

**IN THE SUPREME COURT OF FLORIDA**

**IN RE: AMENDMENT TO THE FLORIDA  
RULES OF JUDICIAL ADMINISTRATION**

**CASE NO.:**

**EMERGENCY PETITION TO AMEND FLORIDA RULE OF  
JUDICIAL ADMINISTRATION 2.052**

Frank A. Kreidler, a member of The Florida Bar, and John F. Harkness, Jr., Executive Director of The Florida Bar, pursuant to Florida Rule of Judicial Administration 2.130(b) and (d), propose the following amendment to the Florida Rules of Judicial Administration, Rule 2.052(a), Calendar Conflicts, and in support thereof state as follows:

1. This proposal for an amendment to the Rules of Judicial Administration was filed with the Supreme Court on May 18, 1998, and duly referred to the Rules of Judicial Administration Committee.

2. The Rules of Judicial Administration Committee in consideration of the initial proposal rejected any changes whatsoever to Rule of Judicial Administration 2.052(a) at its meeting on September 3, 1998. The objection raised by the Committee was that the Committee did not want to change the rule. The Committee suggested that the proponent should have a statute passed directing the courts to expedite these trials and that if termination of parental rights cases were expedited, there would be a flurry of other proposals seeking to expedite other types of trials. The proposers' responses

to the two specific objections the Committee made are: (1) A statute directing the court how to schedule cases (while there are some provisions similar to this in the statutes) is constitutionally infirm pursuant to the separation of powers doctrine contained in the Florida Constitution, Art. II, § 3, Fla. Const.; and (2) Children are not public records, eminent domain proceedings, etc. Children are different.

3. The Florida Bar Board of Governors endorsed the proposed rule amendment unanimously at their meeting on April 9, 1999, by a vote of 35-0. See Fla. R. Jud. Admin. 2.130(d).

4. Fla. R. Jud. Admin. 2.052(a), Calendar Conflicts, currently sets the priorities for consideration to resolve calendar conflicts between state courts of Florida or between state and federal courts in Florida.

5. Pursuant to current and new state and federal laws for expediting trials in cases involving the termination of parental rights due to the alleged abuse, neglect, abandonment, etc., of children by their parents, these trials should be specifically given the highest priority in Rule 2.052(a). More and more of these cases are being filed in each circuit of this state so this is not a temporary phenomenon. Also see the settlement on *Children A, B, C, D, E, and F v. Lawton Chiles, and Dept. of Health and Rehabilitative Services*, Case No. 90-2416, CIV - KEHOE, in which the State agreed to reduce the time children languished in foster care.

6. Practitioners, such as petitioner Kreidler, who practice in state courts, in the criminal and civil courts, and in juvenile court representing parties in termination of parental rights cases, and who practice in federal civil court as a member of the Southern District Trial Bar, have scheduling concerns because termination of parental rights proceedings do not fit neatly into paragraphs (a)(1) or (2) of current Fla. R. Jud. Admin. 2.052.

7. Because termination of parental rights cases are considered as civil, non-jury proceeding, these vital and most important cases currently are considered *last* in resolving conflicts.

8. Termination of parental rights trials often include numerous parties and lawyers and a number of expert witnesses, such as medical doctors testifying to abuse and psychiatrists and/or psychologists testifying on the mental state of the parents and/or children. Resetting these cases when one lawyer is called to trial on a “higher priority” case means the child's or children's status is delayed many months while everyone finds a mutually available trial period.

9. Everyone says that child abuse must be stopped. Parental rights must be terminated when the evidence warrants termination or parents must be given their day in court to disprove the allegations. Children must not stay in foster care for years while their cases languish in the system, while they “grow up” in foster care and/or they

become unadoptable due to their advanced age.

10. To effectuate the rhetoric in the preceding paragraphs, the following amendment to Fla. R. Jud. Admin. 2.052(a) is submitted to this court as Attachment “A” in three-column format. Also attached is the proposed amendment in legislative format as Attachment “B”. This petition is submitted in 14 point Times New Roman type with proportional spacing, pursuant to this Court's Administrative Order dated July 13, 1998.

11. By instituting this proposed amendment, the judiciary will have additional guidance for judicial efficiency and economy and be able to duly expedite these cases involving the rights of children.

12. Due to the foregoing reasons, this rules amendment should be immediately considered by the Supreme Court pursuant to Fla. R. Jud. Admin. 2.130(f). A referral of this proposed amendment to the “four year cycle” will adversely impact hundreds of termination of parental rights cases in the system currently, keep children in foster care that much longer and prevent these fragile children from having a real family.

13. Each day a child spends in foster care awaiting a termination of parental rights trial keeps the child from a permanent home and family that much longer.

14. Florida's children deserve no less than immediate consideration of this proposed amendment.

Respectfully submitted,

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Frank A. Kreidler  
1124 South Federal Highway  
Lake Worth, FL 33460  
(561) 586-6226  
Florida Bar No. 163092

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John F. Harkness, Jr., Executive Director  
The Florida Bar  
650 Apalachee Parkway  
Tallahassee, FL 32399-2300  
(850) 561-5758  
Florida Bar No. 123394

CERTIFICATE OF SERVICE

**I HEREBY CERTIFY** that a true copy of the foregoing has been furnished to:  
The Honorable Jeb Bush, Governor of the State of Florida, The Capitol, Tallahassee,  
FL 32399-0001; Robert Butterworth, Attorney General of the State of Florida, The  
Capitol, Tallahassee, FL 32399-1050; The Honorable Scott Silverman, Chair, Judicial  
Administration Rules Committee, 1351 N.W. 12th St., Suite 712, Miami, FL 32399-  
2300; Sarah H. Bohr, Chair, Juvenile Court Rules Committee, Jacksonville Area Legal  
Aid, 126 W. Adams St., Suite 700, Jacksonville, FL 32202-3874; and The Honorable  
Kathleen Kearney, Secretary of the Department of Children and Families, 1317

Winewood Blvd., Tallahassee, FL 32399-0700, on this \_\_\_ day of \_\_\_\_\_, 1999.

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Frank A. Kreidler  
1124 South Federal Highway  
Lake Worth, FL 33460-5244  
Tele: (561) 586-6226  
FAX: (561) 585-0795  
Florida Bar No: 163092