

Supreme Court of Florida

No. SC14-2434

IN RE: AMENDMENTS TO FLORIDA RULE OF JUDICIAL ADMINISTRATION 2.420.

[January 22, 2015]

PER CURIAM.

We have for consideration amendments to Florida Rule of Judicial Administration 2.420 (Public Access to Judicial Branch Records) proposed by the The Florida Bar’s Rules of Judicial Administration Committee (RJA Committee) in its “fast-track” out-of-cycle report. See Fla. Rule Jud. Admin. 2.140(e).

We have jurisdiction¹ and amend the rule as proposed by the RJA Committee and approved by the Executive Committee of the Board of Governors of The Florida Bar.

The amendments to subdivision (d)(1)(B) (Procedures for Determining Confidentiality of Court Records) are in response to chapters 2014-67 and 2014-

1. See art. V, § 2(a), Fla. Const.

174, Laws of Florida, and add two new categories of information in court records that the clerks of court must automatically designate and maintain as confidential. New subdivision (d)(1)(B)(xxi) adds “[f]orensic behavioral health evaluations under chapter 916,” Florida Statutes, to the list of automatically confidential information. See ch. 2014-67, §1, Laws of Fla. (creating § 916.1065, Fla. Stat., effective July 1, 2014). New subdivision (d)(1)(B)(xxii) adds “[e]ligibility screening, substance abuse screening, behavioral health evaluations, and treatment status reports for defendants referred to or considered for referral to a drug court program” to the list of automatically confidential information. See ch. 2014-174, §1, Laws of Fla. (creating § 397.334(10)(a), Fla. Stat., effective June 20, 2014).

The amendment to subdivision (d)(1)(B)(iv) corrects a statutory reference.

Accordingly, the Florida Rules of Judicial Administration are amended as reflected in the appendix to this opinion. New language is indicated by underscoring; deletions are indicated by struck-through type. The amendments shall become effective immediately upon the release of this opinion. Because the amendments were not published for comment prior to their adoption, interested persons shall have sixty days from the date of this opinion in which to file comments with the Court.²

2. All comments must be filed with the Court on or before March 23, 2015, with a certificate of service verifying that a copy has been served on the Committee Chair, Murray B. Silverstein, 625 E. Twiggs Street, Suite 100, Tampa,

It is so ordered.

LABARGA, C.J., and PARIENTE, LEWIS, QUINCE, CANADY, POLSTON,
and PERRY, JJ., concur.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE
EFFECTIVE DATE OF THESE AMENDMENTS.

Original Proceedings – Florida Rules of Judicial Administration

Murray Bruce Silverstein, Chair, Rules of Judicial Administration Committee,
Greenberg Traurig, P.A., Tampa, Florida; John F. Harkness, Jr., Executive
Director, and Krys Godwin, Bar Staff Liaison, The Florida Bar, Tallahassee,
Florida,

for Petitioner

Florida 33602-3925, silversteinmb@gtlaw.com, and on the Bar Staff Liaison to the
Committee, Krys Godwin, 651 E. Jefferson Street, Tallahassee, Florida 32399-
2300, krgodwin@flabar.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 April 13, 2015 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
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 must be electronically filed via e-mail in accordance with In re
Mandatory Submission of Electronic Copies of Documents, Fla. Admin. Order No.
AOSC04-84 (Sept. 13, 2004). Electronically filed documents must be submitted in
Microsoft Word 97 or higher. 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.

APPENDIX

RULE 2.420. PUBLIC ACCESS TO AND PROTECTION OF JUDICIAL BRANCH RECORDS

(a) – (c) [No Change]

(d) Procedures for Determining Confidentiality of Court Records.

(1) The clerk of the court shall designate and maintain the confidentiality of any information contained within a court record that is described in subdivision (d)(1)(A) or (d)(1)(B) of this rule. The following information shall be maintained as confidential:

(A) information described by any of subdivisions (c)(1) through (c)(6) of this rule; and

(B) except as provided by court order, information subject to subdivision (c)(7) or (c)(8) of this rule that is currently confidential or exempt from section 119.07, Florida Statutes, and article I, section 24(a) of the Florida Constitution as specifically stated in any of the following statutes or as they may be amended or renumbered:

(i) Chapter 39 records relating to dependency matters, termination of parental rights, guardians ad litem, child abuse, neglect, and abandonment. §§ 39.0132(3), 39.0132(4)(a), Fla. Stat.

(ii) Adoption records. § 63.162, Fla. Stat.

(iii) Social Security, bank account, charge, debit, and credit card numbers. § 119.0714(1)(i)–(j), (2)(a)–(e), Fla. Stat. (Unless redaction is requested pursuant to § 119.0714(2), Fla. Stat., this information is exempt only as of January 1, 2012.)

(iv) HIV test results and the identity of any person upon whom an HIV test has been performed. § 381.004(~~32~~)(e), Fla. Stat.

(v) Records, including test results, held by the Department of Health or its authorized representatives relating to sexually transmissible diseases. § 384.29, Fla. Stat.

(vi) Birth records and portions of death and fetal death records. §§ 382.008(6), 382.025(1), Fla. Stat.

(vii) Information that can be used to identify a minor petitioning for a waiver of parental notice when seeking to terminate pregnancy. § 390.01116, Fla. Stat.

(viii) Clinical records under the Baker Act. § 394.4615(7), Fla. Stat.

(ix) Records of substance abuse service providers which pertain to the identity, diagnosis, and prognosis of and service provision to individuals. § 397.501(7), Fla. Stat.

(x) Clinical records of criminal defendants found incompetent to proceed or acquitted by reason of insanity. § 916.107(8), Fla. Stat.

(xi) Estate inventories and accountings. § 733.604(1), Fla. Stat.

(xii) The victim's address in a domestic violence action on petitioner's request. § 741.30(3)(b), Fla. Stat.

(xiii) Protected information regarding victims of child abuse or sexual offenses. §§ 119.071(2)(h), 119.0714(1)(h), Fla. Stat.

(xiv) Gestational surrogacy records. § 742.16(9), Fla. Stat.

(xv) Guardianship reports, orders appointing court monitors, and orders relating to findings of no probable cause in guardianship cases. §§ 744.1076, 744.3701, Fla. Stat.

(xvi) Grand jury records. §§ 905.17, 905.28(1), Fla. Stat.

(xvii) Records acquired by courts and law enforcement regarding family services for children. § 984.06(3)–(4), Fla. Stat.

(xviii) Juvenile delinquency records. §§ 985.04(1), 985.045(2), Fla. Stat.

(xix) Records disclosing the identity of persons subject to tuberculosis proceedings and records held by the Department of Health or its authorized representatives relating to known or suspected cases of tuberculosis or exposure to tuberculosis. §§ 392.545, 392.65, Fla. Stat.

(xx) Complete presentence investigation reports. Fla. R. Crim. P. 3.712.

(xxi) Forensic behavioral health evaluations under Chapter 916. § 916.1065, Fla. Stat.

(xxii) Eligibility screening, substance abuse screening, behavioral health evaluations, and treatment status reports for defendants referred to or considered for referral to a drug court program. § 397.334(10)(a), Fla. Stat.

(2) – (5) [No Change]

(e) – (m) [No Change]

Committee Note

[No Change]

2002 – 2007 Court Commentary

[No Change]

2007 Committee Commentary

[No Change]

APPENDIX TO RULE 2.420

[No Change]

