law for which the child is charged.

[Add the following paragraph, if applicable]

The child has been previously adjudicated delinquent for a violent crime against a person, to wit .....(offense)....., and is currently charged with a second or subsequent such offense.

Wherefore, the State of Florida requests the court to conduct a hearing on this motion for the purpose of determining whether the court should waive its jurisdiction and certify the case to the appropriate court for trial as if the child were an adult.

_____

Petitioner

FORM 8.940. MOTION TO COMPILE REPORT

MOTION TO COMPILE REPORT

The State of Florida, having filed a petition for involuntary waiver, moves the court for an order requiring the department to prepare a study and report to the court, in writing, considering the following relevant factors:

1. The seriousness of the alleged offense to the community and whether the protection of the community is best served by transferring the child for adult sanctions.

2. Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.

3. Whether the alleged offense was against persons or against property.

4. The probable cause as found in the report, affidavit, or complaint.

5. The desirability of trial and disposition of the entire offense in one court when the child's associates in the alleged crime are adults or children who are to be tried as adults who will be or have been charged with a crime.

6. The sophistication and maturity of the child.

7. The record and previous history of the child including:

a. Previous contact with the department, other law enforcement agencies, and the courts;

b. Prior periods of juvenile probation;

c. Prior adjudications that the child committed a delinquent act or violation of law, greater weight being given if the child previously had been found by a court to have committed a delinquent act involving an offense classified as a felony or had twice previously been found to have committed a delinquent act involving an offense classified as a misdemeanor; and

d. Prior commitments to institutions.

8. The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child, if found to have committed the alleged offense, by the use of procedures, services, and facilities currently available to the court.

WHEREFORE, the State of Florida requests an order directing the department to prepare a study and report in writing prior to the waiver hearing.

_____

Petitioner

FORM 8.941. ORDER TO COMPILE REPORT

ORDER TO COMPILE REPORT

Upon the motion of the State of Florida, the department shall prepare a study and report to the court, in writing, considering the following relevant factors:

1. The seriousness of the alleged offense to the community and whether the protection of the community is best served by transferring the child for adult sanctions.

2. Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.

3. Whether the alleged offense was against persons or against property.

4. The probable cause as found in the report, affidavit, or complaint.

5. The desirability of trial and disposition of the entire offense in one court when the child's associates in the alleged crime are adults or children who are to be tried as adults who will be or have been charged with a crime.

6. The sophistication and maturity of the child.

7. The record and previous history of the child including:

a. Previous contact with the department, other law enforcement agencies, and the courts;

b. Prior periods of juvenile probation;

c. Prior adjudications that the child committed a delinquent act or violation of law, greater weight being given if the child had previously been found by a court to have committed a delinquent act involving an offense classified as a felony or had twice previously been found to have committed a delinquent act involving an offense classified as a misdemeanor; and

d. Prior commitments to institutions.

8. The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child, if found to have committed the alleged offense, by the use of procedures, services, and facilities currently available to the court.

DONE AND ORDERED in chambers at ....., Florida, ...(date).....

_____

Circuit Judge

FORM 8.942. ORDER OF INVOLUNTARY WAIVER

ORDER OF INVOLUNTARY WAIVER

A petition was filed in this cause on .....(date)..... Prior to the adjudicatory hearing on the petition, the State of Florida filed a motion requesting that the court waive its jurisdiction and certify the case to the appropriate court for trial as if the child were an adult. This cause came before the court on the motion.

The following were present .....(names)..... with .....(name)....., representing the State of Florida and .....(name)....., representing the Department of Juvenile Justice.

The court heard the evidence presented by the State of Florida and the child to determine whether the jurisdiction of this court should be waived and the case certified to the appropriate court for trial as if the child were an adult. The court finds that it is in the public interest that the jurisdiction of this court be waived and that the case be certified to the appropriate court having jurisdiction to try an adult who is charged with a like offense based on the following findings of fact:

1. Age of child .....

2. Seriousness of alleged offense .....

3. Manner of commission of offense .....

4. Nature of offense (person or property) .....

5. Probable cause as found in the report, affidavit, or complaint .....

6. Desirability of trial and disposition of entire offense in one court .....

7. Sophistication and maturity of the child .....

8. Record and previous history of the child .....

9. Prospects for adequate protection of the public and rehabilitation of child .....

IT IS ADJUDGED that the jurisdiction of this court is waived and that this case is transferred to the .....(court)..... for trial as if the child were an adult.

The child shall be held by the sheriff of this county unless a bond in the amount of $..... is posted. The child shall appear before .....(court)..... on .....(date)..... to answer the State of Florida on the foregoing charges.

DONE AND ORDERED in chambers at ....., Florida, on .....(date).....

_____

Circuit Judge

FORM 8.947. DISPOSITION ORDER — DELINQUENCY

DISPOSITION ORDER

A petition was filed on .....(date)....., alleging .....(name)....., ….. age, to be a delinquent child. The court finds that it has jurisdiction of the proceedings.

Present before the court were:

.....the child;

....(name)....., Assistant State Attorney;

....(name)....., Assistant Public Defender/defense attorney;

....(name)....., guardian;

....(name)....., DJJ juvenile probation officer.

At the hearing on .....(date)....., after ….. entry of a plea/an adjudicatory hearing…..the child was found to have committed the delinquent acts listed below:

	Count	Count	Count	Count
Charge	.....	.....	.....	.....
Lesser	.....	.....	.....	.....
Maximum	.....	.....	.....	.....
Degree	.....	.....	.....	.....
Guilty	.....	.....	.....	.....
Nolo contendere	.....	.....	.....	.....
Nolo prose	.....	.....	.....	.....
Adjudicated	.....	.....	.....	.....
Adj. withheld	.....	.....	.....	.....

The predisposition report was ..... received and considered/waived by the child .....

The court, having considered the evidence and comments offered by those present, having inquired, and being otherwise fully advised in the premises ORDERS THAT:

..... Adjudication of delinquency is withheld.

..... The child is adjudicated delinquent……

..... The child is committed to a licensed child caring agency

..... The child is committed to the Department of Juvenile Justice for placement in:

..... a minimum-risk nonresidential commitment program, for an indeterminate period, but no longer than the child's 21st birthday or the maximum term of imprisonment an adult may serve for each count listed above, whichever comes first.

..... a non-secure residential commitment program, for an indeterminate period, but no longer than the child's 21st birthday or the maximum term of imprisonment an adult may serve for each count listed above, whichever comes first, because

..... the child is before the court for the disposition of a felony;

..... the child has previously been adjudicated or had adjudication withheld for a felony offense;

..... the child previously has been adjudicated or had adjudication withheld for three or more misdemeanor offenses within the previous 18 months;

..... the child is before the court for disposition for a violation of sections 800.03, 806.031, or 828.12, Florida Statutes; or

..... the court finds by a preponderance of the evidence that the protection of the public requires such placement or that the particular needs of the child would be best served by such placement. The facts supporting this finding are: .....

..... a high-risk commitment program, for an indeterminate period, but no longer than the child's 21st birthday or the maximum term of imprisonment an adult may serve for each count listed above, whichever comes first, because the child is before the court for the disposition of a felony.

..... a maximum-risk commitment program, for an indeterminate period, but no longer than the child's 21st birthday or the maximum term of imprisonment an adult may serve for each count listed above, whichever comes first, because the child meets the criteria in section 985.465 or 985.494, Florida Statutes.

..... The child is allowed ..... days credit for time spent in secure detention or incarceration before this date.

..... The child shall be placed on:

..... home detention ..... with/without-..... electronic monitoring until placement.
..... secure detention until placement.

..... The court has orally pronounced its reasons for adjudicating and committing this child.

..... The court retains jurisdiction to accept or reject the discharge of this child from commitment, as provided by law.

The child is placed on post-commitment juvenile probation for an indefinite period not to exceed the child's 19th birthday or the maximum term of imprisonment an adult could receive for each count listed above, whichever comes first.

..... Following commitment, the child is placed on conditional release for a period not to exceed the child's 21st birthday or the maximum term of imprisonment an adult could receive for each count listed above, whichever comes first.

..... JUVENILE PROBATION: The child is ..... placed continued on..... juvenile probation under supervision of .....the Department of Juvenile Justice/.....(name)..... and

..... the court having withheld adjudication of delinquency, for an indefinite period not to exceed the child's 19th birthday.

..... the court having adjudicated the child delinquent, for an indefinite period not to exceed the child's 19th birthday or the maximum term of imprisonment an adult could receive for each count listed above, except for a second degree misdemeanor, six months, whichever comes first.

..... as part of a sex offender treatment program, for an indefinite period not to exceed the child's 21st birthday or the maximum term of imprisonment an adult could receive for each count listed above.

..... Disposition on each count is .....concurrent/consecutive-.....

..... This case disposition is .....-concurrent with/consecutive to.....case number .....

GENERAL CONDITIONS OF JUVENILE PROBATION. The child must abide by all of the following conditions:

1. The child must obey all laws.

2. The child must be employed full-time or attend school with no unexcused absences, suspensions, or disciplinary referrals.

3. The child must not change or leave .....his/her.... residence, school, or place of employment without the consent of .....his/her..... parents and juvenile probation officer.

4. The child must answer truthfully all questions of .....his/her..... juvenile probation officer and carry out all instructions of the court and juvenile probation officer.

5. The child must keep in contact with the juvenile probation officer in the manner prescribed by the juvenile probation officer.

6. The child must not use or possess alcoholic beverages or controlled substances.

SPECIAL CONDITIONS OF JUVENILE PROBATION. The child must abide by all of the conditions marked below:

..... Restitution is ordered.

..... Parent(s) is/are responsible,

..... Child is responsible,

..... jointly and severally with .....

..... The court reserves jurisdiction to determine the amount of restitution to be paid.

..... $..... to be paid to ..... (name) ….. Payments shall begin .....(date)..... and continue at the rate of $ ..... each month.

..... Community Service. ..... hours are to be performed by the child at the rate of ..... hours per month. Written proof is to be provided to the juvenile probation officer.

..... Community service for a delinquent act involving the use or possession of a firearm, under section 790.22, Florida Statute, or an offense during the commission of which the child possessed a firearm, and the child is not committed to a residential commitment program of the Department of Juvenile Justice. Community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.

..... First offense, 100 hours.

..... Second or subsequent offense, 100 hours to 250 hours.

..... A letter of apology to be written by the child to .....(name)….. within ….. days. The letter must be a minimum of ..... words.

..... A …… word essay to be written by the child on ..... (subject)…..and provided to the juvenile probation officer within 30 days.

..... The child must have no ……. contact with victim(s), ...-(name(s))-.....

..... A ..... mental health/substance abuse-.....evaluation to be completed by the child within ….. days. The child will attend and participate in every scheduled appointment and successfully attend and complete any and all recommended evaluations and treatment.

..... A curfew is set for the child from ..... p.m. to ..... a.m. Sunday through Thursday and from ..... p.m. to ..... a.m. Friday and Saturday.

..... The child must submit to random urinalysis as instructed by the Department of Juvenile Justice.

..... The child must submit to electronic monitoring by the Department of Juvenile Justice.

..... The child must successfully complete all special conditions of juvenile probation ordered in this case on .....(date).....

..... Other: .....

..... The child must pay court costs of $ ....., as specified below.

The child is placed on notice that the court may modify the conditions of .....his/her..... juvenile probation at any time and may revoke the juvenile probation if the court finds there is a violation of the conditions imposed.

DRIVER LICENSE

..... The child's driver license .....is suspended/is revoked/is withheld/limitation is extended.....:

..... for .....(months/years).....

..... for a delinquent act involving the use or possession of a firearm, under section 790.22, Florida Statute.

..... First offense, ...(up to one year).....

..... Second or subsequent offense, ...(up to two years).....

..... for a delinquent act under Chapter 893, Florida Statutes.

..... First offense, ...(up to six months).....

..... Second or subsequent offense, ...(up to two years).....

SECURE DETENTION FOR FIREARM CHARGES

..... Having found the child committed a violation of section 790.22(3), Florida Statutes, under section 790.22(5), Florida Statutes, the child is ordered to serve:

..... for a first violation, ... days (0 to 3), in the Juvenile Detention Center.

..... for a second violation, ... days (0 to 15), in the Juvenile Detention Center.

..... The court finds that the delinquent act in count ..... involves the use or possession of a firearm other than a violation of section 790.22(3), Florida Statutes, and the child is not committed by this order to a residential commitment program of the Department of Juvenile Justice. Therefore, under section 790.22(9), Florida Statutes, the child is ordered to serve:

..... for a first violation, 15 days (minimum), in the Juvenile Detention Center, and receive no credit for time served prior to this order.

..... for a second or subsequent violation, 21 days (minimum), in the Juvenile Detention Center, and receive no credit for time served prior to this order.

.... days in the Juvenile Detention Center, and receive no credit for time served prior to this order.

FINES, FEES, AND COSTS:

..... The child must:

..... pay, notwithstanding the child's present ability to pay, under sections 938.27 and 985.032, Florida Statutes,

..... $50.00, per case (in disposition of every misdemeanor case), the costs of prosecution,

..... $100.00, per case (in disposition of every felony case), the costs of prosecution, or

..... $..... to .....(agency)....., which, having claimed costs of prosecution or investigation, as provided by law, has shown to a preponderance its entitlement to such costs of prosecution or investigation;

..... pay $....., the Crimes Compensation Trust Fund fee, under section 938.03, Florida Statutes;

..... pay $....., the Teen Court cost and service charge, under section 938.19, Florida Statutes (if authorized by county ordinance);

..... pay $-....., the Public Defender application fee, under section 27.52, Florida Statutes;

..... pay, notwithstanding the child's present ability to pay, the Legal Assistance Lien for payment of attorneys' fees or costs, under section 938.29, Florida Statutes,

..... $50.00, per case (in disposition of every misdemeanor case),

..... $100.00, per case (in disposition of every felony case), or

..... $....., the court having found sufficient proof of higher fees and costs incurred to .....(agency).....;

..... pay $....., other costs, under section(s) ....., Florida Statutes.

..... The child has been adjudicated delinquent and the child is required to pay $....., an additional cost, under section 939.185, Florida Statutes, if authorized by county ordinance.

..... The child has been adjudicated delinquent and assessed a fine and the child is required to pay $..... to the Crime Prevention Trust Fund, under section 775.083(2), Florida Statutes.

..... The child has committed an enumerated crime against a minor and the child is required to pay $-....., under section 938.10, Florida Statutes.

..... The child has violated chapter 794, Florida Statutes (sexual battery), or chapter 800, Florida Statutes, (lewdness; indecent exposure), and is ordered to make restitution to the Crimes Compensation Trust Fund under section 960.28(5), Florida Statutes, for the cost of the forensic physical examination.

..... The child has the inability to pay all court costs, and shall perform ..... hours of community service in lieu of these costs and fees.

SPECIMENS FROM THE CHILD

..... The child has entered a plea of guilty or nolo contendere to, or has been found by this court to have committed, a delinquent act which is a felony or an enumerated misdemeanor, and the child is required to submit specimens under section 943.325, Florida Statutes.

ORDERS TO PARENTS/GUARDIANS

..... The parent(s) .....is/are.....

..... to complete.....counseling/parenting classes/community service/restitution.....

..... participate with the child in .....court-imposed sanction/community work project.....

..... Under section 985.039, Florida Statutes:

..... the parent/legal guardian, ...(name)....., must pay to the Department of Juvenile Justice, 2737 Centerview Drive, Tallahassee, FL 32399-3100, $5 per day for each day the child is placed in secure detention or placed on committed status and the temporary legal custody of the child is placed with the department.

..... the parent/legal guardian, ...(name).....,, must pay to the Department of Juvenile Justice, 2737 Centerview Drive, Tallahassee, FL 32399-3100, $1 per day for each day the child is placed into non-secure detention, on probation, or other supervision status with the department, or is committed to the minimum risk nonresidential restrictiveness level commitment.

..... the parent/legal guardian, ...(name)....., must pay to the Department of Juvenile Justice, 2737 Centerview Drive, Tallahassee, FL 32399-3100, a REDUCED fee of $..... per day for each day the child is in the custody of or supervised by the department. This reduced fee is based on the court's finding:

..... that the parent/legal guardian was the victim of the delinquent act or violation of law for which the child is currently before the court and is cooperating in the investigation of the offense.

..... of indigency or significant financial hardship. The facts supporting this finding are: .....

..... The cost of care/supervision fee is WAIVED based on the court's finding:

..... that the parent/legal guardian was the victim of the delinquent act or violation of law for which the child is currently before the court and is cooperating in the investigation of the offense.

..... of indigency or significant financial hardship. The facts supporting this finding are: .....

..... The parent/guardian, ...(name)....., ...(address)....., shall be liable for .....% of the payment. The parent/guardian, ...(name)....., ...(address)....., shall be liable for .....% of the payment.

The parties are advised that an appeal is allowed within 30 days of the date of this order.

DONE AND ORDERED in ..... (city) ....., ... County, Florida on .....(date) ....., at ..... a.m./p.m.

Circuit Judge

Copies to:

FORM 8.948. PETITION FOR REVOCATION OF JUVENILE PROBATION

PETITION FOR REVOCATION OF

JUVENILE PROBATION

The petitioner represents to the court that ....., whose residence and address is ..... was adjudicated a ..... child and placed on juvenile probation by order of this court dated ....., and that the child has violated the conditions of the juvenile probation in a material respect by: .....

The petitioner represents further that the parent(s) or custodian(s) .....is/are.....:

…….. …….

Mother Residence

…….. …….

Father Residence

…….. …….

Custodian Residence

WHEREFORE, your petitioner requests that process may issue to bring the above-named child before this court to be dealt with according to law.

Date: .....

Petitioner

FORM 8.949. ORDER FOR HIV TESTING

ORDER FOR HUMAN IMMUNODEFICIENCY

VIRUS (HIV) TESTING

The court having been requested by the .....victim/ victim's legal guardian/minor victim's parent..... for disclosure of the child's HIV test results FINDS that:

The child, ...(name)....., ...is alleged by petition for delinquency to have committed/has been adjudicated delinquent for..... a sexual offense proscribed in chapter 794 or section 800.004, Florida Statutes, involving the transmission of body fluids from one person to another.

It is ORDERED AND ADJUDGED that:

1. The child, ...(name)....., shall immediately undergo Human Immunodeficiency Virus testing.

2. The testing shall be performed under the direction of the Department of Health in accordance with section 381.004, Florida Statutes.

3. The results of the test performed on the child pursuant to this order shall not be admissible in any juvenile proceeding arising out of the .....alleged sexual offense/sexual offense.....

4. The results of the test shall be disclosed, under the direction of the department, to the child and to the .....victim/victim's legal guardian/minor victim's parent..... The department shall ensure that the provisions of section 381.004, Florida Statutes, for personal counseling are available to the party requesting the test results.

DONE AND ORDERED at ....., Florida, ...(date).....

_____

Circuit Judge

FORM 8.950. RESTITUTION ORDER

JUDGMENT AND RESTITUTION ORDER

THIS CAUSE was heard on .....(date)....., on the state's motion for an order requiring the child, born .....(date)....., or .....his/her..... parent(s), to pay restitution costs for the benefit of the victim pursuant to sections 985.0301(5)(i), 985.437, and 775.089, Florida Statutes.

Name of victim: .....

Attorney or Advocate: .....

Address: .....

The court being fully advised in the premises, it is ORDERED AND ADJUDGED:

The state's motion is granted and the .....child/ child's parent(s), ...(name(s))....., shall pay restitution for the benefit of the victim named above as follows:

..... $..... for medical and related services and devices relating to physical, psychiatric, and psychological care, including nonmedical care rendered in accordance with a recognized method of healing.

..... $..... for necessary physical and occupational therapy and rehabilitation.

..... $..... to reimburse the victim for income lost as a result of the offense.

..... $..... for necessary funeral and related services, if the offense caused bodily injury resulting in the death of the victim.

..... $..... for damages resulting from the offense.

..... $..... for .....

The total amount of restitution due is $.....

Payment shall be made to the clerk of the circuit court.

Payment schedule:

..... Installment payments of $..... payable on a .....weekly/monthly..... basis.

..... Payment is due in full.

..... The court finds that the .....child/child's parent(s)..... .....is/are..... unable to pay and orders the child to perform ..... hours of community service in lieu of .....partial/total..... restitution.

The court retains jurisdiction over this child beyond .....his/her..... nineteenth birthday in order to enforce the provisions of this order and retains jurisdiction to modify the restitution in this case.

Other, specified conditions: …….

IT IS FURTHER ORDERED AND ADJUDGED that the clerk of the court shall provide the victim named above a certified copy of this order for the victim to record this judgment as a lien, pursuant to section 55.10, Florida Statutes.

IT IS FURTHER ORDERED AND ADJUDGED that this judgment may be enforced by the state or the victim in order to receive restitution in the same manner as a judgment in a civil action. Execution shall issue for all payments required under this order.

DONE AND ORDERED AT .....(city)....., ...(county)....., Florida, on .....(date).....

Circuit Judge

Copies to:

State Attorney

Counsel for Child

Victim

Department of Juvenile Justice

Parent(s)

FORM 8.951. MOTION FOR JUVENILE SEXUAL OFFENDER PLACEMENT

MOTION FOR JUVENILE SEXUAL

OFFENDER PLACEMENT

Comes now the .....State of Florida, by and through the undersigned assistant state attorney/Department of Juvenile Justice, by and through its undersigned counsel....., and moves the court for Juvenile Sexual Offender placement. In support thereof, movant would show:

..... that the juvenile has been found by the court, under section 985.35, Florida Statutes, to have committed a violation of chapter 794, chapter 796, chapter 800, section 827.071, or section 847.0133, Florida Statutes; or

..... that the juvenile has been found to have committed any violation of law or delinquent act involving juvenile sexual abuse as defined in section 985.475(1), Florida Statutes.

