

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:

(a1) be in writing;

(a2) 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;

(a3) 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;

(a4) state the reasons why the child is being taken into custody;

(a5) 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;

(a6) state the date when issued and the county and court where issued; and

(a7) 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 8.045. 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) ~~T~~the name and address of the child and the person to whom the child was released;

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

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

(4) ~~T~~the counts of each offense;

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

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

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

(8) ~~T~~the 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 8.060. 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 which 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; ~~and~~

(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 which were obtained from or belonged to the child.

(G) Whether the petitioner has any material or information which 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 which the petitioner intends to use in the hearing and which 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 which 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 which 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 which 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 8.080. 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 contendere 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) That, if the child pleads guilty or nolo contendere, and the child is not a United States citizen, the facts underlying the plea may subject the child to deportation pursuant to the laws and regulations governing the United States Citizenship and Immigration Services. It shall not be necessary for the trial judge to inquire as to whether the child is a United States citizen, as this admonition shall be given to all children in all cases.~~**Immigration 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 no contendere, regardless of whether adjudication of guilt has been withheld, may have the additional consequences of changing his or her immigration status, including any special immigrant juvenile status, deportation or removal from the United States, exclusion from readmission to the United States, detention, denial of naturalization, or ineligibility for citizenship, 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 immigration consequences of the plea.

(C) If the child has not discussed the potential immigration 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 section.

(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.

RULE 8.085. PREHEARING MOTIONS AND SERVICE

(a) Prehearing Motions.

(1) Motions in General. Every motion made before a hearing and any pleading in response to the motion shall be in writing and shall be signed by the party making the motion ~~and~~ 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).

Title”

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

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

(d) Time for Service of Motions and Notice of Hearing. Service by e-mail is complete 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 interposed for delay. If a pleading or paper is not signed, or is signed with intent to defeat the purpose of this rule, it may be stricken and the action may proceed as though the pleading or paper had not been served.

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

Committee Notes

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

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

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

In (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 8.6

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

(b) ~~Dismissal~~**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 ~~respondent~~child shall be entitled to the appropriate remedy as set forth in subdivision (m). ~~The court b~~Before granting such motion, the court shall make the required inquiry under subdivision (d).

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

(d) ~~Motion to Dismiss~~**Discharge Exceptions.** If the adjudicatory hearing is not commenced within the periods of time established, the ~~respondent~~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, ~~a co-respondent in the same adjudicatory hearing, or their counsel 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 willfully fails to attend a proceeding when their presence is required; or

(B) ~~the child or the child's counsel is not ready for the court~~ continues the adjudicatory hearing on the date it is scheduled and charges the continuance to the defense.

No presumption of nonavailability attaches, but if the state objects to ~~dismissal~~discharge and presents ~~any evidence tending to show~~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 ~~dismissal~~discharge is not appropriate, the pending motion to ~~dismiss~~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 ~~to declare~~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 ~~respondents~~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-respondent defendant, ~~where~~when there is a reason not to sever the cases in order to proceed promptly with the trial of the ~~respondent~~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 ~~respondent~~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 ~~written~~ pleading entitled "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 respondent 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 accused child shall not thereafter include nonreadiness for the adjudicatory hearing, except as to matters ~~which~~that may arise after the demand for the adjudicatory hearing is filed and which could not reasonably have been anticipated by the accused child or defense counsel.

(i) Dismissal/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 Trial/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 respondent 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 trial/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 trial/adjudicatory hearing for the respondent child, whichever is last. If the child is not brought to ~~trial~~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 Respondent Child Within the Specified Time.

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

(2) The ~~respondent~~child may, at any time after the expiration of the prescribed time period, file a motion for discharge. Upon filing the motion the ~~respondent~~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, t~~The court shall hold a hearing on the motion and for discharge within 5 days from the date that the motion was filed, unless the court finds that one of the reasons set forth in subdivision (d) exists, shall order that the ~~respondent~~child be brought to trial within ~~4015~~15 days from the date that the motion for discharge was filed. If the ~~respondent~~child is not brought to trial within the ~~4015~~15-day period through no fault of the ~~respondent~~child, the ~~respondent~~child shall be forever discharged from the ~~crime~~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 8.100. 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, ~~or~~ straitjackets, cloth and leather restraints or other similar items, may 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 ~~before the court~~ unless after an individualized assessment of the child the court finds ~~both~~ that:

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

(A) ~~Instruments of restraint are necessary t~~To prevent physical harm to the child or another person;

(B) The child’s ~~has a~~ 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) ~~There is a~~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 instrument 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 the 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 8.110. 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 Judge**~~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) **Testimony.** The child may be sworn 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 in his or her own behalf except his or her own shall be entitled to the concluding argument.~~

(e) **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 in his or her own behalf except his or her own shall be entitled to the concluding argument.

