

SUPREME COURT OF FLORIDA

In re Amendments to Florida Rule of Criminal Procedure 3.220

In re Amendments to Fla. R. Crim. P. 3.220 · No. SC2024-1461 · Decided September 4, 2025

SUMMARY

The Supreme Court of Florida amended Florida Rule of Criminal Procedure 3.220 concerning discovery depositions of victims of sexual offenses, particularly victims under the ages of 16 and 12. The amendments establish procedures for requesting and conducting hearings, authorize limitations and conditions on depositions, and require written court orders specifying whether a deposition is permitted and any applicable restrictions.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Carlos G. Muñoz, C.J.; Charles T. Canady, J.; Jorge Labarga, J.; Renatha Francis, J.; Jamie R. Grosshans, J.; John D. Couriel, J.; Labarga, J.; Sasso, J.
JURISDICTION	Florida
DECIDED	September 4, 2025
DOCKET	SC2024-1461
DISPOSITION	other
PROCEDURAL POSTURE	Original rulemaking proceeding initiated by the Supreme Court of Florida on its own motion to consider amendments to Florida Rule of Criminal Procedure 3.220 in light of changes to section 92.55, Florida Statutes.
PRECEDENTIAL VALUE	Published rulemaking opinion promulgating amendments to the Florida Rules of Criminal Procedure

TOPICS

- discovery criminal
- criminal procedure
- evidence

PRACTICE AREAS

- criminal procedure
- evidence
- victim and witness protection
- court rules and rulemaking

QUESTIONS PRESENTED

1. Whether Florida Rule of Criminal Procedure 3.220 should be amended to implement recent statutory restrictions concerning discovery depositions of sexual-offense victims under age sixteen.
2. What procedural safeguards and limitations should govern depositions of sexual-offense victims under age sixteen, including the presumption against depositions of victims under age twelve in specified circumstances.

HOLDINGS

1. The Supreme Court of Florida amended Florida Rule of Criminal Procedure 3.220 by adding subdivisions (h)(9) through (h)(13), governing requests to limit interviews or depositions in the defendant's presence, hearings on depositions of sexual-offense victims under age sixteen, the presumption against depositions of certain victims under age twelve, permissible deposition limitations, and written court orders.
2. A party seeking to depose a sexual-offense victim under age sixteen must file a written motion, and the court must conduct a hearing within thirty days unless the parties agree otherwise or good cause is shown. The court must consider the victim's age and maturity, the nature and duration of the offense, the relationship to the defendant, the complexity of the issues, the availability of the evidence by other means, and other relevant factors protecting the victim and the integrity of the judicial process.
3. When the State has not filed a notice of intent to seek the death penalty and a forensic interview of the victim is available to the defendant, subdivision (h)(11) establishes a presumption that taking the deposition of a sexual-offense victim under age twelve is inappropriate. A party seeking the deposition must file a written motion, and the court must conduct a hearing within thirty days unless the parties agree otherwise or good cause is shown.
4. If the court authorizes a deposition under subdivision (h)(10) or (h)(11), it may impose limitations or specific conditions on the manner and scope of the deposition, and it must enter a written order stating whether the deposition is authorized and specifying any limitations or conditions.

KEY QUOTATIONS

“The amendments to the rule shall become effective October 1, 2025, at 12:01 a.m.” (-2)

“There is a presumption that the taking of a deposition of a victim of a sexual offense who is under the age of 12 is inappropriate if the state has not filed a notice of intent to seek the death penalty and a forensic interview of the sexual offense victim is available to the defendant.” (-5)

FACTUAL BACKGROUND

The Court considered amendments to the criminal discovery rule following the enactment of chapter 2023-148, Laws of Florida, which added subsection (6) to section 92.55 and imposed limitations on discovery depositions of sexual-offense victims under age sixteen. The proposed amendments were published for comment, and four comments were received.

PROCEDURAL HISTORY

The Court published a proposed amendment to Florida Rule of Criminal Procedure 3.220 for comment and received four comments. After considering the comments, the Court adopted amendments concerning discovery depositions of young victims of sexual offenses and related protections, effective October 1, 2025, at 12:01 a.m.

DISPOSITION

other

OPINION

In Re: Amendments to Florida Rule of Criminal Procedure 3.220

PER CURIAM.

Supreme Court of Florida _____ No. SC2024-1461 _____

IN RE: AMENDMENTS TO FLORIDA RULE OF CRIMINAL

PROCEDURE 3.220. September 4, 2025 PER CURIAM. The Court on its own motion is considering amendments to Florida Rule of Criminal Procedure 3.220 (Discovery) in light of recent changes to section 92.55, Florida Statutes (2022), that went into effect on July 1, 2023. See ch. 2023-148, §§ 1, 3, Laws of Fla. 1 Chapter 2023-148, Laws of Florida, added new subsection (6) to section 92.55, which prescribes limitations on the taking of discovery depositions of a victim of a sexual offense who is under the age of 16. A proposal was published for comment, and four comments were received.