Placement in a juvenile sexual offender program is required for the protection of the public and would best serve the needs of this juvenile.

WHEREFORE, as this child meets the juvenile sexual offender placement criteria, the .....state/ department..... respectfully requests this court to enter an order placing the child as a juvenile sexual offender under section 985.48, Florida Statutes.

Date: .....

Assistant State Attorney/DJJ Attorney
.....(address & phone no.).....
Florida Bar No.: .....

FORM 8.952. FINDINGS FOR JUVENILE SEXUAL OFFENDER REGISTRATION

REQUIRED FINDINGS FOR JUVENILE SEXUAL OFFENDER REGISTRATION

The following findings are to be made for adjudications of delinquency made on or after July 1, 2007, for committing, or attempting, soliciting, or conspiring to commit any of the following offenses, when the offender is 14 years of age or older at the time of the offense.

Check the appropriate charge and make the corresponding findings:

Date of the offense: .....

Offender's age at date of offense: .....

Victim's age at date of offense: .....

..... **F.S. 794.011: Sexual Battery:** Oral, anal, or vaginal penetration by, or union with, the sexual organ of another, or the anal or vaginal penetration of another by any other object.

(Sexual offender registration is required if the offender is 14 years of age or older at the time of the offense.)

….. **F.S. 800.40(4)(b): Lewd or Lascivious Battery:** Encouraging, forcing, or enticing any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity.

(Sexual offender registration is required if the offender is 14 years of age or older at the time of the offense and at least one of the lines below is checked "Yes.")

Was the victim under the age of 12 at the time of the offense? Yes ..... No .....

Did the sexual activity involve force or coercion? Yes ..... No .....

..... **F.S. 800.04(5)(d): Lewd or Lascivious Molestation – Victim 12-15:** Intentionally touching the breasts, genitals, genital area, buttocks, or the clothing covering them, of a person 12 years of age or older but less than 16 years of age, or forcing or enticing a person less than 16 years of age to so touch the perpetrator.

(Sexual offender registration is required if the offender is 14 years of age or older at the time of the offense and both boxes below are checked "Yes.")

Did the sexual activity involve unclothed genitals? Yes ..... No .....

Did the sexual activity involve force or coercion? Yes ..... No .....

..... **F.S. 800.04(5)(c): Lewd or Lascivious Molestation – Victim under 12:** Intentionally touching the breasts, genitals, genital area, buttocks, or the clothing covering them, of a person less than 12 years of age, or forcing or enticing a person less than 12 years of age to so touch the perpetrator.

(Sexual offender registration is required if the offender is 14 years of age or older at the time of the offense and the box below is checked "Yes.")

Did the sexual activity involve unclothed genitals? Yes ..... No .....

(Check one only)

SEXUAL OFFENDER REGISTRATION IS REQUIRED .....

SEXUAL OFFENDER REGISTRATION IS NOT REQUIRED .....

DONE AND ORDERED ON .....(date).....

_____

Circuit Judge

FORM 8.953. WAIVER OF RIGHTS

WAIVER OF RIGHTS

1. Right to counsel.

I have the right to have a lawyer help me at all times while I am in juvenile court. If I cannot afford a lawyer, the court will appoint one to help me. The person next to me is a lawyer who can help me.

I have talked to a lawyer about my case.

2. Entering a plea.

This means that I am not fighting the charge(s). It means that I am entering a plea of guilty or no contest.

By pleading guilty, I am admitting that I did the crime(s) that the state says I did.

By pleading no contest, I am entering a plea because it is in my best interest, but I am not admitting that I did anything wrong.

3. Nature of the charge(s) against me.

I know the crime(s) I have been charged with and what they mean.

I understand what crime(s) I am entering a plea to and which ones (if any) the state will dismiss.

4. Constitutional Rights

By entering a plea, I am giving up the following constitutional rights:

(a) Presumption of innocence.

Right now I am considered innocent and the state has to prove that I am guilty or that I did what they say I did beyond a reasonable doubt. I do not have to prove that I am innocent.

(b) Right to trial.

The state would try to prove I am guilty at a trial or adjudicatory hearing. The state may use evidence such as witness testimony, fingerprints, videos, or photos.

(c) Right to call and cross examine witnesses.

Witness testimony would be people who have information about the crime that are required to come to the trial. They will swear to tell the truth and answer questions by the prosecutor and my lawyer. The state would ask the witnesses questions and my lawyer and I would also be able to ask the witnesses questions.

I would also have the right to call my own witnesses at trial to tell my side of the story and speak for me on my behalf.

(d) Right to testify on your own behalf.

I would also have the right to tell the judge my side of the story after discussion with my lawyer.

(e) Right to remain silent.

I do not have to tell my side of the story. I can sit with my lawyer and not say anything. My decision to not talk or present evidence will not affect how the judge decides whether I am guilty or not guilty.

5. Evidence and/or Defenses.

My lawyer has informed me of the facts that the state would have to prove before I could be found guilty and has discussed with me any possible defenses that could be used in my case. I am entering this plea because I think the state could prove I am guilty if we went to trial or because it is in my best interest.

6. Consequences of a Plea.

My lawyer, or the court, has informed me of the possible consequences of entering into this plea, including, but not limited to:

(a) loss of driver license;

(b) deportation issues;

(c) how this will affect my record and future punishment from the court, including possible consequences in adult court;

(d) how this affects my ability to get a job, join the military, or apply for college;

(e) how this will affect my ability or my parent's or guardian's ability to secure or maintain housing; and

(f) issues relating to sex offender registration and notification as well as *Jimmy Ryce* consequences.

7. Voluntary and Intelligent.

I am entering this plea because I want to or because I think it is in my best interest. No one is forcing me to enter this plea. No promises or threats have been made to get me to enter this plea.

I am not under the influence of alcohol, drugs, or medications at this time.

8. Appeal.

If I went to trial and the juvenile court judge decided that I was guilty, I could ask some other judges, called appellate judges, to look over the trial and decide if the trial was fair and if the decision was fair and correct.

This is called my right to appeal. However, if the judge accepts this plea, the only issues I will be able to appeal are those that relate to my sentence and to the judge's authority to hear my case.

I am presently represented by …..(name)…… My lawyer has gone over all my rights and I am satisfied with the advice and help of my lawyer.

_____	_____	_____
Child (print name)	Attorney for child (print name)	Date

C. DEPENDENCY FORMS

FORM 8.958. ORDER APPOINTING SURROGATE PARENT

ORDER APPOINTING SURROGATE PARENT FOR DEPENDENT CHILD WHO HAS OR IS SUSPECTED OF HAVING A DISABILITY

The court finds that:

1. The child has, or is suspected of having, a disability as defined in the Individuals with Disabilities in Education Act ("IDEA") and F.S. 1003.01(3).

2. A surrogate parent is needed to act in the place of a parent in educational decision-making and in safeguarding the child's rights under the IDEA.

3. The child is entitled, under the Individuals with Disabilities in Education Act ("IDEA"), 20 U.S.C. §1415(b)(2); 34 C.F.R. §§300.515 and 303.406; F.S. 39.0016(3)-(4), 39.4085(17); and Fla. Admin. Code 6A-6.0333, to the assistance of a surrogate parent be-cause (check all that apply):

..... Parental rights have been terminated

..... Parents cannot be located

..... No parent is available to make education decisions related to the child's disability

..... Foster parent is unwilling or unable to make educational decisions related to the child's disability

..... Child resides in a group home or therapeutic foster home

..... Other: .....

ACCORDINGLY, it is ORDERED that:

1. .....(Name)..... is appointed as a surrogate parent for .....(child's name).....

2. The surrogate parent named above has the following rights, duties, and responsibilities:

a. to request or respond to requests for evaluations of the child;

b. to review and keep confidential the child's educational records;

c. to request and participate in school meetings including Individual Education Plan (IEP) meetings;

d. to express approval or disapproval of a child's educational placement or IEP;

e. to monitor the child's educational development;

f. to help the child access available and needed educational services;

g. to aid the child in securing all rights provided the child under the IDEA;

h. to meet the child face-to-face

i. to be afforded all of the due process rights parents hold under the IDEA

3. The surrogate parent may also do the following: (check all that apply)

..... attend appropriate court hearings to address the educational needs of the child. The surrogate parent will be provided notice of all dependency court hearings.

..... attend dependency staffings. The community-based care provider will invite the surrogate parent to all permanency staffings and any other staffings when the child's educational needs will be addressed. See F.A.C. 65C-28.006.

....

....

4. As to issues affecting the provision of a Free Appropriate Public Education, principals, teachers, administrators, and other employees of the ..... County Public Schools shall communicate with the surrogate parent and accept the requests or decisions of the surrogate parent in the same manner as if he or she were the child's parent.

5. Unless the court explicitly orders otherwise, the surrogate parent does not have the right and responsibility to register the child in school, and grant or withhold consent for ordinary school decisions not related to IDEA (such as field trips, sports and club activities, medical care, etc.).

6. The surrogate parent must have access to and keep confidential the child's records including, but not limited to, records from the school system, community-based care provider or agency, and any mental health or medical evaluations or assessments.

7. By law, the surrogate parent has no liability for actions taken in good faith on behalf of the child in protecting the special education rights of the child.

ORDERED on .....(date)....., in ....., ... County, Florida.

_____

Circuit Judge

Copies to:

County Public Schools c/o Director, Exceptional Student Education, Surrogate parent named above

(Check all that apply)

..... Attorney for DCF: .....(name).....

..... DCF caseworker: .....(name).....

..... Guardian ad Litem: ....(name).....

..... Attorney for mother: .....(name).....

..... Attorney for father: .....(name).....

..... Attorney for child: .....(name).....

..... Child named above .....(name).....

..... Foster parent: .....(name).....

..... Relative caregiver: .....(name).....

..... Child's principal: .....(name)..... at ..... School

..... Other: .....

..... Other: .....

FORM 8.959. SUMMONS FOR DEPENDENCY ARRAIGNMENT

SUMMONS AND NOTICE OF HEARING

STATE OF FLORIDA

TO: .....(name and address of person being summoned).....

.....(Petitioner's name)..... has filed in this court a petition, alleging under oath that the above-named child(ren) is/are dependent under the laws of the State of Florida and requesting that a summons issue in due course requiring that you appear before this court to be dealt with according to law. A copy of the petition is attached to this summons.

You are to appear before this Court at .....(location of hearing)....., at .....(time and date of hearing)......

FAILURE TO PERSONALLY APPEAR AT THE ARRAIGNMENT HEARING CONSTITUTES CONSENT TO THE ADJUDICATION OF THIS CHILD (OR CHILDREN) AS A DEPENDENT CHILD (OR CHILDREN) AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD (OR CHILDREN).

IF YOU FAIL TO APPEAR YOU MAY BE HELD IN CONTEMPT OF COURT.

COMMENT: The following paragraph must be in bold, 14 pt. Times New Roman or Courier font.

If you are a person with a disability who needs any accommodation to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact .....(name, address, telephone number)..... at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you are hearing or voice impaired, call 711.

Witness my hand and seal of this court at .....(city, county, and state)....., on .....(date).....

CLERK OF COURT

BY:_____

DEPUTY CLERK

NOTIFICACIÓN y CITACIÓN

PARA LA AUDIENCIA

ESTADO DE LA FLORIDA

PARA: _____

(Nombre y dirección de la persona a ser citada)

CONSIDERANDO, que _____

(Nombre del(a) demandante)

ha interpuesto en este Juzgado una petición en la cual alega bajo juramente la dependencia del(los) niño(s) según las leyes del Estado de la Florida, adjuntándose copia de la misma, y está solicitando la emisión oportuna de una citación para exigir su comparecencia ante este juzgado para tratar el asunto conforme a la ley.

POR LO TANTO, se le ordena comparecer ante este Juzgado en _____

(lugar de la audiencia) a las

_____

_____

(hora y fecha de la audiencia)

SI USTED NO COMPARECE PERSONALMENTE A LA AUDIENCIA INCOATORIA, ESTO SIGNIFICARÁ QUE USTED ACCEDE A LA ADJUDICACIÓN DE DEPENDENCIA DE ESTE(OS) NIÑO(S) Y FINALMENTE, PODRÁ RESULTAR EN LA PERDIDA DE LA TUTELA DEL(OS) NIÑO(S).

SI USTED NO COMPARECE, SE LO PODRÁ JUZGAR EN DESACATO DEL TRIBUNAL.

Si usted es una persona con una discapacidad que necesita cualquier tipo de trato especial para participar en este procedimiento, usted tiene derecho, sin costa alguno para usted, para la presetación de asistencia determinadas. Póngase en contacto con …..(nombre, dirección, número de teléfono)….. por lo menos 7 dias antes la aparición en la corte programado, o immediatamente después de reciber esta notification, si el tiempo antes de la comparecencia prevista es inferiof a 7 dias. Si usted está oyendo o voz alterada, llame al 711.

Firmado y sigilado en este Juzgado en _____
(ciudad, condado y estado)

el _____
(fecha)

ESCRIBANO DEL TRIBUNAL

POR:_____

ESCRIBANO DELEGADO

MANDA AK AVÈTISMAN POU YON CHITA TANDE

LETA FLORID

POU: ....(non ak adrès pou moun yo voye manda-a).....

kÒm, tantiske, ...(non pati ki fé demann-nan).... fé yon demann devan tribinal-la, epi li sèmante timoun-nan(yo), swa dizan bezwen pwoteksyon leta dapre règ lalwa nan Leta Florid, yon kopi enfòmasyon sou akizasyon-an kwoke nan lèt sa-a. Yo mande pou yo sèvi-w ak yon manda touswit, ki pou fose-w prezante devan tribinal la pou yo ka koresponn avèk ou, dapre lalwa.

Alò, pou sa yo kòmande-w pou prezante devan tribinal sa-a, ki nan ....., (adrès tribinal-la) ....., a .... (nan dat ak lè, chita tande-a) .....

SI OU PA PREZANTE PESONÈLMAN NAN CHITA TANDE-A, POU YO KA AVÈTI-W AK AKIZASYON OFISYÈL-LA, SA KA LAKÒZ YO DESIDE OU KON-SANTI

TIMOUN-NAN(YO), BEZWEN PWOTEKSYON LETA, EPI LI KA LAKÒZ OU PÈDI DWA-OU KÒM PARAN TIMOUN SA-A(YO).

SI OU PA PREZANTE, YO GEN DWA CHAJE-W, KÒMKWA OU MANKE TRIBINAL LA DEGA.

Si ou se yon moun infirm, ki beswen `ed ou ki bewsen ke o akomode w pou ou patispe nan pwosedi sa yo, ou genyen dwa, san ke ou pa peye, a setin `ed. Silvouple kontake …..(non, address, telephone)….. o moin 7 jou avan dat ou genyen rendevou pou ale nan tribunal, ou si le ou resevwa avi a, genyen mouins ke 7 jou avan date endevou tribunal la. Ou si ou pa tande pale, rele nan nimerro sa 711.

Mwen siyen non mwen, epi mete so mwen, nan dokiman tribinal-la sa-a, kòm temwen, nan (vil, distrik, eta) ...., nan .... (dat).....

GREFYE TRIBINAL-LA

PA:_____

ASISTAN GREFYE TRIBINAL-LA

FORM 8.960 SHELTER PETITION

AFFIDAVIT AND PETITION FOR PLACEMENT IN SHELTER

COMES NOW, the undersigned, who being first duly sworn says:

1. On .....(date)..... at ..... a.m./p.m. the above named minor child(ren) was/were found within the jurisdiction of this court.

..... The child(ren) was/were taken into custody by .....

..... The child(ren) need(s) to be taken into protective custody.

2. The name, age, special needs, and residence of this/these child(ren) is/are:

Name	Birth date	Sex	Special Needs	Address
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....

3. The name, relationship to the child(ren), and address of the child(ren)’s parents or other legal custodian(s) is/are:

Name	Relationship	Address
.....	.....	.....
.....	.....	.....

4. The following individuals who were listed in #3 above have been notified in the following manner of the date, time, and location of this hearing:

Name	Manner Notified
……	…….
……	…….
……	…….

5. There is probable cause that the child(ren)

..... a. has/have been abused, abandoned, or neglected ort is/are in imminent danger of illness or injury as a result of abuse, abandonment, or neglect;

..... b. was/were with a parent or legal custodian who has materially violated a condition of placement imposed by the court;

..... c. has/have no legal custodian, or responsible adult relative immediately known and available to provide supervision and care; because .....

6. The provision of appropriate and available services will not eliminate the need for placement of the child(ren) in shelter care because:

..... a. an emergency existed in which the child(ren) could not safely remain in the home;

..... b. the home situation presents a substantial and immediate danger to the child(ren) which cannot be mitigated by the provision of preventive services;

..... c. the child(ren) could not be protected in the home despite the provision of the following services and efforts made by the Department of Children and Families to prevent or eliminate the need for placement in shelter care;

..... d. the child(ren) cannot safely remain at home because there are no preventive services that can ensure the safety of the children.

7. The department has made reasonable efforts to keep the siblings together after the removal from the home. The reasonable efforts of the department were .....

..... a. The children are currently placed together .....

..... b. A foster home is not available to place the siblings together because .....

..... c. It is not in the best interest of each child that all the siblings be placed together in out-of-home care because .....

8. On-going visitation or interaction between the siblings .....(list)..... is

..... a. recommended as follows .....

..... b. not recommended because visitation or interaction would be contrary to the safety or well-being of .....(name(s))..... because .....

9. The child(ren) is/are in need of and the petitioner requests the appointment of a guardian ad litem.

10. The petitioner requests that the parents, if able, be ordered to pay fees for the care, support, and maintenance of the child(ren) as established by the department under chapter 39, Florida Statutes.

11. The petitioner requests that the parents be ordered to provide to the Department of Children and Families and the Department of Revenue financial information necessary to accurately calculate child support under section 61.30, Florida Statutes, within 28 days of this order.

12. This affidavit and petition is filed in good faith and under oath.

WHEREFORE, the affiant requests that this court order that this/these child(ren) be placed in the custody of the department until further order of this court and that the place of such custody shall be:

..... at the discretion of the Department of Children and Families;

..... at the home of a responsible adult relative, ...(name)....., whose address is .....;

..... other.

_____

Moving Party

_____

.....(attorney's name).....
.....(address and telephone number).....
E-mail address: .....
Florida Bar number: .....

Verification

NOTICE TO PARENTS/GUARDIANS/LEGAL CUSTODIANS

A date and time for an arraignment hearing is normally set at this shelter hearing. If one is not set or if there are questions, you should contact the Juvenile Court Clerk's Office at ..... A copy of the Petition for Dependency will be given to you or to your attorney, if you have one. A copy will also be available in the clerk's office. You have a right to have an attorney represent you at this hearing and during the dependency proceedings and an attorney will be appointed for you if you request an attorney and the court finds that you are unable to afford an attorney.

COMMENT: The following paragraph must be in bold, 14 pt. Times New Roman or Courier font.

If you are a person with a disability who needs any accommodation to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact .....(name, address, telephone number)..... at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you are hearing or voice impaired, call 711.

FORM 8.961. SHELTER ORDER

ORDER FOR PLACEMENT IN SHELTER

THIS CAUSE came on to be heard under chapter 39, Florida Statutes, on the sworn AFFIDAVIT AND PETITION FOR PLACEMENT IN SHELTER CARE filed by .....(petitioner's name)....., on .....(date)..... The following persons appeared before the court:

..... Petitioner …….

..... Petitioner's attorney …….

..... Mother ……..

..... Father(s) …….

..... Legal custodian(s) …….

..... Guardian ad litem …….

..... GAL attorney …….

..... Attorney for the Child …….

..... Other: …….

COMMENT: The name of the guardian ad litem and the attorney ad litem, if appointed, must be listed on the order, even if he or she was not present at the hearing.

and the Court having reviewed its file and having been otherwise duly advised in the premises finds as follows:

1. The minor child(ren), ..., was/were found within the jurisdiction of this court and is/are of an age subject to the jurisdiction of this court.

2. **PLACEMENT IN SHELTER.**

..... The minor child(ren) was/were placed in shelter on .....(date)..... at ..... a.m./p.m. by .....(name)....., a duly authorized agent of the department.

..... The minor child(ren) need(s) to be placed in shelter at the request of the petitioner for the reasons stated in this order.

3. **PARENTS/CUSTODIANS.** The parents/custodians of the minor child(ren) are:

	Name	Address
Mother:	.....	.....
Father of .....(child's name).....:		
	.....	.....
Other: .....(relationship and to which child).....		
	.....	.....

4. **INABILITY TO NOTIFY AND/OR LOCATE PARENTS/CUSTODIANS.** The petitioner has made a good faith effort to notify and/or locate, but was unable to notify and/or locate .....(name(s))....., a parent or legal custodian of the minor child(ren).

5. **NOTIFICATION.** Each parent/legal custodian not listed in #4 above was:

..... duly notified that the child(ren) was/were taken into custody;

..... duly notified to be present at this hearing;

..... served with a statement setting forth a summary of procedures involved in dependency cases;

..... advised of their right to counsel; and

..... was represented by counsel, ...(name).....

..... knowingly, voluntarily, and intelligently waived the right; or

..... the court declined to accept the waiver because .....

..... requested appointment of counsel, but the court declined appointment because he/she did not qualify as indigent.

..... requested appointment of counsel and counsel was appointed.

6. **PROBABLE CAUSE.**

..... Based on the allegations in the Affidavit and Petition for Placement in Shelter, there is probable cause to believe that the child(ren) is/are dependent based on allegations of abuse, abandonment, or neglect or substantial risk of same.