~~(f) **Dismissal.** If the court finds that the allegations in the petition have not been sustained, it shall enter an order so finding and dismissing the case.~~
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) — **Dispositional Alternatives.** If the court finds that the evidence supports the allegations of the petition, 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.~~ **Dismissal.** If the court finds that the allegations in the petition have not been sustained 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 ~~the~~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) — **Motion for Judgment of Dismissal.** If at the close of the evidence for the petitioner, 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.~~ **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 8.255. 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) **Taking Testimony.**

(1) Testimony at Hearing or Trial. When testifying at a hearing or trial, a witness must be physically present unless otherwise provided by law or these rules. This rule shall not apply to statutory requirement for parents to personally appear at arraignment hearings, advisory hearings, and adjudicatory hearings.

(2) Communication Equipment. The court may permit a witness to testify at a hearing or trial by contemporaneous audio or video communication equipment: (A) by agreement of the parties; or (B) for good cause shown upon written or ore tenus request of a party upon reasonable oral, written or actual notice to all other parties. The request and notice must contain an estimate of the length of the proposed testimony. In considering sufficient good cause, the court must weigh and address in its order or its ruling on the record the reasons stated for testimony

by communication equipment against the potential for prejudice to the objecting party.

(3) Required Equipment. Communication equipment as used in this rule means a conference telephone or other electronic device that permits all those appearing or participating to hear and speak to each other simultaneously and permits all conversations of all parties to be audible to all persons present. Contemporaneous video communications equipment, if used, must make the witness visible to all parties and participants present. For testimony by any of the foregoing means, there must be appropriate safeguards for the court to maintain sufficient control over the equipment and the transmission of the testimony so the court may stop the communication to accommodate objection or prevent prejudice. A parent who participates by contemporaneous audio or video communication equipment shall be given the opportunity to privately and confidentially communicate with counsel during the proceedings.

(4) Oath. Testimony may be taken through communication equipment only if a notary public or other person authorized to administer oaths in the witness's jurisdiction is present with the witness and administers the oath consistent with the laws of the jurisdiction, unless all parties waive the requirement of a notary public or other person authorized to administer oaths in the witness's jurisdiction because there is no question as to the identity of the witness and the court will administer the oath via the communication equipment on the record.

(5) Burden of Expense. The cost for the use of the communication equipment is the responsibility of the requesting party unless otherwise ordered by the court.

(f) Invoking the Rule. Before the examination of any witness the court may, and on the request of any party ~~shall~~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.

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

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

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

~~**(i) Advising Parents.** At any hearing when it has been determined that reunification is not a viable alternative, and prior to the filing of the petition for termination of parental rights, the court shall, advise the parent of the availability of private placement of the child with an adoption entity as defined in Chapter 63, Florida Statutes.~~

(j) 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.

20 Amendment. This rule allows the parties to agree, or one or more parties to request, that the court authorize presentation of witness testimony by contemporaneous video or audio communications equipment. A party seeking to present such testimony over the objection of another party must still satisfy the good-cause standard. In determining whether good cause exists, the trial court may consider such factors as the type and stage of proceeding, the presence or absence of constitutionally protected rights, the general substance of the testimony, the importance of the testimony to the resolution of the case, the relative cost or inconvenience of requiring the presence of the witness in court, the ability of counsel to use necessary exhibits or demonstrative aids, the limitations (if any) placed on the opportunity for opposing counsel and the finder of fact to observe the witness's demeanor, the potential for unfair surprise, the witness's affiliation with one or more parties, and any other factors the court reasonably deems material to weighing the justification the requesting party has offered in support of the request

to allow a witness to testify by communications equipment against the potential for prejudice to the objecting party. With the advance of technology, the cost and availability of contemporaneous video testimony may be considered by the court in determining whether good cause is established for audio testimony.

