

Proposed amendments to Rule of Juvenile Procedure 8.095 (Procedure for When Child Believed to be Incompetent or Insane)

The Florida Bar's Juvenile Court Rules Committee (Committee) has submitted to the Florida Supreme Court a report proposing amendments to Florida Rule of Juvenile Procedure 8.095 (Procedure for When Child Believed to be Incompetent or Insane). The proposed amendments are a substantial rewrite of the rule for greater clarity.

The Court invites all interested persons to comment on the proposed amendments, which are summarized by the Committee below and reproduced in full online at www.floridasupremecourt.org/Case-Information/Rules-Cases-Proposed-Amendments. All comments must be filed with the Court on or before August 2, 2021, with a certificate of service verifying that a copy has been served on the Committee Chair, Matthew Charles Wilson, Children's Legal Services, 728 North Ferdon Boulevard, Suite 4, Crestview, FL 32536-2166, matthew.wilson@myflfamilies.com, and on the Bar Staff Liaison to the Committee, Mikalla Andies Davis, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, mdavis@floridabar.org, as well as a separate request for oral argument if the person filing the comment wishes to participate in oral argument, which may be scheduled in this case. The Committee Chair has until August 23, 2021, to file a response to any comments filed with the Court. If filed by an attorney in good standing with The Florida Bar, the comment must be electronically filed via the Florida Courts E-Filing Portal (Portal) in accordance with *In re Electronic Filing in the Supreme Court of Florida via the Florida Courts E-Filing Portal*, Fla. Admin. Order No. AOSC13-7 (Feb. 18, 2013). If filed by a nonlawyer or a lawyer not licensed to practice in Florida, the comment may be, but is not required to be, filed via the Portal. Any person unable to submit a comment electronically must mail or hand-deliver the originally signed comment to the Florida Supreme Court, Office of the Clerk, 500 South Duval Street, Tallahassee,

Florida 32399-1927; no additional copies are required or will be accepted.

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO FLORIDA RULE OF JUVENILE
PROCEDURE 8.095, CASE NO. SC21-626**

Rule	Explanation
Rule 8.095 (Procedure When Child Believed to Be Incompetent or Insane)	<p>The Committee rewrites the entire rule for greater clarity as followed:</p> <p>Adds a subdivision (a) that specifies which proceedings are barred when child is incompetent.</p> <p>Adds a new subdivision (b) title to separate the procedures for incompetency from when the child is insane.</p> <p>Adds subdivision titles to subdivision (b)(1)(A) and (b)(1)(B) for greater clarity.</p> <p>Replaces “caused the state to file” with “formed the basis” for greater clarity.</p> <p>Adds a new subdivision (b)(1)(C), that specify that the court own its own motion may order the child to be exam to see if the child is incompetent to proceed.</p> <p>Adds a new subdivision (b)(2) regarding speedy trial.</p>

Adds a new subdivision (b)(3), the provides clarity regarding the child's detention.

Rewrites subdivision (b)(4).

Adds a new subdivision (b)(5) regarding the expert witnesses for competency hearings.

Adds a new subdivision (b)(6) regarding the expert's examination of the child.

Adds a new subdivision (b)(7) regarding the evidence that may be presented at the competency hearing.

Adds a new subdivision (b)(8) regarding the procedure for the competency hearing.

Adds a new subdivision (b)(9) regarding the procedure if the child is placed in secure placement after being adjudicated incompetent.

Adds a new subdivision (b)(10) regarding the procedure if the child does not meet the criteria for secure placement but is adjudicated incompetent.

Adds a new subdivision (b)(11) regarding the competency restoration review.

Adds a new subdivision (b)(12) regarding jurisdiction.

Adds a new subdivision (c) for procedure when the child is believed to be insane at the time of the delinquent act or violation of probation.

Adds new subdivision (c)(1) that requires that 1 expert be appointed to examine the child.

Adds new subdivision (c)(2) and (c)(3) that requires that the defense provide notice of the intent to rely on insanity defense and that the notice be given within 10 days of the adjudicatory hearing.

Adds new subdivision (c)(4) regarding the state's examination of the child.

Adds new subdivision (c)(5) regarding the procedures if the notice of defense of insanity is not filed timely.

Adds subdivision (c)(6) regarding speeding trial being tolled.

Adds subdivision (c)(7) regarding detention of the child.

Adds subdivision (c)(8) regarding the experts that may be used at the adjudicatory hearing.

Adds subdivision (c)(9) regarding the written report of the experts.

Adds subdivision (c)(10) regarding the burden of proof for insanity.

Adds subdivision (c)(11) regarding the procedures after judgment of not guilty by reason of insanity.

Adds a new Committee Note regarding the contact information for restoration of competency.