..... A finding of probable cause cannot be made at this time and the court requires additional information to determine the risk to the child(ren). The following information must be provided to the court during the continuation of this hearing: .....(information to be provided)..... This hearing is continued for 72 hours, until .....(date and time)..... The children will remain in shelter care.

7. **NEED FOR PLACEMENT.** Placement of the child(ren) in shelter care is in the best interest of the child(ren). Continuation in the home is contrary to the welfare of the child(ren) because the home situation presents a substantial and immediate danger which cannot be mitigated by the provision of preventive services and placement is necessary to protect the child(ren) as shown by the following facts:

..... the child(ren) was/were abused, abandoned, or neglected, or is/are suffering from or in imminent danger of injury or illness as a result of abuse, abandonment, or neglect, specifically: .....

..... the custodian has materially violated a condition of placement imposed by the court, specifically: .....

..... the child(ren) has/have no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care, specifically: .....

8. **REASONABLE EFFORTS.**

..... Reasonable efforts to prevent or eliminate the need for removing the child(ren) from the home have been made by the department, which provided the following services to the family: .....

..... The following specific services, if available, could prevent or eliminate the need for removal or continued removal of the child from the home .....

..... The date these services are expected to be available is .....

..... The department is deemed to have made reasonable efforts to prevent or eliminate the need for removal from the home because:

..... The first contact with the department occurred during an emergency.

..... The appraisal of the home situation by the department indicates a substantial and immediate danger to the child(ren) which cannot be mitigated by the provision of preventive services.

..... The child(ren) cannot safely remain at home because no services exist that can ensure the safety of the child(ren). Services are not available because .....

..... Even with appropriate services, the child(ren)'s safety cannot be ensured.

..... The department has made reasonable efforts to keep siblings together after the removal from the home. The reasonable efforts of the department were .....

..... It is not in the best interest of each child that all the siblings be placed together in out-of-home care because .....

9. **RELATIVE PLACEMENT.**

..... The court asked any parents present whether the parents have relatives that might be considered as a placement for the child(ren).

..... The court advised any parents present that the parents have a continuing duty to inform the department of any relative who should be considered for placement of the child.

..... By this order, the court notifies the relatives who are providing out-of-home care for the child(ren) of the right to attend all subsequent hearings, to submit reports to the court, and to speak to the court regarding the child(ren), if they so desire.

It is, therefore, ORDERED AND ADJUDGED, as follows:

..... 1. The child(ren) shall remain/be placed in the shelter custody of:

..... the department, with the department having the discretion to shelter the child(ren) with a relative or other responsible adult on completion of a positive homestudy, abuse registry, and criminal background checks. The department shall have placement and care responsibility while the child(ren) is/are under protective supervision in an out-of-home placement.

..... all the children shall be placed together in a foster home if available.

..... a foster home is not available for all the children because .....

..... placement of all the children in the same foster home is not in the best interest of the child(ren) .....(identify the child(ren))..... because .....

..... Other: .....

2. The child(ren) ..... may ..... may not be returned to the parent/custodian without further order of this court.

3. a. The Guardian Ad Litem Program is appointed.

b. An attorney shall be appointed for .....,

..... the child/children has/have special needs as defined in section 39.01305, Florida Statutes.

..... it is necessary.

4. The parents, within 28 days of the date of this order, shall provide to the department the information necessary to accurately calculate child support under section 61.30, Florida Statutes. The parents shall pay child support in accordance with Florida Statutes.

5. The legal custodian, or in the absence of the legal custodian, the department and its agents, are hereby authorized to provide consent for and to obtain ordinary and necessary medical and dental treatment and examination for the above child(ren) including blood testing deemed medically appropriate, and necessary preventive care, including ordinary immunizations and tuberculin testing.

6. Visitation with the child(ren) shall be as follows:

By the parents .....

Between the sibling children .....

Visitation or interaction between the children .....(identify child(ren)).... is not ordered as it will be contrary to the safety or well-being of .....(identify child(ren)) because .....

7. The parents shall provide to the court and all parties identification and location information regarding potential relative placements.

8. The relatives who are providing out-of-home care for the child(ren) have the right to attend all subsequent hearings, to submit reports to the court, and to speak to the court regarding the child(ren), if they so desire.

9. **THE COURT ADVISED THE PARENTS:**

A. TO TAKE ACTION TO COMPLY WITH THE CASE PLAN SO PERMANENCY WITH THE CHILD MAY OCCUR WITHIN THE SHORTEST PERIOD OF TIME POSSIBLE, BUT NO LATER THAN 1 YEAR AFTER REMOVAL OR ADJUDICATION OF THE CHILD.

B TO STAY IN CONTACT WITH THEIR ATTORNEY AND THEIR CASE MANAGER AND PROVIDE UPDATED CONTACT INFORMATION IF THE PARENTS' PHONE NUMBER, ADDRESS, OR E-MAIL ADDRESS CHANGES.

C. TO NOTIFY THE PARTIES AND THE COURT OF BARRIERS TO COMPLETING CASE PLAN TASKS WITHIN A REASONABLE TIME AFTER DISCOVERING SUCH BARRIERS.

D. THAT IF THE PARENTS FAIL TO SUBSTANTIALLY COMPLY WITH THE CASE PLAN THEIR PARENTAL RIGHTS MAY BE TERMINATED AND THE CHILD(REN)'S OUT-OF-HOME PLACEMENT MAY BECOME PERMANENT.

10. Special conditions: .....

11. This court retains jurisdiction over this matter to enter any other and further orders as may be deemed to be in the best interest and welfare of this/these child(ren).

12. If a Petition for Dependency is subsequently filed in this cause, the **Arraignment Hearing is scheduled for .....(date)....., at ..... a.m./p.m. at .....(location of arraignment)..... The parents have a right to be represented by an attorney at the arraignment hearing and during the dependency proceedings.**

COMMENT: The following paragraph must be in bold, 14 pt. Times New Roman or Courier font.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact …..(name, address, telephone number)….. at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you are hearing or voice impaired, call 711.

ORDERED in ..... County, Florida on .....(date)....., at ..... a.m./p.m.

_____

Circuit Judge

FORM 8.961(A). ORDER AUTHORIZING ACCESS TO CHILD'S MEDICAL AND EDUCATIONAL RECORDS

ORDER AUTHORIZING ACCESS TO CHILD'S MEDICAL AND EDUCATIONAL RECORDS

THIS CAUSE came on to be heard under sec. 39.402, Florida Statutes, concerning access to the medical and educational records of ....., a child.

The Court finds

A. As to medical records and information:

...., mother/father of ....., the child, consents to the entry of this order, and to the court's providing access to the child's medical records to the department, its contract agencies, and any guardian ad litem and attorney for the child, and to provide the child's medical information to the court.

..... No parent or legal guardian of the child is available or able to consent to the entry of this order, or the parents withhold consent to providing access to the child's medical records and/or to providing the requested medical information.

..... Access to the child's medical records and information is necessary to provide services to the child.

B. As to educational records and information.

...., mother/father of ....., the child, consents to the entry of this order, and to the court's providing access to the child's educational records to the department, its contract agencies, and any guardian ad litem and attorney for the child, and to provide the child's educational information to the court.

..... No parent or legal guardian of the child is available or able to consent to the entry of this order, or the parents withhold consent to providing access to the child's educational records and/or to providing the requested educational information.

..... Access to the child educational records and information is necessary to provide services to the child.

Therefore, it is ORDERED

The department, ...(name of CBC)....., its contract agencies, ...(name)....., guardian ad litem, and .....(name)....., attorney for child, are authorized to access .....(child's name).....'s medical and educational records and information, until further order of this court.

..... This order does not address the child's privacy rights to any of these records or information that may exist under Florida law. The child may assert to this court any objection under privacy rights to the release of this information

ORDERED on .....(date)....., in ....., ... County, Florida

Circuit Judge

Copies to:

(Check all that apply)

..... Attorney for DCF: .....(name).....

..... Caseworker: .....(name).....

..... Guardian ad litem: .....(name).....

..... Attorney for mother: .....(name).....

..... Attorney for father: .....(name).....

..... Attorney ad litem for child: .....(name).....

..... Child named above: .....(name).....

..... Other: .....

..... Other: .....

FORM 8.964. DEPENDENCY PETITION

PETITION FOR DEPENDENCY

COMES NOW, Petitioner, ...(name)....., by and through undersigned counsel, and petitions this court to adjudicate the above-named minor child(ren) to be dependent within the meaning and intent of chapter 39, Florida Statutes. As grounds, petitioner alleges the following:

1. This court has jurisdiction over the minor child(ren), ...(name(s))....., a .....(gender)..... child, whose date(s) of birth is/are ....., and who, at the time the dependency arose, was/were in the custody of .....(name(s))......

2. The natural mother of the minor child(ren) is .....(name)....., a resident of .....(state)....., whose address is …….

3. The father of the minor child(ren), ...(name(s))..... is .....(name)....., whose address is …….. The father ..... is ..... is not married to the mother, and ..... is ..... is not listed on the child(ren)'s birth certificate(s). The mother filed a Sworn Statement About Identity or Location of Father with this court on .....(date)....., which named ……. as the father.

4. The UCCJEA Affidavit ..... is attached ..... was filed with the Court on .....(date)..... and is incorporated by reference.

5. The child(ren) is/are dependent within the meaning and intent of chapter 39, Florida Statutes, in that the mother/father/parents/legal custodian/caregiver(s) abused, abandoned, or neglected the minor child(ren) on or about .....(date)....., by: ..... and that these activities and environments cause the child(ren)'s physical, mental, or emotional health to be in danger of being significantly impaired.

OR

5. The above named child(ren) is/are presently under substantial risk or imminent threat of harm or abuse or neglect, within the meaning and intent of chapter 39, Florida Statutes, which is likely to cause the child(ren)'s physical health to be significantly impaired because .....

6. The department is unable to ensure the protection of the minor child(ren) without judicial intervention.

7. The mother/father/parents has/have received the following services: .....

8. A shelter hearing was held on .....(date)....., and the child(ren) was/were placed in the custody of .....

9. An arraignment hearing

..... needs to be scheduled.

..... is scheduled for .....(date and time).....

10. A guardian ad litem

..... needs to be appointed.

..... was appointed at the shelter hearing to represent the child(ren).

11. .....(name of child(ren))..... has/have special needs as defined in Chapter 39, Florida Statutes. An attorney:

..... needs to be appointed.

..... has been appointed.

12. Under chapter 39, Florida Statutes, the clerk of the court is required to issue a summons to the following parents or custodians:

The natural mother, ...(name)....., whose address is .....

The natural father, ...(name)....., whose address is .....

.....(Additional fathers and their addresses).....

WHEREFORE, the petitioner asks that process may issue in due course to bring the above-named parties before the court to be dealt with according to the law, to adjudicate the named minor child(ren) named to be dependent.

_____

….(Petitioner's name)……

…… (Attorney's name)…..

….. (address and telephone number)

Florida Bar Number:…….

Verification
Certificate of service

NOTICE OF RIGHTS
PLEASE READ THIS PETITION BEFORE ENTERING THE COURTROOM.

YOU HAVE A RIGHT TO HAVE COUNSEL PRESENT AT THIS HEARING.

BY COPY OF THIS PETITION, THE PARENTS, CAREGIVERS, AND/OR LEGAL CUSTODIANS ARE NOTIFIED OF THEIR RIGHT TO HAVE LEGAL COUNSEL PRESENT FOR ANY PROCEEDING RESULTING FROM THIS PETITION OR TO REQUEST THE COURT TO HAVE COUNSEL APPOINTED, IF INDIGENT.

Further, these persons are informed of the following:

An arraignment is set on this matter for .....(date)....., at ..... a.m./p.m., at .....(location)..... The purpose of the arraignment is to advise as to the allegations contained in the Petition For Dependency. When your case is called, the Judge will ask you to enter a plea to this petition. The plea entered may be one of the following:

1. Admit: This means you admit that the petition states the truth and you do not want a trial.

2. Consent: This means you neither admit nor deny the petition, but do not want a trial.

(If you enter either of the above two pleas, the court will set a disposition date for the matter. At disposition, the court will decide where the child will stay and under what conditions).

3. Deny: This means you deny the allegations of the petition and wish the state to attempt to prove them at a trial.

4. Continue: This means you wish time to confer with an attorney, before entering a plea. If you enter this plea, the court will schedule another hearing in approximately 2 weeks. At that time, another arraignment hearing will be held, and you (or your attorney) must enter one of the above three pleas.

COMMENT: The following paragraph must be in bold, 14 pt. Times New Roman or Courier font.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact .....(name, address, and telephone number)..... at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you are hearing or voice impaired, call 711.

FORM 8.965. ARRAIGNMENT ORDER

ORDER ON ARRAIGNMENT AND
NOTICE OF NEXT HEARING

THIS CAUSE came to be heard on .....(date)....., under chapter 39, Florida Statutes, on the Petition For Dependency filed by .....(name)....., for arraignment of .....(name(s))..... The following persons appeared before the Court:

….. ….. (Name)….., Petitioner
….. ….. (Name)….., Attorney for the petitioner
….. ….. (Name)….., Attorney for the department
….. ….. (Name)….., Department caseworker
….. ….. (Name)….., Mother
….. ….. (Name)….., Attorney for the mother
….. ….. (Name)….., Father of …..(child)…..
….. ….. (Name)….., Attorney for father
….. ….. (Name)….., Guardian ad litem
….. ….. (Name)….., Attorney for guardian ad litem
….. ….. (Name)….., Attorney/Attorneys for …..Child/Children…..
….. ….. (Name)….., Legal custodian
….. ….. (Name)….., Attorney for legal custodian
….. ….. (Name)….., Other ……..

COMMENT: The name of the guardian ad litem and the attorney ad litem, if appointed, must be listed on the order, even if he or she was not present at the hearing.

The court having considered the Petition for Dependency and having heard testimony and argument, and having been otherwise duly advised in the premises finds:

1. This court has jurisdiction over the subject matter of this action; and

2. The mother, …… (name)…..:

….. was …..not noticed of this hearing

…..did not appear, and the court:
….. entered a consent by default
…… did not enter a consent by default;

….. appeared with counsel….. appeared without counsel and:
….. was….. was not advised of her right to legal counsel;
knowingly, intelligently, and voluntarily, …..waived ……did not waive her right to legal counsel; and
……was ….. was not determined to qualify as indigent and….. was ….. was not appointed an attorney.

..... was served with a petition for dependency, and entered a plea of: ..... Admit, ... Deny, ... Consent, ... No Plea, ... Continuance

..... The Petitioner:

….. will continue a diligent search and will attempt service.

..... has conducted an adequate diligent search and is excused from further diligent search and further attempts at service.

3. The father, ...(name).....:

..... was ..... was not noticed of this hearing;

..... did not appear, and the court:
..... entered a consent by default
..... did not enter a consent by default;

….. appeared with counsel….. appeared without counsel and:
….. was….. was not advised of his right to legal counsel;
….. knowingly, intelligently, and voluntarily, …..waived ……did not waive his right to legal counsel; and
……was ….. was not determined to qualify as indigent and….. was ….. was not appointed an attorney..... was served with a petition for dependency, and entered a plea of: ..... Admit, ... Deny, ... Consent, ... No Plea, ... Continuance

..... The Petitioner:

..... will continue a diligent search and will attempt service.

..... has conducted an adequate diligent search and is excused from further diligent search and further attempts at service.

4. That the child(ren)'s current placement in shelter care:

..... is no longer appropriate, and the child(ren) shall be returned to …….

..... is appropriate, in that the child(ren) is/are in a setting which is as family-like as possible, consistent with the child(ren)'s best interest and special needs; and, that returning the child(ren) to the home would be contrary to the best interest of the minor child(ren); and, that every reasonable effort has been made to eliminate the need for placement of the child(ren) in shelter care, but present circumstances of the child(ren) and the family are such that shelter care is the only way to ensure the child(ren)'s health, safety, and well-being.

5. Additional findings: …….

THEREFORE, based on the foregoing findings of fact, it is hereby ORDERED and ADJUDGED that:

1. The minor child(ren) shall:

..... be ..... returned to ..... remain in the care and custody of .....(name).....

..... remain in the care and custody of the department in shelter care pending adjudication and disposition or until further order of this court.

2. The child(ren): ..... is/are ..... is/are not adjudicated dependent at this hearing.

3. ..... Mediation ..... A case planning conference is/are ordered at this time and shall be conducted on .....(date)....., at ..... a.m./p.m., at .....(location)..... All parties, unless otherwise specified, shall attend.

4. As to the mother, ...(name)....., the court:

Accepts the plea of: ..... Admit, ... Deny, ... Consent, ... Continuance.

.....Appoints ..... Does not appoint an attorney.

Sets a hearing for ..... re-arraignment ..... adjudicatory trial ..... disposition and case plan hearing ..... trial status on .....(date)..... at ..... a.m./p.m.

5. As to the father, ...(name)....., the court:

Accepts the plea of: ..... Admit, ... Deny, ... Consent, ... Continuance.
..... Appoints ..... Does not appoint an attorney.

Sets a hearing for ..... re-arraignment ..... adjudicatory trial ..... disposition and case plan hearing ..... trial status on .....(date)..... at ..... a.m./p.m.

6. All prior orders not inconsistent with the present order shall remain in full force and effect.

DONE AND ORDERED on .....(date).....

_____
Circuit Judge

NOTICE OF HEARING

The Juvenile Court hereby gives notice of hearing in the above-styled cause on .....(date)..... at ..... a.m./p.m., before .....(judge)....., at .....(location)..... or as soon thereafter as counsel can be heard.

COMMENT: The following paragraph must be in bold, 14 pt. Times New Roman or Courier font.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact .....(name, address, and telephone number)..... at least 7 days

before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you are hearing or voice impaired, call 711.

PLEASE BE GOVERNED ACCORDINGLY.

Copies furnished to:

FORM 8.966. ADJUDICATION ORDER — DEPENDENCY

ORDER OF ADJUDICATION

THIS CAUSE came before this court on .....(date)....., under chapter 39, Florida Statutes, for adjudication of the Petition for Dependency filed by .....(petitioner's name)..... Present before the court were:

....(Name)....., Petitioner

....(Name)....., Attorney for the petitioner

....(Name)....., Attorney for the department

....(Name)....., Department caseworker

....(Name)....., Mother

....(Name)....., Attorney for mother

....(Name)....., Father of .....(child).....

....(Name)....., Attorney for father

....(Name)....., Guardian ad litem

....(Name)....., Attorney for guardian ad litem

....(Name)....., Legal custodian

....(Name)....., Attorney for legal custodian

....(Name(s))....., Minor child(ren)

....(Name)....., Attorney ad litem for minor child(ren)

....(Name)....., Other .....

COMMENT: The name of the guardian ad litem and the attorney ad litem, if appointed, must be listed on the order, even if he or she was not present at the hearing.

The court having heard testimony and argument and being otherwise fully advised in the premises finds:

1. That the minor child(ren) who is/are the subject matter of these proceedings, is/are dependent within the meaning and intent of chapter 39, Florida Statutes, and is/are (a) resident(s) of the State of Florida.

2. The mother, ...(name).....:

..... was ..... was not noticed of this hearing;

..... did not appear, and the court:

..... entered a Consent for failure to appear after proper notice.

..... did not enter a Consent for failure to appear after proper notice.

..... appeared with counsel;

..... appeared without counsel and:

..... was ..... was not advised of her right to legal counsel,

..... knowingly, intelligently, and voluntarily ..... waived ..... did not waive her right to legal counsel and

..... was ..... was not determined to qualify as indigent and ..... was ..... was not appointed an attorney.

3. The father, ...(name).....:

..... was ..... was not noticed of this hearing;

..... did not appear, and the court:

..... entered a Consent for failure to appear after proper notice.

..... did not enter a Consent for failure to appear after proper notice.

..... appeared with counsel;

..... appeared without counsel and:

..... was ..... was not advised of her right to legal counsel,

..... knowingly, intelligently, and voluntarily ..... waived ..... did not waive her right to legal counsel and

..... was ..... was not determined to qualify as indigent and ..... was ..... was not appointed an attorney.

……4. That the child(ren) is/are dependent within the meaning and intent of chapter 39, Florida Statutes, in that the mother, ...(name)....., abused, neglected, or abandoned the minor child(ren) by ..... These facts were proven by ..... preponderance of the evidence ..... clear and convincing evidence.

……5. That the child(ren) is/are dependent within the meaning and intent of chapter 39, Florida Statutes, in that the father, ...(name)....., abused, neglected, or abandoned the minor child(ren) by ..... These facts were proven by ..... preponderance of the evidence ..... clear and convincing evidence.

COMMENT: Use 6, 7, and 8 only if the child is in out-of-home placement.

6. That the Court finds that it is in the best interest of the child(ren) to remain in out-of-home care.

7. That every reasonable effort was made to eliminate the need for placement of the child(ren) in out-of-home care but the present circumstances of the child(ren) and the ..... mother ..... father are such that out-of-home care is the only way to ensure the health, safety, and well being of the child(ren), in that .....

8. That the child(ren)'s placement in .....(type of placement)..... is in a setting which is as family like and as close to the home as possible, consistent with the child(ren)'s best interests and special needs.

9. That returning the minor child(ren) to the custody of .....(person who had previous legal custody)..... would be contrary to the best interest and welfare of the minor child(ren).

10. The Court informed any parents present that the parent or parents shall provide the court and all parties with identification and location information for such relatives.

THEREFORE, based upon the foregoing findings, it is ORDERED AND ADJUDGED that:

1. The minor child(ren), ...(name(s))....., is/are adjudicated dependent.

2. The child(ren) shall remain in the care and custody of

..... the department in shelter care

..... other .....(name).....

pending disposition.

3. The parents shall provide to the Court and all parties identification and location information regarding potential relative placements.