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 8.425. 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;
and

(C) whether the department has made reasonable efforts to finalize the permanency plan currently in effect.

(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.

~~(4) If the court approves a permanency goal of adoption, the court shall advise the parents of the availability of private placement of the child with an adoption entity, as defined in chapter 63, Florida Statutes.~~

(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 adoption, the order approving this goal shall include a provision stating that the court advised the parents of the availability of private placement of the child with an adoption entity as defined in chapter 63, Florida Statutes, during the permanency hearing.~~

(43) 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.

~~(54)~~ 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.

(65) 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.

(76) 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.

(87) 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 8.435. 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 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.

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 hearingthe child was found to have committed the delinquent acts listed below:

	Count	Count	Count	Count
Charge	<u>.....</u>	<u>.....</u>	<u>.....</u>	<u>.....</u>
Lesser	<u>.....</u>	<u>.....</u>	<u>.....</u>	<u>.....</u>
Maximum	<u>.....</u>	<u>.....</u>	<u>.....</u>	<u>.....</u>
Degree	<u>.....</u>	<u>.....</u>	<u>.....</u>	<u>.....</u>
Guilty	<u>.....</u>	<u>.....</u>	<u>.....</u>	<u>.....</u>
Nolo contendere	<u>.....</u>	<u>.....</u>	<u>.....</u>	<u>.....</u>
Nolo prose	<u>.....</u>	<u>.....</u>	<u>.....</u>	<u>.....</u>
Adjudicated	<u>.....</u>	<u>.....</u>	<u>.....</u>	<u>.....</u>
Adj. withheld	<u>.....</u>	<u>.....</u>	<u>.....</u>	<u>.....</u>

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 Department of Justice for placement in:~~

.... 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 ~~low or moderate risk~~ 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 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-~~on~~/continued ~~in~~-on..... juvenile probation under supervision ofthe 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.

... ~~DISMISS: The case is dismissed.~~

..... Disposition on each count isconcurrent/consecutive-.....

..... This case disposition is-concurrent with/consecutive to..... ~~with~~ case number

GENERAL CONDITIONS OF JUVENILE PROBATION. The child ~~shall~~must abide by all of the following conditions:

1. The child ~~shall~~must obey all laws.
2. The child ~~shall~~must be employed full-time or attend school with no unexcused absences, suspensions, or disciplinary referrals.
3. The child ~~shall~~must not change or leavehis/her..... residence, school, or place of employment without the consent ofhis/her..... parents and juvenile probation officer.
4. The child ~~shall~~must answer truthfully all questions ofhis/her..... juvenile probation officer and carry out all instructions of the court and juvenile probation officer.
5. The child ~~shall~~must keep in contact with the juvenile probation officer in the manner prescribed by the juvenile probation officer.
6. The child ~~shall~~must not use or possess alcoholic beverages or controlled substances.

SPECIAL CONDITIONS OF JUVENILE PROBATION. The child ~~shall~~must abide by all of the conditions marked below:

- Restitution is ordered.
- ~~Parent and child~~(s) is/are responsible,
- Child is responsible,
- jointly and severally with
- ~~Amount is reserved~~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.
- ~~... The court retains jurisdiction under Chapter 985, Florida Statutes, to enforce its restitution order, regardless of the age of the child.~~
- 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 ~~may~~must have no contact with victim(s),-(name(s))-.....
- Amental 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.
- ~~..... The parent(s)..... is/are..... to complete counseling in.....~~
- A curfew is set for the child ~~at~~from p.m. to a.m. Sunday through Thursday and from p.m. to a.m. Friday and Saturday.
- ~~... The child's driver's license is ... suspended/revoked/withheld ... for ... (time period) ...~~
- ~~... The child is to complete a ... detention/jail/prison ... tour within days.~~
- The child ~~will be subject~~must submit to random urinalysis as instructed by the Department of Juvenile Justice.
- The child ~~will be~~must submit to electronically monitoreding by the Department of Juvenile Justice.

..... ~~The child will~~must successfully complete all ~~sanctions~~special conditions of the ~~original~~ 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 ofhis/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 licenseis 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).....

