

PROPOSED RULE AMENDMENTS FROM THE CRIMINAL PROCEDURE RULES COMMITTEE REGARDING RULE 3.191 (SPEEDY TRIAL)

The Criminal Procedure Rules Committee invites comments on the proposed rule amendment anticipated to be included in a report to the Court. The report is in response to the court’s request in response to the *Davis v. State*, 286 So. 3d 170 (Fla. 2019). The full text of the proposal can be found below and on The Florida Bar’s website at www.floridabar.org/rules/ctproc/.

Interested persons have until June 30, 2020, to submit any comments, electronically, to Jane McNeill, Chair of the Criminal Procedure Rules Committee, at jmcneill@pd10.org, and to the Bar staff liaison Mikalla Davis at midavis@floridabar.org.

Rule 3.191 (Speedy Trial)	As to subdivision (a) 29-0-0 As to subdivision (d)16-3-0	<p>In the third sentence of subdivision (a), replaces “taken into custody” with “arrested” for consistency to changes in subdivision (d).</p> <p>Rewrites subdivision (d) to comply with <i>Davis v. State</i>, 286 So. 3d 170 (Fla. 2019).</p> <p>Please note: The Court is considering modifications to Rule 3.191 (Speedy Trial) in Case SC19-1592.</p>
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RULE 3.191. SPEEDY TRIAL

(a) Speedy Trial without Demand. Except as otherwise provided by this rule—every person charged with a crime shall be brought to trial within 90 days of arrest if the crime charged is a non-felony offense, or within 160 days of formal arrest or date of the initial filing of an indictment or information, whichever occurs later, if the crime charged is a felony. If trial is not commenced within these time periods, the defendant shall be entitled to the appropriate remedy as set forth in subdivision (p). The time periods established by this subdivision shall commence

when the person is ~~taken into custody~~arrested as defined under subdivision (d). A person charged with a crime is entitled to the benefits of this rule whether the person is in custody in a jail or correctional institution of this state or a political subdivision thereof or is at liberty on bail or recognizance or other pretrial release condition. This subdivision shall cease to apply whenever a person files a valid demand for speedy trial under subdivision (b).

(b) Speedy Trial upon Demand. [NO CHANGE]

(c) Commencement of Trial. [NO CHANGE]

(d) Custody. ~~For purposes of this rule, a person is taken into custody:~~

~~(1) when the person is arrested as a result of the conduct or criminal episode that gave rise to the crime charged; or~~

~~(2) when the person is served with a notice to appear in lieu of physical arrest.~~Arrest. For purposes of this rule, arrest means:

(1) when a person is taken into custody as a result of the conduct or criminal episode that gave rise to the crime charged, and for the purpose of being held to answer in court for criminal charges arising from that conduct or criminal episode; or

(2) when, in lieu of being taken into custody, the person is served with a notice to appear or summons that requires the defendant to appear in court at a specified date and time.

(e) Prisoners outside Jurisdiction. [NO CHANGE]

(f) Consolidation of Felony and Misdemeanor. [NO CHANGE]

(g) Demand for Speedy Trial; Accused Is Bound. [NO CHANGE]

(h) Notice of Expiration of Time for Speedy Trial; When Timely. [NO CHANGE]

(i) When Time May Be Extended. [NO CHANGE]

- (j) Delay and Continuances; Effect on Motion. [NO CHANGE]**
- (k) Availability for Trial. [NO CHANGE]**
- (l) Exceptional Circumstances. [NO CHANGE]**
- (m) Effect of Mistrial; Appeal; Order of New Trial. [NO CHANGE]**
- (n) Discharge from Crime; Effect. [NO CHANGE]**
- (o) Nolle Prosequi; Effect. [NO CHANGE]**
- (p) Remedy for Failure to Try Defendant within the Specified Time.
[NO CHANGE]**