4. **THE COURT ADVISED THE PARENTS:**

A. TO TAKE ACTION TO COMPLY WITH THE CASE PLAN SO PERMANENCY WITH THE CHILD MAY OCCUR WITHIN THE SHORTEST PERIOD OF TIME POSSIBLE, BUT NO LATER THAN 1 YEAR AFTER REMOVAL OR ADJUDICATION OF THE CHILD.

B. TO STAY IN CONTACT WITH THEIR ATTORNEY AND THEIR CASE MANAGER AND PROVIDE UPDATED CONTACT INFORMATION IF THE PARENTS' PHONE NUMBER, ADDRESS, OR E-MAIL ADDRESS CHANGES.

C. TO NOTIFY THE PARTIES AND THE COURT OF BARRIERS TO COMPLETING CASE PLAN TASKS WITHIN A REASONABLE TIME AFTER DISCOVERING SUCH BARRIERS.

D. THAT IF THE PARENTS FAIL TO SUBSTANTIALLY COMPLY WITH THE CASE PLAN THEIR PARENTAL RIGHTS MAY BE TERMINATED AND THE CHILD(REN)'S OUT-OF-HOME PLACEMENT MAY BECOME PERMANENT.

5. This court shall retain jurisdiction over this cause to enter any such further orders that may be deemed necessary for the best interest and welfare of the minor child(ren).

6. All prior orders not inconsistent with the present order shall remain in full force and effect.

7. Disposition is scheduled for .....(date)....., at ..... a.m./p.m.

DONE AND ORDERED on .....date..... at .....(city)....., Florida.

_____

Circuit Judge

NOTICE OF HEARING

The Juvenile Court hereby gives notice of hearing in the above styled cause on .....(date)..... at .....a.m./p.m., before .....(judge)....., at .....(location)....., or as soon thereafter as counsel can be heard.

COMMENT: The following paragraph must be in bold, 14 pt. Times New Roman or Courier font.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact .....(name, address, and telephone number)..... at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you are hearing or voice impaired, call 711.

PLEASE BE GOVERNED ACCORDINGLY.

Copies furnished to:

FORM 8.967. ORDER OF DISPOSITION, ACCEPTANCE OF CASE PLAN, AND NOTICE OF HEARING

ORDER OF DISPOSITION, ACCEPTANCE OF CASE PLAN,

AND NOTICE OF HEARING

THIS CAUSE came before this court on .....(date)....., under chapter 39, Florida Statutes, for disposition of the Petition for Dependency and acceptance of the Case Plan filed by the Department of Children and Family Services.

The following persons appeared before the court:

....(Name)....., Petitioner

....(Name)....., Attorney for the petitioner

....(Name)....., Attorney for the department

....(Name)....., Department caseworker

....(Name)....., Mother

....(Name)....., Attorney for mother

....(Name)....., Father of .....(child).....

....(Name)....., Attorney for father

....(Name)....., Guardian ad litem

....(Name)....., Attorney for guardian ad litem

....(Name)....., Legal custodian

....(Name)....., Attorney for legal custodian

....(Name)....., Other .....

The court having considered the family functioning assessment and Case Plan filed by the department and having heard testimony and argument and being otherwise fully advised in the premises finds that:

1. The minor child(ren) who is/are the subject matter of these proceedings, was/were adjudicated dependent within the meaning and intent of chapter 39, Florida Statutes, continue to be dependent, and is/are residents of the State of Florida.

2. The minor child(ren) is/are of an age subject to the jurisdiction of this Court.

3. The following parties were notified of this hearing and provided a copy of the Case Plan and family functioning assessment filed in this cause:

....(Name)....., Petitioner

....(Name)....., Attorney for the petitioner

....(Name)....., Attorney for the department

....(Name)....., Department caseworker

....(Name)....., Mother

....(Name)....., Attorney for mother

....(Name)....., Father of .....(child).....

....(Name)....., Attorney for father

....(Name)....., Guardian ad litem

....(Name)....., Attorney for guardian ad litem

....(Name)....., Other .....

4. The mother, ...(name).....:

..... did not appear and ..... was .... was not represented by legal counsel;

..... appeared ..... with ..... without legal counsel and ..... was ..... was not advised of her right to legal counsel;

..... knowingly, intelligently, and voluntarily ..... waived ..... did not waive her right to legal counsel; and

..... was ..... was not determined to qualify as indigent and ..... was ..... was not appointed an attorney.

5. The father, ...(name).....:

..... did not appear and ..... was .....was not represented by legal counsel;

..... appeared ..... with ..... without legal counsel and ..... was ..... was not advised of his right to legal counsel;

..... knowingly, intelligently, and voluntarily ..... waived ..... did not waive his right to legal counsel; and

..... was ..... was not determined to qualify as indigent and ..... was ..... was not appointed an attorney.

6. The following parents/legal custodians were notified of their right to participate in the preparation of the case plan and to receive assistance from any other person in the preparation of the case plan: .....(names of persons notified).....

7. The department filed a family functioning assessment with the court on .....(date)..... This family functioning assessment ..... is ..... is not in compliance with the statutory requirements.

8. The department filed a case plan with the court on .....(date).....

a. The terms of the case plan ..... are ..... are not consistent with the requirements of the law and previous orders of this court.

b. The case plan ..... is ..... is not meaningful and designed to address the facts and circumstances on which the court based the finding of dependency.

c. The case plan ..... is ..... is not in the best interest of the minor child(ren).

d. The case plan's stated goal of .... is ..... is not a reasonable goal.

e. The parents ..... have ..... do not have the ability to comply with the terms of the case plan.

9. There is a need for temporary child support from .....(noncustodial parent(s)).....and that he/she/they ..... has/have ..... do/does not have the ability to pay child support.

COMMENT: Use 10, 11 & 12 if child(ren) is/are not placed in the home of a parent.

10. It is in the best interest of the minor child(ren) to be placed in the care and custody of .....(placement ordered).....

11. Placement of the minor child(ren) in the care and custody of .....(placement ordered)..... is in a setting which is as family like and as close to the home as possible, consistent with the child(ren)'s best interests and special needs.

12. Return of the minor child(ren) to the custody of .....(person from whom child(ren) was/were originally removed).... would be contrary to the best interest and welfare of the minor

child(ren). The child(ren) cannot safely ..... remain ..... return home with services and removal of the child(ren) is necessary to protect the child(ren), in that ……..

13. Prevention or reunification services ..... were not ..... were indicated and are as listed: .....(services indicated)..... Further efforts could not have shortened separation of this family because: ……..

COMMENT: Use 14 if the goal of the case plan is reunification.

14. Reasonable efforts to prevent or eliminate the need for removal of the child(ren) have been made by the department, which provided the following services: …….

COMMENT: Use 15 if child(ren) remain(s) or is/are returned to the parent(s).

…..15. The child(ren) can safely ..... remain with ..... be returned to ..... (parent(s)'s name(s))..... as long as he/she/they comply(ies) with the following: …….

THEREFORE, based upon the foregoing findings, it is hereby ORDERED AND ADJUDGED that:

……1. The minor child(ren), ...(name(s))..... be placed in the custody of .....(name)....., under supervision of the department.

2. The family functioning assessment report filed by the department is:

..... not accepted and a continuance was requested.

..... accepted by the court.

..... accepted by the court with the following amendments: ……..

3. The case plan filed by the department is:

..... not accepted and a continuance is granted for 30 days or less.

..... accepted by the court.

..... accepted by the court with the following amendments: …….

4. All parties are ordered to comply with the provisions of the case plan and any amendments made to it.

COMMENT: Use 5, 6 & 7 if child(ren) is/are placed outside the home.

…… 5. The mother, ...(name)....., shall pay child support in the amount of $..... by the .....(day)..... of each month to .....(where money is to be paid)....., beginning on .....(date)..... and continuing until such time as payments begin to be deducted by income deduction order. All child support payments shall be paid to the Clerk of the Circuit Court designated to receive child support payments.

…… 6. The father, ...(name)....., shall pay child support in the amount of $..... by the .....(day)..... of each month to .....(where money is to be paid)....., beginning on .....(date)..... and continuing until such time as payments begin to be deducted by income deduction order. All child support payments shall be paid to the Clerk of the Circuit Court designated to receive child support payments.

…… 7. The legal custodian shall have the right to authorize for the child(ren) any emergency medical treatment and any ordinary and necessary medical and dental examinations and treatment, including blood testing, preventive care including ordinary immunizations, tuberculin testing, and well-child care, but not including nonemergency surgery, general anesthesia, provision of psychotropic medications, or other extraordinary procedures for which a separate order or informed consent as provided by law is required.

8. Other: ……..

9. All prior orders not inconsistent with the present order shall remain in full force and effect.

10. This court shall retain jurisdiction over this cause to enter any such further orders that may be deemed necessary for the best interest and welfare of the minor child(ren).

11. This matter is scheduled for Judicial Review on .....(date)..... at .....(time)......

DONE AND ORDERED in ....., Florida, on .....(date)......

Circuit Judge

NOTICE OF HEARING

The Juvenile Court hereby gives notice of hearing in the above-styled cause on .....(date)..... at ..... a.m./p.m., before .....(judge)....., at .....(location)....., or as soon thereafter as counsel can be heard.

COMMENT: The following paragraph must be in bold, 14 pt. Times New Roman or Courier font.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact .....(name, address, and telephone number)..... at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you are hearing or voice impaired, call 711.

PLEASE BE GOVERNED ACCORDINGLY.

Copies furnished to:

FORM 8.968. AFFIDAVIT OF DILIGENT SEARCH

AFFIDAVIT OF DILIGENT SEARCH

STATE OF FLORIDA

COUNTY OF .....

BEFORE ME, the undersigned authority, personally appeared .....(name)....., affiant, who, being first duly sworn, deposes and says that .....he/she..... made a diligent search and inquiry to determine the residence of .....(name)....., the .....parent/prospective parent..... of .....(name(s) of child(ren))....., and the results are as follows:

1. Affiant has received the name of the .....(parent/prospective parent)..... from .....(name)......

2. Affiant has had no face-to-face contact with .....(name of parent/prospective parent)......

3. On .....(date)..... affiant telephoned information at .....(name)..... and was informed that there was no listing for .....(name of parent/prospective parent)......

4. On .....(date)..... affiant searched the .....(city)..... telephone directory and was unable to locate a listing for .....(name of parent/prospective parent)......

5. On .....(date)..... affiant sent a certified letter, return receipt requested, to .....(address)....., a last known address of .....(name of parent/prospective parent)..... On .....(date)..... affiant received the unclaimed receipt by return mail.

6. On .....(date)..... affiant visited .....(address)....., the last known address of .....(name of parent/prospective parent)....., and was informed by .....(name)..... that .....(name of parent/prospective parent)..... no longer resides there.

7. Affiant has made inquiries of all relatives of .....(name of parent/prospective parent)..... of the child, including the other parent, made known to me by the petitioner and .....(name)..... The names, addresses, and telephone numbers of those relatives contacted are: ..... None of the relatives contacted know the current residence or whereabouts of .....(name of parent/prospective parent)......

8. Affiant has made inquiries of all offices of program areas, including but not limited to mental health, of the Department of Children and Family Services likely to have information about .....(name of parent/prospective parent)..... The names, addresses, and/or telephone numbers of those offices are: ..... No one in any of these offices knows the current residence or address of .....(name of parent/prospective parent)......

9. Affiant has made inquiries of other state and federal agencies likely to have information about .....(name of parent/prospective parent)..... The names, addresses, and/or

telephone numbers of those agencies: ..... No one in any of these agencies knows the current residence or whereabouts of .....(name of parent/prospective parent).....

10. Affiant has made inquiries of appropriate utility and postal providers. The names, addresses, and/or telephone numbers of those providers are: ..... None of those providers know the current residence or whereabouts of .....(name of parent/prospective parent).....

11. Affiant has made inquiries of appropriate law enforcement agencies. The names, addresses, and/or telephone numbers of those agencies are: ....(Name of parent/prospective parent)..... is not known to any of these agencies.

12. Affiant has made inquiries of the federal armed services, including the United States Army, Navy, Air Force, Marine Corps, and National Guard. .....(Name of parent/prospective parent)..... is not currently a member of these services.

13. Affiant has made inquiries of all the hospitals in the ..... area. The names, addresses, and/or telephone numbers of those hospitals are: ....(Name of parent/prospective parent)..... is not currently a patient at, nor has .....he/she..... recently been admitted to, these hospitals.

14. Affiant has conducted a thorough search of at least one electronic database specifically designed for locating persons including .....(name of database)..... No information regarding .....(name of parent/prospective parent)..... was found in this electronic database.

15. .....(Name of parent/prospective parent)..... .....is/is not..... over 18 years of age.

16. Affiant is unable to determine the residence or whereabouts of .....(name of parent/prospective parent)..... and thus cannot personally serve process upon .....him/her.....

_____

Affiant

Before me, the undersigned authority, personally appeared .....(name)....., the petitioner in this action, who .....is personally known to me/produced .....(document)..... as identification....., and who affirms that the allegations are filed in good faith and are true and correct to the best of petitioner's knowledge.

SWORN TO AND SUBSCRIBED before me .....(date).....

_____

NOTARY PUBLIC
Name:…….
Commission No.:……
My commission expires: …….

OR

Verification (see Form 8.902).

FORM 8.969. SWORN STATEMENT REGARDING IDENTITY OR LOCATION OF FATHER

SWORN STATEMENT REGARDING

IDENTITY OR LOCATION OF FATHER

1. My name is: ……..

My address is: ……...

2. I am related to .....(child's name)..... because I am his/her .....

3. I understand that I am answering these questions under oath and from my own personal knowledge and I swear to tell the truth. I understand that this sworn statement will be filed with the court.

4. The mother of the child WAS married to .....(name)..... at the probable time of conception of the child.

OR

The mother of the child WAS NOT married at the probable time of conception of the child.

OR

I do not know whether or not the mother was married at the probable time of conception of the child.

5. The mother of this child WAS married to .....(name)..... at the time of this child's birth.

OR

The mother of this child WAS NOT married at the time of this child's birth.

OR

I do not know whether the mother of this child was married at the time of this child's birth.

6. The mother of this child WAS living with/cohabiting with .....(name)..... at the time of the probable conception of this child.

OR

The mother of this child WAS NOT living with/cohabiting with any man at the probable time of conception of this child.

OR

I do not know whether the mother of this child was living with/cohabiting with any man at the probable time of conception of this child.

7. The mother of this child HAS received payments or promises of child support with respect to this child or because of her pregnancy from .....(name).....

OR

The mother of this child HAS NOT received payments or promises of child support with respect to this child or because of her pregnancy from anyone.

OR

I do not know whether the mother has received any payments.

8. The mother named ..... as the father on the child's birth certificate.

OR

The mother DID NOT name a father on the child's birth certificate.

OR

I do not know whether the mother named a father on the child's birth certificate.

9. The mother named ..... as the father of this child in connection with applying for public assistance.

OR

The mother HAS NOT named anyone as the father of this child in connection with applying for public assistance.

OR

I do not know whether the mother has named anyone as the father of this child in connection with applying for public assistance benefits.

10. .....(Name)..... has been named in a paternity case or acknowledged paternity in a jurisdiction where the mother lived at the time of or since the conception of this child or where this child resides or has resided.

OR

No man has been named in a paternity case or acknowledged paternity of this child in a jurisdiction where the mother lived at the time of or since the conception of this child or where this child resides or has resided.

OR

I do not know if any man has been named in a paternity suit regarding this child.

11. List the name, date of birth, social security number, and last-known address of any man listed in this sworn statement:

Name: …….

Date of birth: …….

Social Security No.: …….

Last-known address: ……..

12. Do you know any other information about the identity or location of any man listed in this sworn statement? ..... Yes ..... No. If so, please give that information:

I UNDERSTAND THAT THIS DOCUMENT WILL BE FILED WITH THE COURT. UNDER PENALTY OF PERJURY, I DECLARE THAT I HAVE READ IT AND THAT THE FACTS STATED ARE TRUE.

Date: .....

_____

Signature

Witnessed by .....(name)....., who is an authorized agent of the Department of Children and Family Services and who attests that the person who signed this statement provided proof of identify as indicated:

..... Driver's license, number: …….....…

..... Passport, number and country: …….....

..... Resident Alien (Green Card), number: …….....…

..... Armed Forces Identification, number: …….....….

..... Other: …….....…

FORM 8.970. ORDER ON JUDICIAL REVIEW

ORDER ON JUDICIAL REVIEW AND NOTICE OF NEXT HEARING

THIS CAUSE came on to be heard on .....(date)..... for Judicial Review on the report filed by the Department of Children and Families in this cause under chapter 39, Florida Statutes.

The following persons appeared before the court:

....(name)....., Child

....(name)....., Attorney for the child

....(name)....., Petitioner

....(name)....., Attorney for the petitioner

....(name)....., Attorney for the department

....(name)....., Department caseworker

....(name)....., Mother

....(name)....., Attorney for mother

....(name)....., Father of .....(child).....

....(name)....., Attorney for father

....(name)....., Guardian ad litem

....(name)....., Attorney for guardian ad litem

....(name)....., Legal custodian

....(name)....., Attorney for legal custodian

....(name)....., Other .....

COMMENT: The name of the guardian ad litem and the attorney ad litem, if appointed, must be listed on the order, even if he or she was not present at the hearing.

And the court having considered

..... Judicial Review and Social Study Report filed by the department

..... Statement/home study filed by the department

..... Report of the guardian ad litem

..... Case plan filed by the department

..... Statement by the Child's Caretaker

..... Whether or not the child is a citizen and, if the child is not a citizen, the steps that have been taken to address the citizenship or residency status of the child

..... Other .....

AND THE COURT having heard testimony and argument, and having been otherwise duly advised in the premises finds:

1. That the minor child(ren) who is/are the subject matter of these proceedings was/were adjudicated dependent, continue to be dependent, is/are of an age subject to the jurisdiction of the court, and is/are resident(s) of the state of Florida.

2. The following parties were notified of this hearing and provided a copy of the documents filed for this hearing:

....(name)....., Petitioner

....(name)....., Attorney for the petitioner

....(name)....., Attorney for the department

....(name)....., Department caseworker

....(name)....., Mother

....(name)....., Attorney for mother

....(name)....., Father of .....(child).....

....(name)....., Attorney for father

....(name)....., Guardian ad litem

....(name)....., Attorney for guardian ad litem

....(name)....., Legal custodian

....(name)....., Attorney for legal custodian

....(name)....., Attorney for the child

....(name)....., Other .....

3. The mother, ...(name).....:

..... did not appear and ..... was ..... was not represented by legal counsel;

..... appeared ..... with ..... without legal counsel and ..... was ..... was not advised of her right to legal counsel;

knowingly, intelligently, and voluntarily ..... waived ..... did not waive her right to legal counsel; and

..... was ..... was not determined to qualify as indigent and

..... was ..... was not appointed an attorney.

4. The father, ...(name).....:

..... did not appear and ..... was ..... was not represented by legal counsel;

..... appeared ..... with ..... without legal counsel and ..... was ..... was not advised of his right to legal counsel;

knowingly, intelligently, and voluntarily ..... waived ..... did not waive her right to legal counsel; and

..... was ..... was not determined to qualify as indigent and

..... was ..... was not appointed an attorney.

COMMENT: Repeat above for each father.

5. The department filed a judicial review report with the court on .....(date)..... This judicial review report ..... is ..... is not in compliance with the statutory requirements.

6. The following parents/legal custodians were notified of their right to participate in the preparation of the case plan and to receive assistance from any other person in the preparation of the case plan: .....(names of those notified).....

7. The mother has complied with the following tasks in the case plan: .....(list tasks complied with).....

8. The mother has not complied with the following tasks in the case plan: .....(list tasks not complied with).....

9. The father, ...(father's name)....., has complied with the following tasks in the case plan: .....(list tasks complied with).....

10. The father, ...(father's name)....., has not complied with the following tasks in the case plan: .....(list tasks not complied with).....

11. The mother ..... has ..... has not complied with court ordered visitation as follows: .....(explanation of visitation compliance).....

12. The father, ...(father's name)....., ... has ..... has not complied with court ordered visitation as follows: .....(explanation of visitation compliance).....

13. The department ..... has ..... has not complied with court ordered visitation as follows: .....(explanation of visitation compliance).....

14. The mother ..... has ..... has not complied with court ordered financial support for the child as follows: .....(explanation of financial compliance).....

15. The father, ...(father's name)....., ... has ..... has not complied with court ordered financial support for the child as follows: .....(explanation of financial compliance)......

16. The mother ..... has ..... has not complied with court ordered meetings with the department as follows: .....(explanation of meetings compliance)......

17. The father, ...(father's name)....., ... has ..... has not complied with court ordered meetings with the department as follows: .....(explanation of meetings compliance)......

18. The department ..... has ..... has not complied with court ordered meetings with the parents as follows: .....(explanation of meetings compliance)......

COMMENT: Use 19, 20, 21, 22, 23, & 24 if child(ren) is/are not placed in the home of a parent.

..... 19. It is in the best interest of the minor child(ren) to be placed in the care and custody of .....(placement ordered)......

..... 20. Placement of the minor child(ren) in the care and custody of .....(placement ordered)..... is in a setting which is as family like and as close to the home as possible, consistent with the child(ren)'s best interests and special needs.

..... 21. The children ..... are ..... are not separated in their placements. The following efforts have been made to reunite separated siblings: .....

..... It is not in the best interest of each sibling to be reunited in their placement because: .....

..... Each sibling has the following frequency, kind and duration of contacts: .....

..... 22. Return of the minor child(ren) to the custody of .....(person(s) from whom child(ren) was/were originally removed)..... would be contrary to the best interest and welfare of the minor child(ren). The child(ren) cannot safely .....remain .....return home with services and removal of the child(ren) is necessary to protect the child(ren).

