

SUPREME COURT OF FLORIDA

In re: Amendments to Florida Rule of Judicial Administration 2.420

No. SC19-1049 · No. SC19-1049 · Decided June 27, 2019

SUMMARY

The Supreme Court of Florida amended Florida Rule of Judicial Administration 2.420 to add Baker Act records and specified domestic-violence-related information to categories that clerks must maintain as confidential. The amendments became effective July 1, 2019, and the Court invited comments through September 10, 2019.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Chief Justice Canady; Justice Polston; Justice Labarga; Justice Lawson; Justice Lagoa; Justice Luck; Justice Muñoz
JURISDICTION	Florida
DECIDED	June 27, 2019
DOCKET	SC19-1049
DISPOSITION	other
PROCEDURAL POSTURE	Original proceeding on the Florida Supreme Court's own motion to amend Florida Rule of Judicial Administration 2.420 in response to recently enacted legislation.
PRECEDENTIAL VALUE	Rulemaking opinion establishing amendments to the Florida Rules of Judicial Administration.

TOPICS

[civil procedure](#) [medical records privacy](#) [injunctions](#)

PRACTICE AREAS

[civil procedure](#) [judicial records confidentiality](#) [health law](#) [domestic violence and injunction practice](#)

QUESTIONS PRESENTED

1. Whether Florida Rule of Judicial Administration 2.420(d)(1)(B) should be amended to incorporate newly enacted statutory confidentiality protections for Baker Act records.

2. Whether Florida Rule of Judicial Administration 2.420(d)(1)(B) should be amended to protect identifying information and specified documents in petitions for injunctions against domestic violence and related forms of violence or stalking until the respondent is personally served.
3. When the amendments should become effective and whether interested persons should be permitted to submit comments after adoption.

HOLDINGS

1. Florida Rule of Judicial Administration 2.420(d)(1)(B)(viii) is amended to require clerks to designate and maintain as confidential all petitions, court orders, and related records under the Baker Act, in addition to the previously protected clinical records.
2. Florida Rule of Judicial Administration 2.420(d)(1)(B) is amended by adding subdivision (xxiii), requiring confidentiality of information identifying a petitioner or respondent in specified injunction proceedings and of related affidavits, notices of hearing, and temporary injunctions until the respondent has been personally served.
3. The amendments become effective July 1, 2019, at 12:01 a.m.; because they were not published for comment before adoption, interested persons may file comments within seventy-five days of the opinion.

KEY QUOTATIONS

“The Court amends rule 2.420(d)(1)(B)(viii) to add “all petitions, court orders, and related records under the Baker Act” as a category of court records that the clerk must designate and maintain as confidential under the rule.” (-1-)

“The amendments shall become effective July 1, 2019, at 12:01 a.m.” (-2-)

FACTUAL BACKGROUND

Recent Florida legislation made certain Baker Act records confidential and amended statutory confidentiality protections for records identifying parties to specified injunction proceedings before personal service. The court considered those statutory changes in determining whether to amend its rule governing the clerk’s designation and maintenance of confidential court records.

PROCEDURAL HISTORY

The Florida Supreme Court initiated the rulemaking proceeding on its own motion. The court adopted amendments to rule 2.420(d)(1)(B), made them effective July 1, 2019, and allowed interested persons seventy-five days to submit comments because the amendments had not been published for comment before adoption.

DISPOSITION

other

CASES CITED

- 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)

OPINION

PER CURIAM.

Supreme Court of Florida _____ No. SC19-1049 _____ IN RE: AMENDMENTS TO FLORIDA RULE OF JUDICIAL ADMINISTRATION 2.420. June 27, 2019 PER CURIAM. In response to recent legislation, the Court, on its own motion, amends Florida Rule of Judicial Administration 2.420(d) (Procedures for Determining Confidentiality of Court Records) to add two new categories of information in court records that the clerk of court must designate and maintain as confidential under rule 2.420(d)(1)(B).

See Fla. R. Jud. Admin. 2.140(d). We have jurisdiction. See art. V, § 2(a), Fla. Const. The Court amends rule 2.420(d)(1)(B)(viii) to add “all petitions, court orders, and related records under the Baker Act” as a category of court records that the clerk must designate and maintain as confidential under the rule. This amendment is in response to newly enacted section 394.464, Florida Statutes, which makes such Baker Act records confidential.

See ch. 2019-51, §§ 1-2, Laws of Fla. (creating § 394.464 (Court records; confidentiality), Fla. Stat., effective July 1, 2019). In response to the addition of subsection 3 to section 119.0714(1)(k), Florida Statutes (2018), the Court adds new subdivision (xxiii) to rule 2.420(d)(1)(B).

The new subdivision lists “[i]nformation that can be used to identify a petitioner or respondent in a petition for an injunction against domestic violence, repeat violence, dating violence, sexual violence, stalking, or cyberstalking, and any affidavits, notice of hearing, and temporary injunction until the respondent has been personally served with a copy of the petition for injunction, affidavits, notice of hearing, and temporary injunction.” See ch. 2019-39, §§ 1, 3, Laws of Fla. (amending § 119.0714(1)(k), Fla. Stat., effective July 1, 2019).

Accordingly, the Florida Rules of Judicial Administration are amended, as reflected in the appendix to this opinion. New language is indicated by underscoring, and deleted language is indicated by struck-through type.

The amendments shall become effective July 1, 2019, at 12:01 a.m. Because the amendments were not published for comment prior to their adoption, interested persons shall have seventy-five days from the date of this opinion in which to file comments with the Court.¹ 1. All comments must be filed with the Court on or before September 10, 2019, with 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.

If -2- 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 Proceeding – Florida Rules of Judicial Administration 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. Comments filed via the Portal must be submitted in Microsoft Word 97 or higher. See In re Electronic Filing in the Florida Supreme Court, Fla. Admin. Order No. AOSC17-27 (May 9, 2017).

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. -3- 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) [No Change] (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) – (vii) [No Change] (viii) Clinical records under the Baker Act, § 394.4615(7), Fla. Stat., and all petitions, court orders, and related records under the Baker Act, § 394.464, Fla. Stat. (ix) – (xxii) [No Change] (xxiii) Information that can be used to identify a petitioner or respondent in a petition for an injunction against domestic violence, repeat violence, dating violence, sexual violence, stalking, or cyberstalking, and any affidavits, notice of hearing, and temporary injunction until the respondent has been personally served with a copy of the petition for injunction, affidavits, notice of hearing, and temporary injunction. § 119.0714(1)(k)3., Fla. Stat. (2) – (5) [No Change] (e) – (m) [No Change] -4- Committee Note [No Change] 2002 – 2007 Court Commentary [No Change] APPENDIX TO RULE 2.420 [No Change] -5-