GUN CHARGES

~~..... The court finds that one of the above charges involves the use or possession of a firearm and further ORDERS the following:~~

~~..... The child's driver's license is ... suspended/revoked ... for ... 1/2 ... years.~~

~~..... The child is to serve ... 15/21 ... days in the Juvenile Detention Center, and shall not receive credit for time served prior to adjudication.~~

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.

THE COURT FURTHER FINDS AND ORDERS FINES, FEES, AND COSTS:

..... The child must:

..... ~~pay \$ (no less than \$50 per case when a misdemeanor offense is charged) or \$ (no less than \$100 per case when a felony offense is charged), the costs of prosecution and investigation, 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 Victim's 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 \$, the Public Defender attorney fee, notwithstanding the child's present ability to pay, the Legal Assistance Lien for payment of attorney's 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 Aadditional 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, (lewd or lasciviousness; 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, ~~including costs of prosecution, public defender application fees and costs of representation,~~ and shall perform hours of community service in lieu of these costs and fees.

SPECIMENS FROM THE CHILD

- The child ~~... has been adjudicated delinquent/has entered a plea of no contest/has entered a plea of guilty ... to 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 incourt-imposed sanction/community work project.....
- Under section 985.039, Florida Statutes:
 - the parent/legal guardian,(name)....., ~~shall~~must pay to the Department of Juvenile Justice, 2737 Centerview Drive, Tallahassee, FL 32399-3100, \$5 per day for each day the child is ~~in residential commitment~~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)....., ~~shall~~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,~~or conditional release.~~
 - the parent/legal guardian,(name)....., ~~shall~~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 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 there is a violation of the conditions imposed.~~

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 8.953. 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) immigration 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;

(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

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 forChild/Children.....
- (Name)....., Legal custodian
- (Name)....., Attorney for legal custodian
- (Name)....., Other

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).....:

..... wasnot 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,waiveddid 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;

..... was..... was not advised of her right to legal counsel;

..... knowingly, intelligently, and voluntarily,waiveddid not waive her right to legal counsel; and

.....was was not determined 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 8.974. — PETITION TO EXTEND OR REINSTATE COURT’S JURISDICTION

~~PETITION TO EXTEND JURISDICTION OR TO REINSTATE JURISDICTION AND TO SCHEDULE HEARING~~

I,(name, address, and date of birth)..... request the court, under section 39.013(2), Florida Statutes to

.....—extend jurisdiction, or

.....—reinstate jurisdiction,

and to schedule a hearing in this matter.

1. — I am currently or was on my 18th birthday in the legal custody of the Department of Children and Family Services.

2. — a. — I am requesting that the court review the aftercare support, Road-to-Independence scholarship, transitional support, mental health services, and/or developmental disability services to the extent authorized by law.

..... b. — A petition for special immigrant juvenile status has been filed on my behalf and the application will not be granted by the time I reach 18 years of age.

WHEREFORE, I request this court extend or reinstate jurisdiction in this case and schedule a hearing as soon as possible.

.....(name).....
.....(address).....
.....(phone number).....

FORM 8.991. FINAL ORDER DISMISSING PETITION FOR JUDICIAL WAIVER OF PARENTAL NOTICE OF 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: _____

FINAL ORDER DISMISSING PETITION FOR JUDICIAL WAIVER OF PARENTAL NOTICE OF TERMINATION OF PREGNANCY

THIS CAUSE having come before the court on a petition for judicial waiver of parental notice of termination of pregnancy and the court being otherwise advised in the premises, finds the following:

The minor has not proven by sufficient evidence any of the criteria that would permit a judicial waiver of the parental notification requirements of section 390.01114(3), Florida Statutes, for the following reasons:

..... 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:

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 guardian;

..... It was not proven by clear and convincing evidence that notification of the parent or guardian is not in the best interest of the petitioner;

..... Other: _____

THEREFORE, it is ORDERED AND ADJUDGED that:

1. The petition for judicial waiver of parental notice of termination of pregnancy is DISMISSED.
2. The court shall provide for a written transcript of all testimony and proceedings as provided by section 390.01114, Florida Statutes.
3. The clerk shall keep and maintain a confidential record of these proceedings as provided by sections 390.01114 and 390.01116, Florida Statutes, 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 Notice of 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