..... 23. Prevention or reunification services .....were not .....were indicated and are as follows: .....(services indicated)..... Further efforts could not have shortened separation of this family because .....

..... 24. The likelihood of the children's reunification with the parent or legal custodian within 12 months is .....

COMMENT: Use 25 if child(ren) remain(s) or is/are returned to the parent(s).

..... 25. The child(ren) can safely ..... remain with ..... be returned to .....(parent('s)(s') name(s))..... as long as he/she/they comply(ies) with the following: .....

The safety, well-being, and physical, mental, and emotional health of the child(ren) are not endangered by allowing the child(ren) to ..... remain ..... return home.

THEREFORE, based upon the foregoing findings, it is hereby ORDERED AND ADJUDGED that:

1. The minor child(ren), ...(name(s))....., be placed in the custody of .....(name)....., under supervision of the department. The department shall have placement and care responsibility while the child(ren) is/are under protective supervision in an out-of-home placement.

2. The judicial review report filed by the department is:

..... not accepted and a continuance was requested.

..... accepted by the court.

..... 3. The court finds that it is not likely that the child(ren) will be reunified with the parent or legal custodian within 12 months after the child was removed from the home. The department shall file a motion within 10 days of receipt of this written order to amend the case plan to incorporate concurrent planning into the case plan.

4. The court inquired of any parents present whether they have relatives who might be considered for placement of the children.

5. Other: .....

6. All prior orders not inconsistent with the present order shall remain in full force and effect.

7. This court shall retain jurisdiction over this cause to enter any such further orders as may be deemed necessary for the best interest and welfare of the minor child(ren).

8. This matter is scheduled for Judicial Review on .....(date)..... at .....(time)......

DONE AND ORDERED in ....., Florida on .....(date)..... at .....(time).....

_____

Circuit Judge

NOTICE OF HEARING

The Juvenile Court hereby gives notice of hearing in the above-styled cause on .....(date)..... at ..... a.m./p.m., before .....(judge)....., at .....(location)....., or as soon thereafter as counsel can be heard.

COMMENT: The following paragraph must be in bold, 14 pt. Times New Roman or Courier font.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain

assistance. Please contact .....(name, address, and telephone number)..... at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you are hearing or voice impaired, call 711.

PLEASE BE GOVERNED ACCORDINGLY.

Copies furnished to:

FORM 8.973A. ORDER ON JUDICIAL REVIEW FOR CHILD AGE 17 OR OLDER

ORDER ON JUDICIAL REVIEW FOR CHILD

OVER AGE 17 AND NOTICE OF NEXT HEARING

THIS CAUSE came on to be heard on .....(date)..... for Judicial Review on the report filed by the Department of Children and Families in this cause under chapter 39, Florida Statutes.

The following persons appeared before the court:

....(Name)....., Child

....(Name)....., Attorney for the Child

....(Name)....., Petitioner

....(Name)....., Attorney for the petitioner

....(Name)....., Attorney for the department

....(Name)....., Department caseworker

....(Name)....., Mother

....(Name)....., Attorney for mother

....(Name)....., Father of .....(child).....

....(Name)....., Attorney for father

....(Name)....., Guardian ad litem

....(Name)....., Attorney for guardian ad litem

....(Name)....., Legal custodian

....(Name)....., Attorney for legal custodian

....(Name)....., Other: .....

COMMENT: The name of the guardian ad litem and the attorney ad litem, if appointed, must be listed on the order, even if he or she was not present.

and the court having considered:

..... Judicial Review Social Study Report filed by the department;

..... Because the child reached the age of 17 within the past 90 days, written verification that the child:

..... Has been provided with a current Medicaid card and has been provided all necessary information concerning the Medicaid program;

..... Has been provided with a certified copy of his or her birth certificate; and has a valid Florida driver's license or has been provided with a Florida identification card;

..... Has a social security card and has been provided information relating to Social Security Insurance benefits, if the child is believed to be eligible;

..... Has received a full accounting if there is a Master Trust for the child and has been informed as to how to access those funds;

..... Has been provided with information related to the Road-to-Independence Program, including eligibility requirements, information on participation, and assistance in gaining admission to the program; If the child is eligible for the Road-to-Independence Program, has been informed that he or she may reside with the licensed foster family or group care provider with whom the child was residing at the time of attaining his or her 18th birthday or may reside in another licensed foster home or with a group care provider arranged by the department;

..... Has an open bank account or the identification necessary to open a bank account and the information necessary to acquire essential banking and budgeting skills;

..... Has been provided with information on public assistance and how to apply;

..... Has been provided a clear understanding of where he or she will be living on his or her 18th birthday, how living expenses will be paid, and what educational program the child will be enrolled in;

..... Has been provided with information as to the child's ability to remain in care until he [or she] reaches 21 years of age or 22 years of age if he/she has a disability;

..... Has been provided with a letter stating the dates that the child is under the jurisdiction of the court;

..... Has been provided with a letter stating that the child is in compliance with financial aid documentation requirements;

..... Has been provided his or her educational records;

..... Has been provided his or her entire health and mental health records;

..... Has been provided with information concerning the process for accessing his or her case file;

..... Has been provided with a statement encouraging the child to attend all judicial review hearings occurring after his or her 17th birthday; and

..... Has been provided with information on how to obtain a driver license or learner's driver license.

..... Statement/homestudy filed by the department;

..... Report of the guardian ad litem;

..... A case plan, dated ....., filed by the department that includes information related to independent living services that have been provided since the child's 13th birthday or since the date the child came into foster care, whichever came later;

..... Statement by the child's caretaker on the progress the child has made in acquiring independent living skills;

..... Whether or not the child is a citizen and, if the child is not a citizen, the steps that have been taken to address the citizenship or residency status of the child;

..... Other: .....

AND THE COURT having heard testimony and argument, and having been otherwise duly advised in the premises finds:

1. That the minor child(ren) who is/are the subject matter of these proceedings was/were adjudicated dependent, continue to be dependent, is/are of an age subject to the jurisdiction of the court, and is/are resident(s) of the state of Florida.

2. The following parties were notified of this hearing and provided a copy of the documents filed for this hearing:

....(Name)....., Child

....(Name)....., Attorney for the Child

....(Name)....., Petitioner

....(Name)....., Attorney for the petitioner

....(Name)....., Attorney for the department

....(Name)....., Department caseworker

....(Name)....., Mother

....(Name)....., Attorney for mother

....(Name)....., Father of .....(child).....

....(Name)....., Attorney for father

....(Name)....., Guardian ad litem

....(Name)....., Attorney for guardian ad litem

....(Name)....., Legal custodian

....(Name)....., Attorney for legal custodian

....(Name)....., Other: .....

3. The child has been given the opportunity to address the court with any information relevant to the child's best interests.

4. The mother, ...(name).....:

..... did not appear and ..... was ..... was not represented by legal counsel;

..... appeared ..... with ..... without legal counsel and ..... was ..... was not advised of her right to legal counsel;

knowingly, intelligently, and voluntarily ..... waived ..... did not waive her right to legal counsel; and

..... was ..... was not determined to qualify as indigent and

..... was ..... was not appointed an attorney.

5. The father, ...(name).....:

..... did not appear and ..... was ..... was not represented by legal counsel;

..... appeared ..... with ..... without legal counsel and ..... was ..... was not advised of his right to legal counsel;

knowingly, intelligently, and voluntarily ..... waived ..... did not waive his right to legal counsel; and

..... was ..... was not determined to qualify as indigent and

..... was ..... was not appointed an attorney.

COMMENT: Repeat above for each father.

6. The department filed a judicial review report with the court on .....(date)..... This judicial review report ..... is ..... is not in compliance with the statutory requirements.

7. The following parents/legal custodians were notified of their right to participate in the preparation of the case plan and to receive assistance from any other person in the preparation of the case plan: .....(names of those notified).....

8. The mother has complied with the following tasks in the case plan: .....(list tasks complied with).....

9. The mother has not complied with the following tasks in the case plan: .....(list tasks not complied with).....

10. The father, ...(father's name)....., has complied with the following tasks in the case plan: .....(list tasks complied with).....

11. The father, ...(father's name)....., has not complied with the following tasks in the case plan: .....(list tasks not complied with).....

12. The mother ..... has ..... has not complied with court ordered visitation as follows: .....(explanation of visitation compliance).....

13. The father, ...(father's name)....., ... has ..... has not complied with court ordered visitation as follows: .....(explanation of visitation compliance).....

14. The department ..... has ..... has not complied with court ordered visitation as follows: .....(explanation of visitation compliance).....

15. The mother ..... has ..... has not complied with court ordered financial support for the child as follows: .....(explanation of financial compliance).....

16. The father, ...(father's name)....., ... has ..... has not complied with court ordered financial support for the child as follows: .....(explanation of financial compliance).....

17. The mother ..... has ..... has not complied with court ordered meetings with the department as follows: .....(explanation of meetings compliance).....

18. The father, ...(father's name)....., ... has ..... has not complied with court ordered meetings with the department as follows: .....(explanation of meetings compliance).....

19. The department ..... has ..... has not complied with court ordered meetings with the parents as follows: .....(explanation of meetings compliance).....

COMMENT: Use 20, 21, 22, 23, & 24 if child(ren) is/are not placed in the home of a parent.

..... 20. It is in the best interest of the minor child(ren) to be placed in the care and custody of .....(placement ordered)..... The department has placement and care responsibility while the child(ren) is/are under protective supervision in an out-of-home placement.

..... 21. Placement of the minor child(ren) in the care and custody of .....(placement ordered)..... is in a setting which is as family like and as close to the home as possible, consistent with the child(ren)'s best interests and special needs.

..... 22. The children ..... are ..... are not separated in their placements. The following efforts have been made to reunite the siblings: .....

..... It is not in the siblings' best interest to be reunited in their placement because: .....

..... The separate siblings have the following frequency, kind, and duration of contacts: .....

..... 23. Return of the minor child(ren) to the custody of .....(person(s) from whom child(ren) was/were originally removed)..... would be contrary to the best interest and welfare of the minor child(ren). The child(ren) cannot safely ..... remain ..... return home with services and removal of the child(ren) is necessary to protect the child(ren).

..... 24. Prevention or reunification services ..... were not ..... were indicated and are as follows: .....(services indicated)..... Further efforts could not have shortened separation of this family because .....

COMMENT: Use 25 if child(ren) remain(s) or is/are returned to the parent(s).

..... 25. The child(ren) can safely ..... remain with ..... be returned to .....(parent('s)(s') name(s))..... as long as he/she/they comply(ies) with the following: ..... The safety, well-being, and physical, mental, and emotional health of the child(ren) are not endangered by allowing the child(ren) to ..... remain ..... return home.

..... 26. The child's petition and application for special immigrant juvenile status or other immigration decision remains pending.

..... 27. The department ….. has ….. has not complied with its obligation as specified in the written case plan or in the provision of independent living services as required by Florida Statutes.

THEREFORE, based upon the foregoing findings, it is hereby ORDERED AND ADJUDGED that:

1. The minor child(ren), ...(name(s))....., be placed in the custody of .....(name)....., under supervision of the department.

2. The judicial review report filed by the department is:

..... not accepted and a continuance was requested.

..... accepted by the court.

3. Other: .....

4. All prior orders not inconsistent with the present order shall remain in full force and effect.

5. This court shall retain jurisdiction over this cause to enter any such further orders as may be deemed necessary for the best interest and welfare of the minor child(ren).

6. This court shall retain jurisdiction until the final decision is rendered by the federal immigration authorities, or upon the immigrant child's 22nd birthday, whichever shall occur first.

7. This court shall retain jurisdiction until the child's 19th birthday for the purpose of determining whether appropriate services to be provided to the young adult before reaching 18 years of age have been provided to the youth.

8. This court shall retain jurisdiction until the child's 21st birthday, or 22nd birthday if the child has a disability, unless the young adult chooses to leave foster care upon reaching 18 years of age, or if the young adult does not meet the eligibility requirements to remain in foster care or chooses to leave care at any time prior to the 21st birthday, or 22nd birthday if the child has a disability.

9. This matter is scheduled for Judicial Review on .....(date)..... at .....(time)......

DONE AND ORDERED in ....., Florida, on .....(date).....

_____

Circuit Judge

NOTICE OF HEARING

The Juvenile Court hereby gives notice of hearing in the above-styled cause on .....(date)..... at ..... a.m./p.m., before .....(judge)....., at .....(location)....., or as soon thereafter as counsel can be heard.

COMMENT: The following paragraph must be in bold, 14 pt. Times New Roman or Courier font.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact .....(name, address, and telephone number)..... at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you are hearing or voice impaired, call 711.

PLEASE BE GOVERNED ACCORDINGLY.

Copies furnished to .....

FORM 8.973B. ORDER ON JUDICIAL REVIEW

ORDER ON LAST JUDICIAL REVIEW BEFORE CHILD REACHES AGE 18 AND NOTICE OF NEXT HEARING

THIS CAUSE came on to be heard on .....(date)..... for Judicial Review on the report filed by the Department of Children and Families in this cause under chapter 39, Florida Statutes.

The following persons appeared before the court:

....(Name)....., Child

....(Name)....., Attorney for the Child

....(Name)....., Petitioner

....(Name)....., Attorney for the petitioner

....(Name)....., Attorney for the department

....(Name)....., Department caseworker

....(Name)....., Mother

....(Name)....., Attorney for mother

....(Name)....., Father of .....(child).....

....(Name)....., Attorney for father

....(Name)....., Guardian ad litem

....(Name)....., Attorney for guardian ad litem

....(Name)....., Legal custodian

....(Name)....., Attorney for legal custodian

....(Name)....., Other: .....

COMMENT: The name of the guardian ad litem and the attorney ad litem, if appointed, must be listed on the order, even if he or she was not present.

and the court having considered:

..... Judicial Review Social Study Report filed by the department;

..... Statement/homestudy filed by the department;

..... Report of the guardian ad litem;

..... A case plan, dated ....., filed by the department that includes information related to independent living services that have been provided since the child's 13th birthday or since the date the child came into foster care, whichever came later;

..... Statement by the child's caretaker on the progress the child has made in acquiring independent living skills;

..... Whether or not the child is a citizen and, if the child is not a citizen, the steps that have been taken to address the citizenship or residency status of the child;

..... A copy of the child's transition plan;

..... Other: .....

AND THE COURT having heard testimony and argument, and having been otherwise duly advised in the premises finds:

1. That the minor child(ren) who …..is/are….. the subject matter of these proceedings …..was/were….. adjudicated dependent, continue to be dependent, is/are of an age subject to the jurisdiction of the court, and …..is/are.....resident(s) of the state of Florida.

2. The following parties were notified of this hearing and provided a copy of the documents filed for this hearing:

....(Name)....., Child

....(Name)....., Attorney for the Child

....(Name)....., Petitioner

....(Name)....., Attorney for the petitioner

....(Name)....., Attorney for the department

....(Name)....., Department caseworker

....(Name)....., Mother

....(Name)....., Attorney for mother

....(Name)....., Father of .....(child).....

....(Name)....., Attorney for father

....(Name)....., Guardian ad litem

....(Name)....., Attorney for guardian ad litem

....(Name)....., Legal custodian

....(Name)....., Attorney for legal custodian

....(Name)....., Other: .....

3. The child has been given the opportunity to address the court with any information relevant to the child's best interests.

4. The mother, ...(name).....:

..... did not appear and ..... was ..... was not represented by legal counsel;

..... appeared ..... with ..... without legal counsel and ..... was ..... was not advised of her right to legal counsel;

knowingly, intelligently, and voluntarily ..... waived ..... did not waive her right to legal counsel; and

..... was ..... was not determined to qualify as indigent and

..... was ..... was not appointed an attorney.

5. The father, ...(name).....:

..... did not appear and ..... was ..... was not represented by legal counsel;

..... appeared ..... with ..... without legal counsel and ..... was ..... was not advised of his right to legal counsel;

knowingly, intelligently, and voluntarily ..... waived ..... did not waive his right to legal counsel; and

.... was ..... was not determined to qualify as indigent and

..... was ..... was not appointed an attorney.

COMMENT: Repeat above for each father.

6. The department filed a judicial review report with the court on .....(date)..... The judicial review report ..... is ..... is not in compliance with the statutory requirements.

7. The following parents/legal custodians were notified of their right to participate in the preparation of the case plan and to receive assistance from any other person in the preparation of the case plan: .....(names of those notified).....

8. The mother has complied with the following tasks in the case plan: .....(list tasks complied with).....

9. The mother has not complied with the following tasks in the case plan: .....(list tasks not complied with).....

10. The father, ...(father's name)....., has complied with the following tasks in the case plan: .....(list tasks complied with).....

11. The father, ...(father's name)....., has not complied with the following tasks in the case plan: .....(list tasks not complied with).....

12. The mother ..... has ..... has not complied with court ordered visitation as follows: .....(explanation of visitation compliance).....

13. The father, ...(father's name)....., ... has ..... has not complied with court ordered visitation as follows: .....(explanation of visitation compliance).....

14. The department ..... has ..... has not complied with court ordered visitation as follows: .....(explanation of visitation compliance).....

15. The mother ..... has ..... has not complied with court ordered financial support for the child as follows: .....(explanation of financial compliance).....

16. The father, ...(father's name)....., ... has ..... has not complied with court ordered financial support for the child as follows: .....(explanation of financial compliance).....

17. The mother ..... has ..... has not complied with court ordered meetings with the department as follows: .....(explanation of meetings compliance).....

18. The father, ...(father's name)....., ... has ..... has not complied with court ordered meetings with the department as follows: .....(explanation of meetings compliance).....

19. The department ..... has ..... has not complied with court ordered meetings with the parents as follows: .....(explanation of meetings compliance).....

COMMENT: Use 20, 21, 22, 23, & 24 if child(ren) is/are not placed in the home of a parent.

20. It is in the best interest of the minor child(ren) to be placed in the care and custody of .....(placement ordered)..... The department has placement and care responsibility while the child(ren) is/are under protective supervision in an out-of-home placement.

21. Placement of the minor child(ren) in the care and custody of .....(placement ordered)..... is in a setting which is as family like and as close to the home as possible, consistent with the child(ren)'s best interests and special needs.

..... 22. The children ..... are ..... are not separated in their placements. The following efforts have been made to reunite separated siblings: .....

..... It is not in the best interest of each sibling to be reunited in their placement because: .....

..... Each sibling has the following frequency, kind, and duration of contacts: .....

23. Return of the minor child(ren) to the custody of .....(person(s) from whom child(ren) was/were originally removed)..... would be contrary to the best interest and welfare of the minor child(ren). The child(ren) cannot safely ..... remain ..... return home with services and removal of the child(ren) is necessary to protect the child(ren).

24. Prevention or reunification services ..... were not ..... were indicated and are as follows: .....(services indicated)..... Further efforts could not have shortened separation of this family because .....

COMMENT: Use 25 if child(ren) remain(s) or is/are returned to the parent(s).

25. The child(ren) can safely ..... remain with ..... be returned to ..... (parent('s)(s') name(s))..... as long as he/she/they comply(ies) with the following: ..... The safety, well-being, and physical, mental, and emotional health of the child(ren) are not endangered by allowing the child(ren) to ..... remain ..... return home.

26. The child's petition and application for special immigrant juvenile status or other immigration decision remains pending.

27. The department ..... has ..... has not complied with its obligation as specified in the written case plan or in the provision of independent living services as required by Florida Statutes.

..... 28. The child does plan on remaining in foster care.

a. the child will meet the requirements by .....

b. the supervised living arrangement will be .....

c. the child has been informed of

..... (1) the right to continued support and services;

..... (2) the right to request termination of this court's jurisdiction and to be discharged from foster care;

..... (3) the opportunity to reenter foster care pursuant to Florida law; and

..... (4) the requirement to furnish documentation of participation in a program required for eligibility to remain in extended foster care.

..... 29. The child does not plan on remaining in foster care. The child has been informed of:

..... a. services of benefits for which the child may be eligible based upon the child's placement and length of time spent in licensed foster care;

..... b. services or benefits that may be lost through a termination of the court's jurisdiction; and

..... c. other federal, state, local, or community-based services or supports available to the child.

THEREFORE, based upon the foregoing findings, it is hereby ORDERED AND ADJUDGED that:

1. The minor child(ren), ...(name(s))....., be placed in the custody of .....(name)....., under supervision of the department.

2. The judicial review report filed by the department is: ..... not accepted and a continuance was requested ..... accepted by the court.

3. The child's transition plan is: ..... not approved and a continuance was requested ..... approved by the court.

4. Other: .....

5. All prior orders not inconsistent with the present order shall remain in full force and effect.

6. This court shall retain jurisdiction over this cause to enter any such further orders as may be deemed necessary for the best interest and welfare of the minor child(ren).

7. This court shall retain jurisdiction until the final decision is rendered by the federal immigration authorities, or upon the immigrant child's 22nd birthday, whichever shall first occur.

8. This court shall retain jurisdiction until the child's 19th birthday for the purpose of determining whether appropriate services that were required to be provided to the young adult before reaching 18 years of age have been provided to the youth.

9. This court shall retain jurisdiction until the child's 21st birthday, or 22nd birthday if the child has a disability, unless the young adult chooses to leave foster care upon reaching 18 years of age, or if the young adult does not meet the eligibility requirements to remain in foster care or chooses to leave care at any time prior to the 21st birthday, or the 22nd birthday if the young adult has a disability.

10. This matter is scheduled for Judicial Review on .....(date)..... at .....(time).....

DONE AND ORDERED in ....., Florida, on .....(date).....