1. We have jurisdiction. See art. V, § 2(a), Fla. Const.; see also Fla. R. Gen. Prac. & Jud. Admin. 2.140(d). After considering the comments, we hereby amend rule 3.220 as follows. First, new subdivision (h)(9) provides for motioning the court to limit interviewing or conducting depositions in the presence of the defendant as noted in section 92.55(2). New subdivision (h)(10) provides for a hearing to determine whether a deposition of a victim of a sexual offense who is under the age of 16 should be conducted as discussed in section 92.55(6)(a) and (b). New subdivision (h)(11) provides for a hearing to determine if the presumption against the taking of a deposition of a victim of a sexual offense who is under the age of 12 is overcome as addressed in section 92.55(6)(c). New subdivision (h)(12) lists limitations or specific conditions a court may order as contemplated by section 92.55(6)(d). Finally, new subdivision (h)(13) requires a written order finding whether the deposition requested under subdivision (h)(10) or (h)(11) is authorized and specifying any limitations or conditions as noted in section 92.55(6)(e). Additionally, the Court will request that The Florida Bar's Juvenile Court Rules Committee consider whether changes consistent with these amendments should be made to Florida Rule of Juvenile Procedure 8.060(d). -2- The Court hereby amends the Florida Rules of Criminal Procedure as reflected in the appendix to this opinion. New language is indicated by underscoring; deletions are indicated by struck-through type. The amendments to the rule shall become effective October 1, 2025, at 12:01 a.m. It is so ordered.

MUÑIZ, C.J., and CANADY, LABARGA, COURIEL, GROSSHANS,

FRANCIS, and SASSO, JJ., concur.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER

THE EFFECTIVE DATE OF THESE AMENDMENTS. Original Proceeding – Florida Rules of Criminal Procedure Katelyn Knaak Johnston, Chair, Criminal Procedure Rules Committee, Jacksonville, Florida, Hon. Laura E. Ward, Past Chair, Criminal Procedure Rules Committee, Tampa, Florida, Joshua E. Doyle, Executive Director, The Florida Bar, Tallahassee, Florida, and Kelly Smith, Staff Liaison, The Florida Bar, Tallahassee, Florida; James Uthmeier, Attorney General, and Jeffrey Paul DeSousa, Chief Deputy Solicitor General, Office of the Attorney General, Tallahassee, Florida; Hon. Angélica D. Zayas, Chair, Juvenile Court Rules Committee, Miami, Florida, and Sarah J. Rumph, Past Chair, Juvenile Court Rules Committee, Tallahassee, Florida; and Douglas A. Wyler of Jacobs Scholz & Wyler, LLC, on behalf of Florida Prosecuting Attorneys Association, Inc., Fernandina Beach, Florida, Responding with comments -3-

APPENDIX

RULE 3.220. DISCOVERY

(a) – (g) [No Change] (h) Discovery Depositions.

(1) – (8) [No Change]

(9) On motion of any party, parent, guardian, attorney,

guardian ad litem, or other advocate for a victim or witness under the age of 18, a person who has an intellectual disability, or a sexual offense victim or witness, or on the court's own motion, the court can limit interviewing or the conducting of depositions in the presence of the defendant. The court must consider any fact the court deems relevant, not limited to age, nature of the offense, relationship to the defendant, and degree of emotional trauma that could result as a consequence of the defendant's presence.

(10) Deposition of a victim of a sexual offense who is

under the age of 16. A party seeking to take a deposition under this subdivision must file a written motion with the court. Within 30 days of the filing of the written motion unless agreed upon by the parties or for good cause shown, the court must conduct a hearing to determine whether to order the deposition to be conducted. In determining whether to order the deposition to be conducted, the court must consider: (A) the mental and physical age and maturity of the victim; (B) the nature and duration of the offense; (C) the relationship of the victim to the defendant; (D) the complexity of the issues involved; -4- (E) whether the evidence sought is reasonably available by other means, including whether the victim was the subject of a forensic interview related to the sexual offense; and (F) any other factors the court deems relevant to ensure the protection of the victim and the integrity of the judicial process.

(11) Deposition of a victim of a sexual offense who is

under the age of 12. There is a presumption that the taking of a deposition of a victim of a sexual offense who is under the age of 12 is inappropriate if the state has not filed a notice of intent to seek the death penalty and a forensic interview of the sexual offense victim is available to the

defendant. In making that determination, the court may consider the factors set forth in subdivision (h)(9) of this rule. A party seeking to take a deposition under this subdivision must file a written motion with the court. Within 30 days of the filing of the written motion unless agreed upon by the parties or for good cause shown, the court must conduct a hearing to determine whether to order the deposition to be conducted.

(12) Limitations or conditions on manner and scope of

deposition. If the court orders the deposition to be conducted pursuant to subdivision (h)(10) or (11), the court may order limitations or specific conditions such as: (A) requiring the defendant to submit proposed deposition questions to the court for approval prior to commencing the deposition; (B) setting the time and place of the deposition; -5- (C) permitting or prohibiting any person from attending the victim's deposition; (D) limiting the duration of the deposition; or (E) any other conditions the court finds just and appropriate.

(13) Court order. The court must enter a written order

finding whether the taking of a deposition under subdivision (h)(10) or (11) is authorized, and the written order must specify any limitations to the manner or scope of the taking of the victim's deposition. (i) – (o) [No Change] Committee Notes [No Change] Court Commentary [No Change]
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