Supreme Court of Florida

No. SC19-105

IN RE: AMENDMENTS TO THE FLORIDA EVIDENCE CODE - 2019 REGULAR-CYCLE REPORT.

May 2, 2019

PER CURIAM.

We have for consideration the regular-cycle report of The Florida Bar Code and Rules of Evidence Committee (Committee), pertaining to legislative changes to the Florida Evidence Code. *See* Ch. 2014-35, § 2, Laws of Fla. We have jurisdiction.[1]

The amendments before this Court are those enacted by the Florida Legislature prior to the Court having last considered regular-cycle amendments to the Evidence Code. *See In re Amends. to the Fla. Evidence Code*, 210 So. 3d 1231 (Fla. 2017). The Committee recommends that the Court adopt chapter 2014-35, section 2, Laws of Florida, which amended section 90.204, Florida Statutes, a

1. *See* art. V, § 2(a), Fla. Const.; Fla. R. Jud. Adm. 2.140(b).

provision of the Evidence Code. The Board of Governors of The Florida Bar unanimously approved the Committee's recommendations. The proposed amendments were published for comment in *The Florida Bar News*; none were received.

The Legislature amended section 90.204(4) in chapter 2014-35, section 2, Laws of Florida. The statute, in general, pertains to matters which may be judicially noticed. Subsection (4) provides as follows:

> In family cases, the court may take judicial notice of any matter described in s. 90.202(6) when imminent danger to persons or property has been alleged and it is impractical to give prior notice to the parties of the intent to take judicial notice. Opportunity to present evidence relevant to the propriety of taking judicial notice under subsection (1) may be deferred until after judicial action has been taken. If judicial notice is taken under this subsection, the court shall, within 2 business days, file a notice in the pending case of the matters judicially noticed. For purposes of this subsection, the term "family cases" has the same meaning as provided in the Rules of Judicial Administration.

§ 90.204(4).[2] Thus, in family cases,[3] the court may take judicial notice of any record of any court of this State or of any court of record of the United States or

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2. We note that Florida Family Law Rule of Procedure 12.4501 (Judicial Notice) was adopted previously in response to section 90.204(4), and is identical in content to the statutory provision. *See In re Amends. to Fla. Family Law Rules of Proc.—2017 Regular-Cycle Report*, 227 So. 3d 115, 116-17, 119 (Fla. 2017).

3. The statute provides that "family cases" has the same definition as provided in the Florida Rules of Judicial Administration, specifically rule 2.545(d)(2).

any state, territory, or jurisdiction of the United States, when imminent danger has been alleged and it is impractical to give prior notice of such to the parties. *See id.*; § 90.202(6).

Based upon the foregoing, we adopt chapter 2014-35, section 2, Laws of Florida, as provided in the appendix to this opinion, to the extent that the provision is procedural. This decision does not alter the established effective date of chapter 2014-35, section 2, Laws of Florida, which is May 12, 2014.[4]

It is so ordered.

CANADY, C.J., and POLSTON, LABARGA, LAWSON, LAGOA, LUCK, and MUÑIZ, JJ., concur.

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

Original Proceedings – Florida Bar Code and Rules of Evidence Committee

Patricia M. Dodson, Chair, Code and Rules of Evidence Committee, Ponte Vedra, Florida; and Joshua E. Doyle, Executive Director, and Mikalla Andies Davis, Staff Liaison, The Florida Bar, Tallahassee, Florida,

for Petitioner

4. *See* ch. 2014-35, § 7, Laws of Fla.

APPENDIX

Chapter 2014-35, section 2:

90.204. Determination of Propriety of Judicial Notice and Nature of Matter Noticed.—

(4) In family cases, the court may take judicial notice of any matter described in s. 90.202(6) when imminent danger to persons or property has been alleged and it is impractical to give prior notice to the parties of the intent to take judicial notice. Opportunity to present evidence relevant to the propriety of taking judicial notice under subsection (1) may be deferred until after judicial action has been taken. If judicial notice is taken under this subsection, the court shall, within 2 business days, file a notice in the pending case of the matters judicially noticed. For purposes of this subsection, the term “family cases” has the same meaning as provided in the Rules of Judicial Administration.