Circuit Judge

NOTICE OF HEARING

The Juvenile Court hereby gives notice of hearing in the above-styled cause on .....(date)..... at ..... a.m./p.m., before .....(judge)....., at .....(location)....., or as soon thereafter as counsel can be heard.

COMMENT: The following paragraph must be in bold, 14 pt. Times New Roman or Courier font.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact .....(name, address, and telephone number)..... at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you are hearing or voice impaired, call 711.

PLEASE BE GOVERNED ACCORDINGLY.

Copies furnished to: .....

FORM 8.973C. ORDER ON JUDICIAL REVIEW FOR YOUNG ADULTS IN EXTENDED FOSTER CARE

ORDER ON JUDICIAL REVIEW FOR YOUNG ADULTS IN EXTENDED FOSTER CARE AND NOTICE OF NEXT HEARING

THIS CAUSE came on to be heard on .....(date)..... for Judicial Review on the report filed by the Department of Children and Families in this cause under chapter 39, Florida Statutes.

The following persons appeared before the court:

....(Name)....., Young Adult

....(Name)....., Attorney for the Young Adult

....(Name)....., Petitioner

....(Name)....., Attorney for the petitioner

....(Name)....., Attorney for the department

....(Name)....., Department caseworker

....(Name)....., Guardian ad litem

....(Name)....., Attorney for the guardian ad litem

....(Name)....., Other: .....

COMMENT: The name of the guardian ad litem and the attorney ad litem, if appointed, must be listed on the order, even if he or she was not present.

and the court having considered:

..... Judicial Review Social Study Report filed by the department;

..... Case Plan filed by the department;

..... Report of the guardian ad litem;

..... A copy of the young adult's transition plan;

..... A copy of the voluntary placement agreement;

..... Other: .....

AND THE COURT having heard testimony and argument, and having been otherwise duly advised in the premises finds:

1. The young adult ….. is ….. is not making progress in meeting the case plan goals, as follows: .....

2. The department ..... has or ..... has not made reasonable efforts to finalize the permanency plan currently in effect.

3. The case plan and/or the young adult's transition plan shall be amended as follows: .....

4. The Department and all services providers .....have ….. have not provided the appropriate services listed in the case plan. ….. The Department must take the following action to ensure the young adult receives identified services that have not been provided: .....

…… 5. The young adult ..... is ..... is not separated from siblings in out-of-home care. The following efforts have been made to reunite separated siblings: .....
.....
.....

..... It is not in the best interest of each sibling to be reunited in their placement because:
.....
.....

..... Each sibling has the following frequency, kind and duration of contacts:
.....
.....

…… 6. The young adult has signed a voluntary placement agreement for the sole purpose of ending the current removal episode.

….. 7. Jurisdiction in this case should be terminated based on the following facts:

..... a. The young adult has requested termination of jurisdiction; or

..... b. The young adult has been informed by the department of his or her right to attend this hearing and has provided written consent to waive this right, and

..... c. The young adult has been informed of the potential negative effects of early termination of care, the option to reenter care before reaching 21 years of age, or 22 years of age if the young adult has a disability, the procedure for and the limitations on reentering care, and the availability of alternative services, and has signed a document attesting that he or she has been so informed and understands these provisions; or

..... d. The young adult has voluntarily left the program, has not signed the document indicated above, and is unwilling to participate in any further court proceeding; or

..... e. The young adult has been involuntarily discharged from the program by written notification dated ....., and the young adult has not appealed the discharge decision.

THEREFORE, based upon the foregoing findings, it is hereby ORDERED AND ADJUDGED that:

1. The judicial review report filed by the department is:

..... not accepted and a continuance was requested.

..... accepted by the court.

2. All prior orders not inconsistent with the present order shall remain in full force and effect.

3. The young adult is placed in the following supervised living environment: ..... under the protective supervision of the department. The department shall have placement and care responsibility while the young adult is under protective supervision in the supervised living environment. The court has determined that it is in the best interest of the young adult to remain in out-of-home care.

..... 4. The court ends the current removal episode. The young adult executed a voluntary placement agreement on .....(date)..... giving the department placement and care responsibility and beginning a new removal episode.

..... 5. This court shall retain jurisdiction until the young adult's 19th birthday for the purpose of determining whether appropriate services that were required to be provided to the young adult before reaching 18 years of age have been provided to the youth. or

..... 6. This court shall retain jurisdiction until the young adult's 21st birthday, or 22 years of age if the young adult has a disability, unless the young adult chooses to leave foster care upon reaching 18 years of age, or if the young adult does not meet the eligibility requirements to remain in foster care or chooses to leave care at any time prior to the 21st birthday. or

..... 7. Jurisdiction over this cause is hereby terminated.

..... 8. Other:……..

..... 9. This matter is scheduled for Judicial Review on …..(date)….. at ……(time)…….

DONE AND ORDERED in ……, Florida, on ……(date)…….

_____

Circuit Judge

NOTICE OF HEARING

The Juvenile Court hereby gives notice of hearing in the above-styled cause on .....(date)..... at ..... a.m./p.m., before .....(judge)....., at .....(location)....., or as soon thereafter as counsel can be heard.

COMMENT: The following paragraph must be in bold, 14 pt. Times New Roman or Courier font.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact .....(name, address, and telephone number)..... at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you are hearing or voice impaired, call 711.

PLEASE BE GOVERNED ACCORDINGLY.

Copies furnished to: …….

FORM 8.975. DEPENDENCY ORDER WITHHOLDING ADJUDICATION

ORDER OF ADJUDICATION

THIS CAUSE came before this court on .....(date)....., under chapter 39, Florida Statutes, for adjudication of the Petition for Dependency filed by .....(petitioner's name)..... Present before the court were

....(Name)....., Petitioner

....(Name)....., Attorney for the petitioner

....(Name)....., Attorney for the department

....(Name)....., Department caseworker

....(Name)....., Mother

....(Name)....., Attorney for mother

....(Name)....., Father of .....(child).....

....(Name)....., Attorney for father

....(Name)....., Guardian ad litem

....(Name)....., Attorney for guardian ad litem

....(Name)....., Legal custodian

....(Name)....., Attorney for legal custodian

....(Name)....., Other .....

COMMENT: The name of the guardian ad litem and the attorney ad litem, if appointed, must be listed on the order, even if he or she was not present.

The court having heard testimony and argument and being otherwise fully advised in the premises finds:

1. That the minor child(ren) who is/are the subject matter of these proceedings, is/are dependent within the meaning and intent of chapter 39, Florida Statutes, and is/are (a) resident(s) of the State of Florida.

2. The mother, ...(name).....:

..... was ..... was not noticed of this hearing;

..... did not appear, and the court:

..... entered a Consent for failure to appear after proper notice.

..... did not enter a Consent for failure to appear after proper notice.

..... appeared with counsel;

..... appeared without counsel and:

..... was ..... was not advised of her right to legal counsel,

..... knowingly, intelligently, and voluntarily waived ..... did not waive her right to legal counsel and

..... was ..... was not determined to qualify as indigent and

..... was ..... was not appointed an attorney.

3. The father, ...(name).....:

..... was ..... was not noticed of this hearing;

..... did not appear, and the court:

..... entered a Consent for failure to appear after proper notice.

..... did not enter a Consent for failure to appear after proper notice.

..... appeared with counsel;

..... appeared without counsel and:

..... was ..... was not advised of his right to legal counsel,

..... knowingly, intelligently, and voluntarily waived ..... did not waive his right to legal counsel and

..... was ..... was not determined to qualify as indigent and

..... was ..... was not appointed an attorney.

..... 4. That the child(ren) is/are dependent within the meaning and intent of chapter 39, Florida Statutes, in that the mother, ...(name)....., abused, neglected or abandoned the minor child(ren) by ..... These facts were proven by ..... preponderance of the evidence ..... clear and convincing evidence.

..... 5. That the child(ren) is/are dependent within the meaning and intent of chapter 39, Florida Statutes, in that the father, ...(name)....., abused, neglected or abandoned the minor child(ren) by ..... These facts were proven by ..... preponderance of the evidence ..... clear and convincing evidence.

..... 6. That the parties have filed a mediation agreement in which the parent(s) consent(s) to the adjudication of dependency of the child(ren) in conjunction with a withhold of adjudication, which the court accepts.

7. Under section 39.507(5), Florida Statutes, the Court finds that the child(ren) named in the petition are dependent, but finds that no action other than supervision in the child(ren)'s home is required.

THEREFORE, based upon the foregoing findings, it is ORDERED AND ADJUDGED that:

1. Under section 39.507(5), Florida Statutes, the Court hereby withholds adjudication of dependency of the minor child(ren). The child(ren) shall be .....returned/continued..... in (child(ren)'s home) under the supervision of the department. If this court later finds that the parents have not complied with the conditions of supervision imposed, the court may, after a hearing to establish the noncompliance, but without further evidence of the state of dependency, enter an order of adjudication.

2. This court shall retain jurisdiction over this cause to enter any such further orders that may be deemed necessary for the best interest and welfare of the minor child(ren).

3. All prior orders not inconsistent with the present order shall remain in full force and effect.

4. Disposition is scheduled for .....(date)....., at ..... a.m./p.m.

DONE AND ORDERED on .....date.....

_____

Circuit Judge

NOTICE OF HEARING

The Juvenile Court hereby gives notice of hearing in the above styled cause on .....(date)..... at ..... a.m./p.m., before .....(judge)....., at .....(location)....., or as soon thereafter as counsel can be heard.

COMMENT: The following paragraph must be in bold, 14 pt. Times New Roman or Courier font.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact .....(name, address, and telephone number)..... at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you are hearing or voice impaired, call 711.

PLEASE BE GOVERNED ACCORDINGLY.

Copies furnished to:

FORM 8.976. PROPOSED RELATIVE PLACEMENT

PROPOSED RELATIVES FOR PLACEMENT

Pursuant to Chapter 39, Florida Statutes, the .....mother/father..... hereby provides the court and the parties with the names and location of relatives who might be considered for placement of the child(ren). The .....mother/father..... will continue to inform the court and the parties of any relative who should be considered for placement of the child(ren) with the filing of subsequent forms.

MATERNAL

Name: ……

Address: ……

Phone number: ……..…….

Relationship to child: ……

Name: ……

Address: ……

Phone number: ……..…….

Relationship to child: ……

Name: ……

Address: ……

Phone number: ……..…….

Relationship to child: ……

Name: ……

Address: ……

Phone number: ……..…….

Relationship to child: ……

Name: ……

Address: ……

Phone number: ……..…….

Relationship to child: ……

PATERNAL

Name: ……

Address: ……

Phone number: ……..…….

Relationship to child: ……

Name: ……

Address: ……

Phone number: ……..…….

Relationship to child: ……

Name: ……

Address: ……

Phone number: ……..…….

Relationship to child: ……

Name: ……

Address: ……

Phone number: ……..…….

Relationship to child: ……

Name: ……

Address: ……

Phone number: ……..…….

Relationship to child: ……

The above information is true and correct to the best of my knowledge.

Dated .....

(Mother's Signature)
Printed name …….....

(Father's Signature)
Printed name …….....

FORM 8.977. ORDER AUTHORIZING CHILD TO ENTER INTO RESIDENTIAL LEASEHOLD AND SECURE UTILITY SERVICES BEFORE THE CHILD'S 18TH BIRTHDAY

ORDER AUTHORIZING CHILD TO ENTER INTO RESIDENTIAL LEASEHOLD AND TO SECURE RESIDENTIAL UTILITY SERVICES BEFORE THE CHILD'S 18TH BIRTHDAY

THIS CAUSE came before the court to remove the disabilities of nonage of .....(name)....., for the purpose of entering into a residential leasehold and to secure residential utility services. The court being fully advised in the premises FINDS as follows:

.....(Name)..... is 17 years of age, meets the requirements of sections 743.045 and 743.046, Florida Statutes, and is entitled to the benefits of those statutes.

THEREFORE, based on these findings of fact, it is ORDERED AND ADJUDGED that the disabilities of nonage of .....(name)..... are hereby removed for the purpose of entering a residential leasehold and securing residential utility services. .....(Name)..... is hereby authorized to make and execute contracts, releases, and all other instruments necessary for the purpose of entering into a residential leasehold and securing residential utility services. The contracts or other instruments made by .....(name)..... for the purposes of entering into a residential leasehold and securing residential utility services shall have the same effect as though they were the obligations of a person who is not a minor.

ORDERED at ....., Florida, on .....(date).....

Circuit Judge

Copies to:

FORM 8.978. ORDER AUTHORIZING CHILD TO SECURE DEPOSITORY FINANCIAL SERVICES BEFORE THE CHILD'S 18TH BIRTHDAY

ORDER AUTHORIZING CHILD TO SECURE

DEPOSITORY FINANCIAL SERVICES

BEFORE THE CHILD'S 18TH BIRTHDAY

THIS CAUSE came before the court to remove the disabilities of nonage of .....(name)....., for the purpose of securing depository financial services, and the court being fully advised in the premises FINDS as follows:

.....(Name)..... is at least 16 years of age, meets the requirements of section 743.044, Florida Statutes, and is entitled to the benefits of that statute.

THEREFORE, based on these findings of fact, it is ORDERED AND ADJUDGED that the disabilities of nonage of .....(name)..... are hereby removed for the purpose of securing depository financial services. .....(Name)..... is hereby authorized to make and execute contracts, releases, and all other instruments necessary for the purpose of securing depository financial services. The contracts or other instruments made by .....(name)..... for the purpose of securing depository financial services have the same effect as though they were the obligations of a person who is not a minor.

ORDERED at ……., Florida, on .....(date).....

Circuit Judge

Copies to:

FORM 8.978(a). ORDER CONCERNING YOUTH'S ELIGIBILITY FOR FLORIDA'S TUITION AND FEE EXEMPTION.

ORDER CONCERNING ELIGIBILITY FOR FLORIDA'S TUITION

AND FEE EXEMPTION

THIS CAUSE comes before the court to determine .....(name).....'s eligibilty for the tuition and fee exemption under Chapter 1009, Florida Statutes, and the court being fully advised in the premises, it is

ORDERED AND ADJUDGED that .....(name)..... is eligible, under Chapter 1009, Florida Statutes, and therefore exempt from the payment of tuition and fees, including lab fees, at a school district that provides postsecondary career programs, community college, or state university.

ORDERED at……., Florida, on .....(date).....

Circuit Judge

Copies to:

D. TERMINATION OF PARENTAL RIGHTS FORMS

FORM 8.979. SUMMONS FOR ADVISORY HEARING

SUMMONS AND NOTICE OF ADVISORY
HEARING FOR TERMINATION OF
PARENTAL RIGHTS AND GUARDIANSHIP

STATE OF FLORIDA

TO: .....(name and address of person being summoned).....

A Petition for Termination of Parental Rights under oath has been filed in this court regarding the above-referenced child(ren), a copy of which is attached. You are to appear before .....(judge)....., at .....(time and location of hearing)....., for a TERMINATION OF PARENTAL RIGHTS ADVISORY HEARING. You must appear on the date and at the time specified.

FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS TO THIS CHILD (THESE CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND TIME SPECIFIED YOU MAY LOSE ALL LEGAL RIGHTS TO THE CHILD (OR CHILDREN) NAMED IN THE PETITION ATTACHED TO THIS NOTICE.

COMMENT: The following paragraph must be in bold, 14 pt. Times New Roman or Courier font.

If you are a person with a disability who needs any accommodation to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact .....(name, address, telephone number)..... at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you are hearing or voice impaired, call 711.

Witness my hand and seal of this court at .....(city, county, state)..... on .....(date).....

CLERK OF COURT

BY:_____

DEPUTY CLERK

AVISO Y CITACIÓN PARA LA AUDIENCIA

INFORMATIVA SOBRE LA

TERMINACIÓN DE LOS DERECHOS

PATERNALES Y DE LA TUTELA

ESTADO DE LA FLORIDA

PARA:_____

(Nombre y dirección de la persona a ser citada)

CONSIDERANDO que se ha interpuesto en este Juzgado una solicitud bajo juramento para la terminación de los derechos paternales con respecto al(os) niño(s) en referencia, adjuntándose copia de la misma. Mediante la presente se le ordena comparecer ante el .....(Juez)....., a las .....(hora y lugar de la audiencia)..... para una AUDIENCIA INFORMATIVA SOBRE LA TERMINACIÓN DE LOS DERECHOS PATERNALES. Usted deberá comparecer en le fecha y hora indicadas.

SI USTED NO COMPARECE PERSONALMENTE A LA AUDIENCIA INFORMATIVA, ESTO SIGNIFICARÁ QUEUSTED ACCEDE A LA TERMINACIÓN DE SUS DERECHOS PATERNALES CON RESPECTO A ESTE(OS) NIÑO(S). SI USTED NO COMPARECE EN LA FECHA Y HORA INDICADAS, USTED PODRÁ PERDER TODOS SUS DERECHOS LEGALES CON RESPECTO AL/LOS NIÑO(S) MENCIONADO(S) EN LA PETICIÓN ADJUNTA A ESTE AVISO.

Si usted es una persona con una discapacidad que necesita cualquier tipo de trato especial para participar en este procedimiento, usted tiene derecho, sin costa alguno para usted, para la presetación de asistencia determinadas. Póngase en contacto con …..(nombre, dirección, número de teléfono)….. por lo menos 7 dias antes la aparición en la corte programado, o immediatamente después de reciber esta notification, si el tiempo antes de la comparecencia prevista es inferiof a 7 dias. Si usted está oyendo o voz alterada, llame al 711.

Firmado y sigilado en este Juzgado .....(ciudad, condado, estado)..... el .....(fecha).....

ESCRIBANO DEL TRIBUNAL

POR: _____

ESCRIBANO DELEGADO

MANDA AK AVÈTISMAN POU ENFOME-W

SOU YON CHITA TANDE, POU YO ANILE DWA-W

KÒM PARAN AK KÒM GADYEN

Leta Florid

POU: .....(non ak adrès moun yo voye manda-a).....

KÒM, tandiske, gen yon demann sèmante pou anile dwa paran-yo, ki prezante devan tribinal-la, konsènan timoun ki nonmen nan lèt sa-a, piwo-a, yon kopi dokiman-an kwoke nan dosye-a., yo bay lòd pou prezante devan ..... (Jij-la) ...., a..... (nan.lè ak adrès chita tande-a)....., NAN YON CHITA TANDE POU YO ENFÒME-W, YO GEN LENTANSYON POU ANILE DWA-OU KÒM PARAN. Ou fèt pou prezante nan dat ak lè ki endike-a.

SI OU PA PREZANTE PÈSONÈLMAN NAN CHITA TANDE-A, POU YO ENFÒME-W, YO GEN LENTANSYON POU ANILE DWA-OU KÒM PARAN, SA KA LAKÒZ YO DESIDE OU KONSANTI TIMOUN SA-A (YO), BEZWEN PWOTEKSYON LETA EPI SA KA LAKÒZ OU PÈDI DWA-OU KÒM PARAN TIMOUN SA-A(YO), KI GEN NON YO MAKE NAN KOPI DEMANN-NAN, KI KWOKE NAN AVÈTISMAN-AN

Si ou se yon moun infirm, ki beswen `ed ou ki bewsen ke o akomode w pou ou patispe nan pwosedi sa yo, ou genyen dwa, san ke ou pa peye, a setin `ed. Silvouple kontake …..(non, address, telephone)….. o moin 7 jou avan dat ou genyen rendevou pou ale nan tribunal, ou si le ou resevwa avi a, genyen mouins ke 7 jou avan date endevou tribunal la. Ou si ou pa tande pale, rele nan nimerro sa 711.

Mwen siyen non mwen e mete so mwen nan dokiman tribinal-la kòm temwen nan (vil, distrik, eta) ....., nan ... (dat).....

GREFYE TRIBINAL-LA

PA:_____

ASISTAN GREFYE TRIBINAL-LA

FORM 8.980. PETITION FOR TERMINATION OF PARENTAL RIGHTS BASED ON VOLUNTARY RELINQUISHMENT

PETITION FOR TERMINATION OF

PARENTAL RIGHTS

Petitioner, ...(name)....., respectfully petitions this Court for termination of parental rights and permanent commitment of the minor child(ren), ...(name(s))....., to .....(agency name)..... for the purpose of subsequent adoption, and as grounds states the following:

A. PARTIES

1. The child, ...(name)....., is a male/female child born on .....(date)....., at .....(city, county, state)..... At the time of the filing of this petition, the child is .....(age)..... A copy of the child's birth certificate is attached to this Petition and incorporated as Petitioner's Exhibit .....

COMMENT: Repeat above for each child on petition.

2. The child(ren) is/are presently in the care and custody of .....(name)....., and is/are residing in ..... County, Florida.

3. An affidavit under the Uniform Child Custody Jurisdiction and Enforcement Act is attached to this as Petitioner's Exhibit .....

4. The natural mother of the child(ren) is .....(name)....., who resides at .....

5. The natural/alleged/putative father of the child(ren) .....(name(s))..... is .....(name)....., who resides at .....

COMMENT: Repeat #5 as necessary.

6. A guardian ad litem ..... has ..... has not been appointed to represent the interests of the child(ren) in this cause.

B. GROUNDS FOR TERMINATION

1. The parent(s) have been advised of their right to legal counsel at all hearings that they attended.

2. The parents will be informed of the availability of private placement of the child with an adoption entity as defined in chapter 63, Florida Statutes.

3. The mother, ...(name)....., freely, knowingly, voluntarily, and ..... with ..... without advice of legal counsel executed an Affidavit and Acknowledgment of Surrender, Consent, and Waiver of Notice on .....(date)....., for termination of her parental rights to the minor child, ...(name)....., under section 39.806(1)(a), Florida Statutes.

COMMENT: Repeat above as necessary.

