

Supreme Court of Florida

No. SC22-1033

IN RE: AMENDMENTS TO FLORIDA RULE OF CRIMINAL PROCEDURE 3.790.

September 22, 2022

PER CURIAM.

This matter is before the Court for consideration of proposed amendments to the Florida Rules of Criminal Procedure. *See Fla. R. Gen. Prac. & Jud. Admin. 2.140(e)*. We have jurisdiction. *See art. V, § 2(a), Fla. Const.*

The Florida Bar's Criminal Procedure Rules Committee (Committee) has filed a fast-track report proposing amendments to Florida Rule of Criminal Procedure 3.790 in response to the enactment of recent legislation amending section 948.01, Florida Statutes (2021) (When court may place defendant on probation or into community control). *See ch. 2022-166, § 1, Laws of Fla.* The

proposal was unanimously approved by the Committee and The Florida Bar Board of Governors.

The Legislature recently amended section 948.01(1)(a) to authorize the Department of Corrections to supervise misdemeanor offenders when the offender is placed on probation by a circuit court and the court orders the Department to supervise the offender. *Id.* And section 948.01(5) was amended to remove the prohibition on private entities providing supervision for misdemeanor offenders. *Id.*

To reflect these legislative changes, the Court hereby amends rule 3.790 as proposed by the Committee. Specifically, rule 3.790(a) is amended to allow a probationer to be supervised by the Department of Corrections “or such other entity as provided by law.”

Our amendments to the Florida Rules of Criminal Procedure are 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 immediately. Because the amendments were not published for

comment previously, interested persons shall have seventy-five days from the date of this opinion in which to file comments with the Court.¹

It is so ordered.

MUÑIZ, C.J., and CANADY, POLSTON, LABARGA, COURIEL, GROSSHANS, and FRANCIS, JJ., concur.

Original Proceeding – Florida Rules of Criminal Procedure

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

1. All comments must be filed with the Court on or before December 6, 2022, with a certificate of service verifying that a copy has been served on the Committee Chair, Cynthia Cohen, Office of the State Attorney, 401 N. Dixie Highway, West Palm Beach, Florida 33401, ccohen@sa15.org, and on the Bar Staff Liaison to the Committee, Mikalla Andies Davis, 651 E. Jefferson Street, Tallahassee, Florida 32399-2300, midavis@floridabar.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 December 27, 2022, 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 Florida Courts E-Filing Portal (Portal). 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. 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.

Cynthia Cohen, Chair, Criminal Procedure Rules Committee, West Palm Beach, Florida, Joshua E. Doyle, Executive Director, and Mikalla Andies Davis, Staff Liaison, The Florida Bar, Tallahassee, Florida,

for Petitioner

APPENDIX

RULE 3.790. PROBATION AND COMMUNITY CONTROL

(a) Suspension of the Pronouncement and Imposition of Sentence; Probation or Community Control. Pronouncement and imposition of sentence of imprisonment shall not be made on a defendant who is to be placed on probation, regardless of whether the defendant has been adjudicated guilty. An order of the court placing a person on probation or community control shall place the probationer to be supervised under the authority of the Department of Corrections ~~to be supervised~~ or such other entity as provided by law. The court shall specify the length of time during which the defendant is to be supervised.

(b) [No Change]

Committee Notes

[No Change]