4. The father, ...(name)....., freely, knowingly, and voluntarily, and ..... with ..... without advice of legal counsel executed an Affidavit and Acknowledgment of Surrender, Consent, and Waiver of Notice on .....(date)....., for termination of his parental rights to the minor child, ...(name)....., under section 39.806(1)(a), Florida Statutes.

COMMENT: Repeat above as necessary.

5. Under the provisions of chapter 39, Florida Statutes, it is in the manifest best interest of the child(ren) for parental rights to be terminated for the following reasons:

..... allegations which correspond to sections 39.810(1)–(11), Florida Statutes.

6. A copy of this petition shall be served on the natural mother, ...(name).....; the father(s), ...(name(s)).....; the custodian, ...(name).....; and the guardian ad litem, ...(name).....

7. This petition is filed in good faith and under oath.

WHEREFORE, the petitioner respectfully requests that this court grant this petition; find that the parents have voluntarily surrendered their parental rights to the minor child(ren); find that termination of parental rights is in the manifest best interests of this/these child(ren); and that this court enter an order permanently committing this/these child(ren) to the .....(name)..... for subsequent adoption.

_____

.....(petitioner's name and
identifying information).....

Verification

_____

.....(attorney's name).....
.....(address and telephone number).....
.....(email address(es).....
.....(Florida Bar number).....

Certificate of Service

FORM 8.981. PETITION FOR INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

PETITION FOR TERMINATION

OF PARENTAL RIGHTS

Petitioner, ...(petitioner's name)....., respectfully petitions this court for termination of parental rights and permanent commitment of the minor child(ren), ...(name(s))....., to .....(agency name)..... for the purpose of subsequent adoption, and as grounds states the following:

A. PARTIES

1. The child, ...(name)....., is a male/female child born on .....(date)....., at .....(city, county, state)..... At the time of the filing of this petition, the child is .....(age)..... A copy of the child's birth certificate is attached to this Petition and incorporated as Petitioner's Exhibit .....

COMMENT: Repeat above for each child on petition.

2. The child(ren) is/are presently in the care and custody of .....(name)....., and is/are residing in ……. County, Florida.

3. An affidavit under the Uniform Child Custody Jurisdiction and Enforcement Act is attached to this as Petitioner's Exhibit .....

4. The natural mother of the child(ren) is .....(name)....., who resides at ……

5. The natural/alleged/putative father of the child(ren) .....(name(s))..... is .....(name)....., who resides at …….

COMMENT: Repeat #5 as necessary.

6. A guardian ad litem ..... has ..... has not been appointed to represent the interests of the child(ren) in this cause.

B. GROUNDS FOR TERMINATION

1. The parents have been advised of their right to legal counsel at all hearings that they attended.

2. On or about .....(date(s))....., the following occurred: .....(acts which were basis for dependency or TPR, if filed directly).....

3. The mother has .....(grounds for TPR)..... the minor child(ren) within the meaning and intent of section 39.806, Florida Statutes, in that: .....(allegations which form the statutory basis for grounds).....

4. The father has .....(grounds for TPR)..... the minor child(ren) within the meaning and intent of section 39.806, Florida Statutes, in that: .....(allegations which form the statutory basis for grounds).....

5. Under the provisions of sections 39.810(1)–(11), Florida Statutes, it is in the manifest best interests of the child(ren) for parental rights of .....(name(s))..... to be terminated for the following reasons: .....(allegations for each statutory factor in the manifest best interest test).....

6. A copy of this petition shall be served on the natural mother, ...(name)....., father(s), ...(name(s))....., the custodian, ...(name).....; and the guardian ad litem, ...(name).....

7. This petition is filed by the petitioner in good faith and under oath.

WHEREFORE, the petitioner respectfully requests that this court grant this petition; find that the parents have abused, neglected, or abandoned the minor child(ren); find that termination of parental rights is in the manifest best interests of this/these child(ren); and that this court enter

an order permanently committing this/these child(ren) to .....(agency)..... for subsequent adoption.

.....(petitioner's name and identifying information).....

Verification

.....(attorney's name).....
.....(address and telephone number).....
.....(Florida Bar number).....

Certificate of Service

FORM 8.982 NOTICE OF ACTION FOR ADVISORY HEARING

.....(Child(ren)'s initials and date(s) of birth).....

NOTICE OF ACTION AND OF HEARING FOR TERMINATION OF PARENTAL RIGHTS AND GUARDIANSHIP

STATE OF FLORIDA

TO: .....(name and address of person being summoned)....

A Petition for Termination of Parental Rights under oath has been filed in this court regarding the above-referenced child(ren). You are to appear before .....(judge)....., at .....(time and address of hearing)....., for a TERMINATION OF PARENTAL RIGHTS ADVISORY HEARING. You must appear on the date and at the time specified.

FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS TO THIS CHILD (THESE CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND TIME SPECIFIED YOU MAY LOSE ALL LEGAL RIGHTS TO THE CHILD (OR CHILDREN) WHOSE INITIALS APPEAR ABOVE.

COMMENT: The following paragraph must be in bold, 14 pt. Times New Roman or Courier font.

If you are a person with a disability who needs any accommodation to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact .....(name, address, telephone number)..... at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time

before the scheduled appearance is less than 7 days. If you are hearing or voice impaired, call 711.

Witness my hand and seal of this court at .....(city, county, state)..... on .....(date).....

CLERK OF COURT

BY:_____

DEPUTY CLERK

AVISO Y CITACION PARA LA AUDIENCIAINFORMATIVA SOBRE LA TERMINACION DE LOS DERECHOS PATERNALES Y DE LA TUTELA

ESTADO DE LA FLORIDA

PARA: (Nombre y direccion de la persona a ser citada)

CONSIDERANDO que se ha interpuesto en este Juzgado una solicitud bajo juramento para la terminacion de los derechos paternales con respecto al(os) nino(s) en referencia, adjuntandose copia de la misma. Mediante la presente se le ordena comparecer ante el

(Juez)

a las para una AUDIENCIA INFORMATIVA SOBRE LA

(hora y lugar de la audiencia)

TERMINACION DE LOS DERECHOS PATERNALES. Usted debera comparecer en le fecha y hora indicadas.

SI USTED NO COMPARECE PERSONALMENTE A LA AUDIENCIA INFORMATIVA, ESTO SIGNIFICARA QUE USTED ACCEDE A LA TERMINACION DE SUS DERECHOS PATERNALES CON RESPECTO A ESTE(OS) NINO(S). SI USTED NO COMPARECE EN LA FECHA Y HORA INDICADAS, USTED PODRA PERDER TODOS SUS DERECHOS LEGALES CON RESPECTO AL/LOS NINO(S) MENCIONADO(S) EN LA PETICION ADJUNTA A ESTE AVISO.

Si usted es una persona con una discapacidad que necesita cualquier tipo de trato especial para participar en este procedimiento, usted tiene derecho, sin costa alguno para usted, para la presetación de asistencia determinadas. Póngase en contacto con …..(nombre, dirección, número de teléfono)….. por lo menos 7 dias antes la aparición en la corte programado, o immediatamente después de reciber esta notification, si el tiempo antes de la comparecencia prevista es inferiof a 7 dias. Si usted está oyendo o voz alterada, llame al 711.

Firmado y sigilado en este Juzgado

(ciudad, condado, estado)..... el .....(fecha).....

ESCRIBANO DEL TRIBUNAL

POR:_____

ESCRIBANO DELEGADO

MANDA AK AVTISMAN POU ENFOME-W

SOU YON CHITA TANDE, POU YO ANILE

DWA-W KM PARAN AK KM GADYEN.

LETA FLORID

POU: .....(non ak adrs moun yo voye manda-a).....

KOM, tandiske, gen yon demann smante pou anile dwa paran-yo, ki prezante devan tribinal-la, konsnan timoun ki nonmen nan lt sa-a, piwo-a, yon kopi dokiman-an kwoke nan dosye-a., yo bay ld pou prezante devan .....(Jij-la)....., a..... (nan.l ak adrs chita tande-a)....., NAN YON CHITA TANDE POU YO ENFME-W, YO GEN LENTANSYON POU ANILE DWA-OU KM PARAN. Ou ft pou prezante nan dat ak l ki endike-a.

SI OU PA PREZANTE PSONLMAN NAN CHITA TANDE-A, POU YO ENFME-W, YO GEN LENTANSYON POU ANILE DWA-OU KM PARAN, SA KA LAKZ YO DESIDE OU KONSANTI TIMOUN SA-A (YO), BEZWEN PWOTEKSYON LETA EPI SA KA LAKZ OU PDI DWA-OU KM PARAN TIMOUN SA-A(YO), KI GEN NON YO MAKE NAN KOPI DEMANN-NAN, KI KWOKE NAN AVTISMAN-AN

Si ou se yon moun infirm, ki beswen `ed ou ki bewsen ke o akomode w pou ou patispe nan pwosedi sa yo, ou genyen dwa, san ke ou pa peye, a setin `ed. Silvouple kontake …..(non, address, telephone)….. o moin 7 jou avan dat ou genyen rendevou pou ale nan tribunal, ou si le ou resevwa avi a, genyen mouins ke 7 jou avan date endevou tribunal la. Ou si ou pa tande pale, rele nan nimerro sa 711.

Mwen siyen non mwen e mete so mwen nan dokiman tribinal-la km temwen nan .....(vil, distrik, eta)....., nan .....(dat).....

GREFYE TRIBINAL-LA

PA:_____

ASISTAN GREFYE TRIBINAL-LA

FORM 8.983. ORDER INVOLUNTARILY TERMINATING PARENTAL RIGHTS

ORDER INVOLUNTARILY TERMINATING PARENTAL RIGHTS

THIS CAUSE came before this court on .....(all dates of the adjudicatory hearing)..... for an adjudicatory hearing on the Petition for Termination of Parental Rights filed by .....(name) ..... Present before the court were:

....(Name)....., Petitioner
....(Name)....., Attorney for the petitioner
....(Name)....., Attorney for the department
....(Name)....., Department caseworker
....(Name)....., Child
....(Name)....., Attorney for Child
....(Name)....., Mother
....(Name)....., Attorney for mother
....(Name)....., Father of .....(child).....
....(Name)....., Attorney for father
....(Name)....., Guardian ad litem
....(Name)....., Attorney for guardian ad litem
....(Name)....., Legal custodian
....(Name)....., Attorney for legal custodian
....(Name)....., Other: .....

COMMENT: The name of the guardian ad litem and the attorney ad litem, if appointed, must be listed on the order, even if he or she was not present at the hearing.

The court has carefully considered and weighed the testimony of all witnesses. The court has received and reviewed all exhibits.

COMMENT: Add the following only if necessary.

The petitioner has sought termination of the parental rights of .....(parent(s)) who is/are subject of petition).....

The court finds that the parent(s), ...(name(s))....., has/have .....(list grounds proved)....., under chapter 39, Florida Statutes. The grounds were proved by clear and convincing evidence. Further, the court finds that termination of parental rights of the parent(s), ...(name(s))....., is clearly in the manifest best interests of the child(ren). The findings of fact and conclusions of law supporting this decision are as follows:

1. At all stages of these proceedings the parent(s) was/were advised of his/her/their right to legal counsel, or was/were in fact represented by counsel.

2. On or about .....(date(s))....., the following occurred: .....(acts which were basis for dependency or TPR, if filed directly).....

3. The mother has .....(grounds for TPR)..... the minor child(ren) within the meaning and intent of section 39.806, Florida Statutes, in that: .....(findings that form the statutory basis for grounds).....

4. The father has .....(grounds for TPR)..... the minor child(ren) within the meaning and intent of section 39.806, Florida Statutes, in that: .....(findings that form the statutory basis for grounds).....

5. The minor child(ren) to whom .....(parent's(s') name(s))..... parental rights are being terminated are at substantial risk of significant harm. Termination of parental rights is the least restrictive means to protect the child(ren) from harm.

6. Under the provisions of sections 39.810(1)–(11), Florida Statutes, it is in the manifest best interests of the child(ren) for parental rights of .....(name(s))..... to be terminated for the reasons below. The court has considered all relevant factors and finds as follows:

(a) Regarding any suitable permanent custody arrangement with a relative of the child(ren), the court finds .....

(b) Regarding the ability and disposition of the parent or parents to provide the child(ren) with food, clothing, medical care, or other remedial care recognized and permitted under state law instead of medical care, and other material needs of the child(ren), the court finds .....

(c) Regarding the capacity of the parent or parents to care for the child(ren) to the extent that the child(ren)'s safety, well-being, and physical, mental, and emotional health will not be endangered upon the child(ren)'s return home, the court finds .....

(d) Regarding the present mental and physical health needs of the child(ren) and such future needs of the child(ren) to the extent that such future needs can be ascertained based on the present condition of the child(ren), the court finds .....

(e) Regarding the love, affection, and other emotional ties existing between the child(ren) and the child(ren)'s parent or parents, siblings, and other relatives, and the degree of harm to the child(ren) that would arise from the termination of parental rights and duties, the court finds .....

(f) Regarding the likelihood of an older child remaining in long-term foster care upon termination of parental rights, due to emotional or behavioral problems or any special needs of the child(ren), the court finds .....

(g) Regarding the child(ren)'s ability to form a significant relationship with a parental substitute and the likelihood that the child(ren) will enter into a more stable and permanent family relationship as a result of permanent termination of parental rights and duties, the court finds .....

(h) Regarding the length of time that the child(ren) has lived in a stable, satisfactory environment and the desirability of maintaining continuity, the court finds .....

(i) Regarding the depth of the relationship existing between the child(ren) and present custodian, the court finds .....

(j) Regarding the reasonable preferences and wishes of the child(ren), if the court deems the child(ren) to be of sufficient intelligence, understanding, and experience to express a preference, the court finds .....

(k) Regarding the recommendations for the child(ren) provided by the child(ren)'s guardian ad litem or the legal representative, the court finds .....

(*l*) Regarding other relevant factors including ....., the court finds .....

COMMENT: Add items 7, 8, and 9 as applicable.

7. Under section 39.811(6)(.....), Florida Statutes, the court terminates the parental rights of only .....(parent whose rights are being terminated)..... as to the minor child(ren), ...(child(ren)'s name(s))..... Specifically, the court finds that .....(specific findings of fact under section 39.811(6), Florida Statutes).....

8. Under sections 39.509(5) and 39.811(7)(a), Florida Statutes, the court finds that continued grandparental visitation is not in the best interests of the child(ren) or that such visitation would interfere with the permanency goals for the child(ren) for the following reasons .....

9. Under section 39.811(7)(b), Florida Statutes, the court finds that although parental rights are being terminated, the best interests of .....(names of child(ren) to which this provision applies)..... support continued communication or contact by .....(names of parents, siblings, or relatives of the parent whose rights are terminated and to which this provision applies)..... except as provided above. The nature and frequency of the communication or contact shall be as follows ..... It may be reviewed on motion of any party or an identified prospective adoptive parent.

THEREFORE, after weighing the credibility of the witnesses, weighing all statutory factors, and based on the findings of fact and conclusions of law above, the court hereby ORDERS AND ADJUDGES THAT:

1. The petition filed by .....(name)..... is granted as to the parent(s), ...(name(s)).....

2. The parental rights of the father, ...(name)....., and of the mother, ...(name)....., to the child, ...(name)....., are hereby terminated under section 39.806(.....), Florida Statutes.

COMMENT: Repeat the above for each child and parent, as necessary.

3. Under sections 39.811(2) and (5), Florida Statutes, the child(ren), ...(name(s)) ....., are placed in the custody of .....(agency)..... for the purpose of subsequent adoption.

4. The 30-day permanency plan required by section 39.811(8), Florida Statutes, shall be filed and heard at .....(time)..... on .....(date)..... in .....(location).....

DONE AND ORDERED on .....(date)....., in .....(city and county)....., Florida.

_____

Circuit Judge

NOTICE

Under section 39.815, Florida Statutes, any child, any parent, guardian ad litem, or legal custodian of any child, any other party to the proceeding who is affected by an order of the court, or the department may appeal to the appropriate District Court of Appeal within the time and in the manner prescribed by the Florida Rules of Appellate Procedure, which is 30 days from the date this order is rendered (signed and filed). A parent may have the right to a court-appointed attorney as provided by law.

Under Florida Rule of Juvenile Procedure 8.530, a parent, who had an attorney in the termination of parental rights proceeding, shall have 20 days after this order terminating parental rights is entered to file a motion in the trial court claiming ineffective assistance of counsel. A parent does not have the right to a court-appointed attorney to assist the parent with a motion claiming ineffective assistance of counsel, but the parent may independently obtain an attorney to represent the parent in the motion. The motion must contain the case name, case number, and identify the date the written order terminating parental rights was entered. The motion must also contain the current mailing address and e-mail address, if any, and the phone number(s) of the parent filing the motion for the purpose of receiving notices and orders. In the motion, the parent must identify specific acts or omissions in the attorney's representation of the parent during the termination proceedings that the parent claims constituted a failure to provide reasonable, professional assistance, and the parent must explain how the errors or omissions prejudiced the parent's case to such an extent that but for counsel's deficient performance the rights of the parent would not have been terminated.

Copies to:

FORM 8.9831. MOTION CLAIMING INEFFECTIVE ASSISTANCE OF COUNSEL AFTER ORDER TERMINATING PARENTAL RIGHTS

MOTION CLAIMING INEFFECTIVE ASSISTANCE OF COUNSEL AFTER ORDER TERMINATING PARENTAL RIGHTS

Moving parent, ...(name)....., ...(address)....., ...(e-mail address)....., ...(phone number)....., requests this court to vacate the order terminating parental rights pursuant to Florida Rule of Juvenile Procedure 8.530.

1. I was the parent of .....(name(s) of child(ren))..... at the time the court entered an order terminating my parental rights on .....(date)..... in .....(case number and case name).....

2. My attorney failed to provide me with reasonable, professional assistance by doing or not doing the following actions during the termination of parental rights proceedings: (use whatever space is necessary to explain your claims)

_____
_____
_____
_____
_____
_____

Comment: The phrase "termination of parental rights proceedings" is not limited to the termination of parental rights trial.

3. My attorney's actions or inactions prejudiced my case to such an extent that my parental rights would not have been terminated because: (use whatever space is necessary to explain your claims)

_____
_____
_____
_____
_____
_____

WHEREFORE, I request that the court enter an order granting this motion, vacating the order terminating parental rights, and providing any other relief the court deems proper.

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this verified motion and that punishment for knowingly making a false statement includes fines and/or imprisonment.

_____

(Your signature)

I certify that a copy of this document was .....(mailed, faxed and mailed, hand delivered, or e-mailed)..... to the person(s) listed below on .....(date)..... or was not delivered to the person(s) listed below because .....

List each party or the party's attorney who you served:

Name: .....

Address: .....

Telephone Number: .....

Fax Number: .....

E-mail Address: .....

_____

(Your signature)

FORM 8.9832. ORDER ON MOTION CLAIMING INEFFECTIVE ASSISTANCE OF COUNSEL AFTER ORDER TERMINATING PARENTAL RIGHTS

ORDER ON MOTION CLAIMING INEFFECTIVE ASSISTANCE OF COUNSEL AFTER ORDER TERMINATING PARENTAL RIGHTS

THIS CAUSE came before this court on .....(date)..... on the Motion Claiming Ineffective Assistance of Counsel after Order Terminating Parental Rights filed by .....(name)..... Present before the court were:

....(Name)....., Moving Parent
....(Name)....., Attorney for Moving Parent
....(Name)....., Trial Attorney for Moving Parent
....(Name)....., Attorney for the department
....(Name)....., Department caseworker
....(Name)....., Child
....(Name)....., Attorney for Child
....(Name)....., Mother
....(Name)....., Attorney for mother
....(Name)....., Father of .....(child).....
....(Name)....., Attorney for father
....(Name)....., Guardian ad litem
....(Name)....., Attorney for guardian ad litem
....(Name)....., Legal custodian
....(Name)....., Attorney for legal custodian
....(Name)....., Other .....

Comment: Complete the following section if the court denies the motion without a hearing.

The court has carefully considered the motion and reviewed all necessary documents. The court finds that the motion should be denied without a hearing because:

..... The motion is untimely.

1. The order terminating parental rights was entered on .....(date).....

2. The moving parent filed the motion claiming ineffective assistance of counsel on .....(date)......

3. Therefore, the moving parent filed the motion past the 20-day time limitation.

..... The motion is insufficient as alleged. The court finds that the moving parent failed to allege specific facts that, if taken as true, would support a finding that the attorney during the termination of parental rights proceedings failed to provide reasonable, professional assistance, and that any errors or omissions prejudiced the parent's case to such an extent that but for counsel's deficient performance the rights of the parent would not have been terminated. Specifically the court finds: .....(findings)......

Comment: Complete the following section if the court finds that the motion is insufficient and directs the moving parent to file an amended motion.

The court has carefully considered the motion and reviewed all necessary documents.

..... The motion is insufficient as alleged. The court finds that the moving parent failed to allege specific facts that would support a finding that the attorney during the termination of parental rights proceedings failed to provide reasonable, professional assistance, and that any errors or omissions prejudiced the parent's case to such an extent that but for counsel's deficient performance the rights of the parent would not have been terminated. Specifically the court finds: .....(findings)..... However, the court finds that the moving parent should be provided the opportunity to file an amended motion.

Comment: Complete the following section if the court previously found that the motion was insufficient, directed the moving parent to file an amended motion, and the parent failed to file an amended motion within the time permitted.

The court previously carefully considered the motion and reviewed all necessary documents.

..... On .....(date)....., the court found the motion is insufficient as alleged. The court found that the moving parent failed to allege specific facts that would support a finding that the attorney during the termination of parental rights proceedings failed to provide reasonable, professional assistance, and that any errors or omissions prejudiced the parent's case to such an extent that but for counsel's deficient performance the rights of the parent would not have been terminated. Specifically the court found: .....(findings)......

..... On .....(date)....., the court entered a written order providing the parent an opportunity to file an amended motion. The parent did not file an amended motion within 10 days of the date of the written order permitting amendment.

Comment: Complete the following section if the court hearing was conducted:

The court has carefully considered the motion, reviewed all necessary documents, and having heard argument of counsel and testimony, the court finds:

..... The motion is granted because the attorney during the termination of parental rights proceedings failed to provide reasonable, professional assistance, and the errors or omissions prejudiced the parent's case to such an extent that but for counsel's deficient performance the rights of the parent would not have been terminated. Specifically the court finds: .....(findings).....

..... The motion is denied because the attorney during the termination of parental rights proceedings did not fail to provide reasonable, professional assistance, or any errors or omissions that were made did not prejudice the moving parent's case to such an extent that but for counsel's deficient performance the rights of the parent would not have been terminated. Specifically, the court finds: .....(findings).....

THEREFORE, the court hereby ORDERS AND ADJUDGES THAT:

..... The motion claiming ineffective assistance of counsel is denied with prejudice.

..... The motion claiming ineffective assistance of counsel is insufficient as alleged. The moving parent may file an amended motion. Any amended motion shall be filed within 10 days of the date of this order or the court may summarily deny the motion.

..... The motion claiming ineffective assistance of counsel is granted. The order terminating parental rights entered on .....(date)..... is hereby vacated and set aside as to .....(name of moving parent)..... An adjudicatory hearing is hereby scheduled for .....(date (no later than 45 days from this order))....., and, as the court finds the parent is indigent, ...(name of counsel)..... is hereby appointed to represent .....(name of moving parent)..... in the termination of parental rights proceedings.

DONE AND ORDERED on .....(date)....., in .....(city and county)....., Florida.

_____

Circuit Judge

Copies to:

FORM 8.984. ORDER TERMINATING PARENTAL RIGHTS (VOLUNTARY)

ORDER TERMINATING PARENTAL RIGHTS (VOLUNTARY)

THIS CAUSE came before this court on .....(all dates of the adjudicatory hearing)..... for an adjudicatory hearing on the petition for termination of parental rights filed by .....(name)..... Present before the court were:

....(Name)....., Petitioner
....(Name)....., Attorney for the petitioner
....(Name)....., Attorney for the department
....(Name)....., Department/agency caseworker
....(Name)....., Child
....(Name)....., Attorney/Attorney ad litem for Child
....(Name)....., Mother
....(Name)....., Attorney for mother
....(Name)....., Father of .....(child).....
....(Name)....., Attorney for father
....(Name)....., Guardian ad litem
....(Name)....., Attorney for guardian ad litem
....(Name)....., Legal custodian
....(Name)....., Attorney for legal custodian
....(Name)....., Other: .....

COMMENT: The name of the guardian ad litem and the attorney ad litem, if appointed, must be listed on the order, even if he or she was not present at the hearing.

..... The mother, ...(name)....., executed a voluntary surrender of her parental rights for the minor child(ren), ...(name(s))....., which is accepted by the court without objection.

COMMENT: Repeat the following as necessary.

..... The father, ...(name)....., executed a voluntary surrender of his parental rights for the minor child(ren), ...(name(s))....., which is accepted by the court without objection.

The court has carefully considered the testimony of witnesses, reviewed the exhibits, reviewed the file, heard argument of counsel, and considered recommendations and arguments of all parties. The court finds by clear and convincing evidence that the parents, ...(names)....., have surrendered their parental rights to the minor child(ren) under section 39.806(1)(a), Florida Statutes, and that termination of parental rights is in the manifest best interests of the child(ren). The specific facts and findings supporting this decision are as follows:

1. That the mother, ...(name)....., ... was ..... was not personally served with the summons and the petition.

COMMENT: Service is not required if surrender was signed before filing of petition.

2. That the father, ...(name)....., ... was ..... was not personally served with the summons and the petition.

COMMENT: Service is not required if surrender was signed before filing of petition.

3. That the parents were advised of their right to counsel in all prior dependency court proceedings which they attended. The mother has been represented by legal counsel,

.....(name)....., starting on or about .....(date)..... The father has been represented by legal counsel, ...(name)....., starting on or about .....(date)......

4. The mother, ...(name)....., freely, knowingly, voluntarily, and ..... with ..... without advice of legal counsel executed an affidavit and acknowledgment of surrender, consent, and waiver of notice on .....(date)....., for termination of her parental rights to the minor child(ren), under section 39.806(1)(a), Florida Statutes.

5. The father, ...(name)....., freely, knowingly, voluntarily, and .....with ..... without advice of legal counsel executed an affidavit and acknowledgment of surrender, consent, and waiver of notice on .....(date)....., for termination of his parental rights to the minor child(ren), under section 39.806(1)(a), Florida Statutes.

6. That at all times relevant to this action the interests of this/these child(ren) has/have been represented by a guardian ad litem. The guardian ad litem, ...(name)....., ... agrees ..... does not agree that it is in the best interests of the child(ren) for parental rights to be terminated in this cause.

COMMENT: Guardian ad litem not required in voluntary surrender.

7. Under the provisions of sections 39.810(1)–(11), Florida Statutes, it is in the manifest best interests of the child(ren) for parental rights to be terminated for the following reasons:

(a) Regarding any suitable permanency custody arrangement with a relative of the child(ren), the court finds .....

(b) Regarding the ability and disposition of the parent or parents to provide the child(ren) with food, clothing, medical care or other remedial care recognized and permitted under state law instead of medical care, and other materials needs of the child(ren), the court finds .....

(c) Regarding the capacity of the parent or parents to care for the child(ren) to the extent that the child(ren)'s safety, well-being, and physical, mental, and emotional health will not be endangered upon the child(ren)'s return home, the court finds .....

(d) Regarding the present mental and physical health needs of the child(ren) and such future needs of the child(ren) to the extent that such future needs can be ascertained based on the present condition of the child(ren), the court finds .....

(e) Regarding the love, affection, and other emotional ties existing between the child(ren) and the child(ren)'s parent or parents, siblings, and other relatives, and the degree of harm to the child(ren) that would arise from the termination of parental rights and duties, the court finds .....

(f) Regarding the likelihood of an older child remaining in long-term foster care upon termination of parental rights, due to emotional or behavioral problems or any special needs of the child(ren), the court finds .....

(g) Regarding the child(ren)'s ability to form a significant relationship with a parental substitute and the likelihood that the child(ren) will enter into a more stable and permanent family relationship as a result of permanent termination of parental rights and duties, the court finds .....

(h) Regarding the length of time that the child(ren) has lived in a stable, satisfactory environment and the desirability of maintaining continuity, the court finds .....

(i) Regarding the depth of the relationship existing between the child(ren) and present custodian, the court finds .....

(j) Regarding the reasonable preferences and wishes of the child(ren), if the court deems the child(ren) to be of sufficient intelligence, understanding, and experience to express a preference, the court finds .....

(k) Regarding the recommendations for the child(ren) provided by the child(ren)'s guardian ad litem or the legal representative, the court finds .....

(*l*) Regarding other relevant factors including ....., the court finds .....

THEREFORE, it is ORDERED AND ADJUDGED that:

1. The petition for termination of parental rights is GRANTED.

2. The parental rights of the father, ...(name)....., and of the mother, ...(name)....., to the child(ren), ...(name(s))....., are hereby terminated under section 39.806(.....), Florida Statutes.

COMMENT: Repeat the above for each child and parent on petition.

3. The child(ren), ...(name(s))....., is/are hereby placed in the permanent care and custody of .....(agency name)..... for subsequent adoption.

4. A hearing for the department to provide a plan for permanency for the child(ren) shall be held on .....(date)....., within 30 days of rendering of order, at .....(time)......

DONE AND ORDERED on .....(date)....., in ..... County, Florida.

_____

Circuit Judge

Copies to:

NOTICE

Under section 39.815, Florida Statutes, any child, any parent, guardian ad litem, or legal custodian of any child, any other party to the proceeding who is affected by an order of the court, or the department may appeal to the appropriate District Court of Appeal within the time and in the manner prescribed by the Florida Rules of Appellate Procedure, which is 30 days from the date this order is rendered (signed and filed). A parent may have the right to a court-appointed attorney as provided by law.

Under Florida Rule of Juvenile Procedure 8.530, a parent, who had an attorney in the termination of parental rights proceeding, shall have 20 days after this order terminating parental rights is entered to file a motion in the trial court claiming ineffective assistance of counsel. A parent does not have the right to a court-appointed attorney to assist the parent with a motion claiming ineffective assistance of counsel, but the parent may independently obtain an attorney to represent the parent in the motion. The motion must contain the case name, case number, and identify the date the written order terminating parental rights was entered. The motion must also contain the current mailing address and e-mail address, if any, and the phone number(s) of the parent filing the motion for the purpose of receiving notices and orders. In the motion, the parent must identify specific acts or omissions in the attorney's representation of the parent during the termination proceedings that the parent claims constituted a failure to provide reasonable, professional assistance, and the parent must explain how the errors or omissions prejudiced the parent's case to such an extent that but for counsel's deficient performance the rights of the parent would not have been terminated.

FORM 8.985. MOTION TO TERMINATE SUPERVISION AND JURISDICTION

MOTION TO TERMINATE SUPERVISION

AND JURISDICTION

The Department of Children and Family Services, by and through its undersigned counsel, moves this court for an order terminating the department's supervision and the court's jurisdiction and closing the file in the above-styled cause, and as grounds states:

1. The parental rights previously were terminated and the child(ren) was/were permanently committed to the care and custody of the department for adoption by order of this court.

2. The adoption was finalized on .....(date).....

WHEREFORE, the Department of Children and Family Services requests that this court terminate jurisdiction and the department's supervision and that the file be closed.

.....(attorney's name).....
.....(address and telephone number).....
.....(Florida Bar number).....

Certificate of Service

FORM 8.986. ORDER TERMINATING SUPERVISION AND JURISDICTION

ORDER TERMINATING SUPERVISION AND JURISDICTION

THIS CAUSE having come before the court on motion to terminate supervision and jurisdiction filed by the Department of Children and Family Services, and the court being otherwise advised in the premises, find the following:

1. The parental rights previously were terminated and the child(ren) was/were permanently committed to the care and custody of the department for subsequent adoption by order of this court.

2. The adoption was finalized on .....(date).....

THEREFORE, based on these findings of fact, it is ORDERED AND ADJUDGED:

That the supervision of the Department of Children and Family Services and this court's jurisdiction are terminated.

DONE AND ORDERED on .....(date).....

Circuit Judge

Copies furnished to:

E. JUDICIAL WAIVER OF PARENTAL NOTICE OF TERMINATION OF PREGNANCY FORMS

FORM 8.987. PETITION FOR JUDICIAL WAIVER OF PARENTAL CONSENT TO OR NOTIFICATION OF AND CONSENT TO TERMINATION OF PREGNANCY

IN THE CIRCUIT COURT OF THE ……. JUDICIAL CIRCUIT

IN AND FOR …… COUNTY, FLORIDA

In the Interest of …… (pseudonym or initials of minor)

Case No.: …….

Division: …….

PETITION FOR JUDICIAL WAIVER OF PARENTAL CONSENT TO OR NOTICE OF AND CONSENT TO TERMINATION OF PREGNANCY

I certify that the following information is true and correct:

(1) The pseudonym or initials of the minor (is/are) ....., and the minor has filed a Sworn Statement of True Name and Pseudonym with the clerk.

(2) The minor is ..... years old.

(3) The minor is pregnant and parental notice or consent has not been waived.

(4) The minor desires to terminate her pregnancy without ……. notice ……. consent ……. consent and notice [check which applies]

to a parent or legal guardian for one or more of the following reasons:

[check all that apply]

..... a. The minor is sufficiently mature to decide whether to terminate her pregnancy, for the following reason(s): …….....
.....

..... b. The minor is a victim of child abuse or sexual abuse inflicted by one or both of her parents or a legal guardian.

..... c. Notification of a parent or legal guardian is not in the best interests of the minor, for the following reason(s):
…….....
.....

(5) The minor requests that the court enter an order authorizing her to consent to the performance or inducement of a termination of pregnancy without notification of a parent or legal guardian.

(6) The minor requests the appointment of an attorney to represent her in this matter:

[check one]

..... yes

..... no

(7) The minor elects the following method or methods for receiving notices of hearings or other court actions in this case:

..... Through a third party whose name is ..... and whose address and phone number for purposes of notice are ....., ...

..... The minor will contact the office of the clerk of court at the following phone number .....

I understand that by signing this form I am swearing to or affirming the truthfulness of the claims made in this petition and that the punishment for knowingly making a false statement includes fines, imprisonment, or both.

Signature:_____

Date: .....

(You may sign a name other than your true name, such as Jane Doe or other pseudonym under which your petition is being filed.)

FORM 8.988. SWORN STATEMENT OF TRUE NAME AND PSEUDONYM

SWORN STATEMENT OF TRUE NAME AND PSEUDONYM

NOTICE TO THE CLERK OF COURT: A CERTIFIED COPY OF THIS DECLARATION WITH THE CASE NUMBER NOTED ON IT SHALL BE GIVEN TO THE MINOR AFTER SHE SIGNS IT.

THE ORIGINAL SHALL IMMEDIATELY BE PLACED IN A SEALED ENVELOPE WHICH SHALL BE FILED UNDER SEAL AND KEPT UNDER SEAL AT ALL TIMES.

(1) My true name is , and my address is .

(print your name) (print your address)

(2) My date of birth is .

(3) I have filed a Petition for Judicial Waiver of Parental Consent to or Notice of and Consent to Termination of Pregnancy under the name or initials_____on_____.
(date)

I understand that by signing this form I am swearing to or affirming the truthfulness of the information herein and that the punishment for knowingly making a false statement includes fines, imprisonment or both.

Dated: Signature:_____

(You must sign your true name.)

FORM 8.989. ADVISORY NOTICE TO MINOR

ADVISORY NOTICE TO MINOR

[Case No.: .....]

YOU ARE NOTIFIED as follows:

YOUR CASE NUMBER APPEARS AT THE TOP OF THIS FORM. KEEP IT IN A SAFE PLACE. YOU CANNOT GET INFORMATION FROM THE CLERK WITHOUT YOUR CASE NUMBER.

YOU HAVE BEEN GIVEN A COPY OF THE SWORN STATEMENT YOU SIGNED WITH YOUR TRUE NAME. KEEP IT IN A SAFE PLACE. YOU MAY NEED TO SHOW IT AND THE FINAL JUDGMENT IN YOUR CASE TO YOUR DOCTOR BEFORE TERMINATING YOUR PREGNANCY.

All information in your case is confidential. No papers will be sent to your home, and you will be contacted by this court only through the method you elected in the petition. Your name will not be on your court papers.

If you would like an attorney to help you with your case, the court will appoint one for you at no cost to you. Your attorney will receive notices about your case so he or she can prepare for and attend hearings with you. You may also name someone else you trust to receive notices for you. You can also contact the clerk of court yourself to check on your case.

You have a right to a hearing and a decision on your case within 48 hours of filing your petition unless you or your attorney waives this right or asks for an extension of time. If this time limit is not met you have the right to ask the clerk for a form that will allow your doctor to perform a termination of pregnancy without notifying a parent.

If the court dismisses your petition, you have the right to appeal. You will be given information regarding how to proceed with an appeal, and if you would like an attorney to help you with an appeal, you may request that the court appoint one.

I certify that I have given a copy of this advisory form to the minor.

Dated:…….

Clerk of Court
…….County Courthouse
……,Florida

FORM 8.990. FINAL ORDER GRANTING PETITION FOR JUDICIAL WAIVER OF PARENTAL CONSENT TO OR NOTICE OF AND CONSENT TO TERMINATION OF PREGNANCY

FINAL ORDER GRANTING PETITION FOR JUDICIAL WAIVER OF PARENTAL CONSENT TO OR NOTICE OF AND CONSENT TO TERMINATION OF PREGNANCY

THIS CAUSE having come before the court on a petition for judicial waiver of parental consent or notice of and consent to termination of pregnancy and the court being otherwise advised in the premises, finds the following:

..... The minor has proven by clear and convincing evidence that she is sufficiently mature to decide whether to terminate her pregnancy, for the following reason(s): ……
……..……
……

The court has considered the following factors in reaching this decision that the minor is sufficiently mature to decide whether to terminate her pregnancy and makes the following findings:

The minor's age is …….

The minor's overall intelligence indicates
…….

The minor's emotional development and stability indicates
…….

The minor's credibility and demeanor as a witness indicates
……

The minor's ability to accept responsibility is demonstrated by
……..

The minor's ability to assess both the immediate and long-range consequences of the minor's choices is demonstrated by
……

The minor's ability to understand and explain the medical risks of terminating her pregnancy and to apply that understanding to her decision is indicated by
……..……
……

Whether there may be any undue influence by another on the minor's decision to have an abortion.
……
……

..... The minor has proven by a preponderance of the evidence that she is a victim of child abuse or sexual abuse inflicted by one or both of her parents or a guardian, for the following reason(s):
……
……
……
……
……

The court, having made a finding under this section, will report the abuse as is required by section 39.201, Florida Statutes.

..... The minor has proven by clear and convincing evidence that ……. notification of ……. consent from OR ……. notification of and consent from a parent or legal guardian is not in the best interests of the minor, for the following reason(s):
……
……
……

THEREFORE, it is ORDERED AND ADJUDGED that:

1. The petition for judicial waiver of parental ……. notice ……. consent ……. notice and consent of termination of pregnancy is GRANTED.

2. The minor may consent to the performance or inducement of a termination of pregnancy without notice to a parent or legal guardian.

3. The clerk shall keep and maintain a confidential record of these proceedings as provided by law, and shall seal the record.

DONE AND ORDERED in the ..... court in and for …… County, Florida, on .....(date).....

_____
Judge

FORM 8.991. FINAL ORDER DISMISSING PETITION FOR JUDICIAL WAIVER OF PARENTAL CONSENT TO OR NOTICE OF AND CONSENT TO TERMINATION OF PREGNANCY

IN THE CIRCUIT COURT OF THE_____ JUDICIAL CIRCUIT,

IN AND FOR _____ COUNTY, FLORIDA

In the interest of _____ Case no. _____

(pseudonym or initials of minor) Division:_____

FINAL ORDER DISMISSING PETITION FOR

JUDICIAL WAIVER OF PARENTAL CONSENT TO OR NOTICE OF AND CONSENT TO TERMINATION OF PREGNANCY

THIS CAUSE having come before the court on a petition for judicial waiver of parental consent to or notice of and consent to termination of pregnancy and the court being otherwise advised in the premises, finds the following:

….. It was not proven by clear and convincing evidence that the minor is sufficiently mature to decide whether to terminate the pregnancy; specifically, the court has considered the following factors in reaching this decision and makes the following findings:

The minor's age is: …….

The minor's overall intelligence indicates:
…….
……..

The minor's emotional development and stability indicate:
……..
……..

The minor's credibility and demeanor as a witness indicates:
……..
…….

The minor's ability to accept responsibility is demonstrated by:
……..
……..

The minor's ability to assess both the immediate and long-range consequences of the minor's choices is demonstrated by:
……
……

The minor's ability to understand and explain the medical risks of terminating her pregnancy and to apply that understanding to her decision is indicated by:
……
……

The minor's decision to have an abortion may have been made under any undue influence by another is indicated by:
……
……....

….. It was not proven by the preponderance of the evidence that the petitioner is the victim of child abuse inflicted by one or both of her parents or her legal guardian;

….. It was not proven by clear and convincing evidence that ……. notification of ……. consent from OR ……. notice to and consent from the parent or legal guardian is not in the best interests of the petitioner;

….. Other: _____

_____

THEREFORE, it is ORDERED AND ADJUDGED that:

1. The petition for judicial waiver of parental consent to or notice of and consent to termination of pregnancy is DISMISSED.

2. The court shall provide a written transcript of all testimony and proceedings as provided by law.

3. The clerk shall keep and maintain a confidential record of these proceedings as provided by law, and shall seal the record.

4. The clerk shall immediately provide Form 9.900(f) Notice of Appeal of an Order Dismissing a Petition for Judicial Waiver of Parental Consent to or Notice of and Consent to Termination of Pregnancy and Advisory Notice to Minor to the minor or petitioner if other than the minor.

DONE AND ORDERED in the ..... court in and for ..... County, Florida, on .....(date).....

_____
Judge

FORM 8.992. MINOR'S PETITION TO CHIEF JUDGE TO REQUIRE A HEARING ON HER PETITION FOR JUDICIAL WAIVER OF CONSENT OR NOTICE AND CONSENT

MINOR'S PETITION TO CHIEF JUDGE TO REQUIRE A HEARING ON HER PETITION FOR JUDICIAL WAIVER OF CONSENT OR NOTICE AND CONSENT

I, …..(name)….., hereby petition the chief judge of this judicial circuit for an order directing the judge to whom this case is assigned to hold a hearing within 48 hours after receipt of this petition by the chief judge, and requiring the court to enter an order on my petition for judicial waiver of consent or notice and consent within 24 hours after the hearing.

In support of this petition, I say:

My petition for judicial waiver of notice was filed with the Clerk on …..(date)……

The third business day from the date of filing my petition was …..(date)……

I have not requested an extension of time for the hearing required to be conducted.

No hearing has been conducted by the court within the time required by statute.

WHEREFORE, I ask the chief judge to enter an order requiring the hearing on the petition for judicial waiver to be conducted within the next 48 hours, and requiring the court to enter its order within 24 hours after that hearing.

Signature: _____

Date: _____

Time: _____

[to be stamped by Clerk]