

Supreme Court of Florida

No. SC2024-1560

IN RE: AMENDMENTS TO FLORIDA FAMILY LAW RULE OF PROCEDURE 12.410.

June 12, 2025

PER CURIAM.

The Florida Bar's Family Law Rules Committee has filed a report proposing amendments to Florida Family Law Rule of Procedure 12.410 (Subpoena).¹ The Board of Governors of The Florida Bar recommends adopting the proposed amendments by a vote of 26-2-0. The Committee published its proposal for comment and received a few comments. After the proposed amendments were filed, we re-published the proposal for comment and no comments were received.

Having reviewed the Committee's proposal, we adopt the amendments to rule 12.410 as proposed with minor technical

1. We have jurisdiction. *See* art. V, § 2(a), Fla. Const.; *see also* Fla. R. Gen. Prac. & Jud. Admin. 2.140(b)(1).

modifications. Specifically, we add a new subdivision (a)(2) titled “Notice to Parties of Issuance of Subpoena,” which requires that a party who issues a subpoena through an attorney of record or clerk of court must, on the same day the subpoena is issued, serve each party to the proceeding with a notice of issuance of subpoena and file the notice with the court.

Accordingly, the Florida Family Law Rules of Procedure are amended as reflected in the appendix to this opinion. New language is indicated by underscoring; deletions are indicated by struck-through type. The amendments shall take effect on October 1, 2025.

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 Family Law Rules of Procedure

Jeffrey Paul Battista, Chair, Family Law Rules Committee, Vero Beach, Florida, Joshua E. Doyle, Executive Director, The Florida Bar, Tallahassee, Florida, and Kelly Noel Smith, Bar Liaison, The Florida Bar, Tallahassee, Florida,

for Petitioner

APPENDIX

RULE 12.410. SUBPOENA

(a) Subpoena Generally.

(1) Subpoenas for testimony before the court, subpoenas for production of tangible evidence, and subpoenas for taking depositions may be issued by the clerk of court or by any attorney of record in an action. No subpoena issued under this rule, even if for the purpose of proof of service or nonservice of the subpoena, ~~shall~~can be filed with the court unless in compliance with Florida Rule of General Practice and Judicial Administration 2.425.

(2) Notice to Parties of Issuance of Subpoena. A party issuing a subpoena through an attorney of record or clerk of the court under this rule must, on the same day as the subpoena is issued, serve each party to the proceeding with a notice of issuance of subpoena and file this notice with the court. The notice of issuance of subpoena must identify the person or entity subject to the subpoena, the date the subpoena will be issued, and the date and time for appearance or production, and must recite that all references to account numbers or personal identifying numbers are in compliance with Florida Rule of General Practice and Judicial Administration 2.425. An unexecuted copy of the subpoena to be issued must be attached to the Notice of Subpoena. Issuance of subpoenas in injunction for protection cases must comply with section 119.0714, Florida Statutes, Florida Rule of General Practice and Judicial Administration 2.420, and any other applicable statutes and rules of procedure. Notice of Issuance of Subpoena does not apply to rule 12.351.

(b) [No Change]

(c) For Production of Documentary Evidence.

(1) *Generally.* A subpoena may also command the person to whom it is directed to produce the books, papers, documents (including electronically stored information), or tangible things designated therein, but the court, on motion made promptly

and in any event at or before the time specified in the subpoena for compliance with it, may:

(A) [No Change]

(B) condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

A party seeking a production of evidence at trial which would be subject to a subpoena may compel ~~such~~ production by serving a notice to produce ~~such~~ evidence on an adverse party as provided in rule 12.080(a). ~~Such~~That notice ~~shall have~~has the same effect and ~~be~~is subject to the same limitations as a subpoena served on the party.

(2) [No Change]

(d) Service.

A subpoena may be served by any person authorized by law to serve process or by any other person who is not a party and who is not less than 18 years of age. Service of a subpoena on a person named in it ~~shall~~must be made as provided by law. Proof of ~~such~~ service ~~shall~~must be made by affidavit of the person making service except as applicable under rule 12.351(c) for the production of documents and things by a nonparty without deposition, if not served by an officer authorized by law to do so.

(e) Subpoena for Taking Depositions.

(1) Filing a notice to take a deposition as provided in rule 12.310(b) or 12.320(a) with a certificate of service ~~on it~~ showing service on all parties to the action constitutes an authorization for the issuance of subpoenas for the persons named or described in the notice by the clerk of the court in which the action is pending or by an attorney of record in the action. The subpoena must state the method for recording the testimony. A party intending to audiovisually record a deposition must state in the subpoena that the deposition is to be audiovisually recorded and identify the

method for audiovisually recording the deposition, including, if applicable, the name and address of the operator of the audiovisual recording equipment. If a party intends to take a deposition by communication technology, the subpoena must state the deposition is to be taken using communication technology, identify the specific form of communication technology to be used, and provide instructions for access to the communication technology. The subpoena may command the person to whom it is directed to produce designated books, papers, documents, or tangible things that constitute or contain evidence relating to any of the matters within the scope of the examination permitted by rule 12.280(c), but ~~in that event~~ the subpoena will then be subject to the provisions of rule 12.280(d) and subdivision (c) of this rule. Within 10 days after its service, or on or before the time specified in the subpoena for compliance if the time is less than 10 days after service, the person to whom the subpoena is directed may serve written objection to inspection or copying of any of the designated materials. If objection is made, the party serving the subpoena ~~shall~~ is not ~~be~~ entitled to inspect and copy the materials except pursuant to an order of the court from which the subpoena was issued. If objection has been made, the party serving the subpoena may move for an order at any time before or during the taking of the deposition ~~upon~~ notice to the deponent.

(2) A person may be required to attend an examination only in the county in which the person resides or is employed or transacts business in person or at ~~such~~ another convenient place ~~as may be~~ fixed by an order of court.

(f) [No Change]

(g) Depositions before Commissioners Appointed in this State by Courts of Other States; Subpoena Powers; etc. When any person authorized by the laws of Florida to administer oaths is appointed by a court of record of any other state, jurisdiction, or government as commissioner to take the testimony of any named witness within this state, that witness may be compelled to attend and testify before that commissioner by witness subpoena issued by the clerk of any circuit court at the instance of that commissioner or by other process or proceedings in the same manner as if that

commissioner had been appointed by a court of this state; ~~provided that no.~~ No document or paper writing ~~shall~~can be compulsorily annexed as an exhibit to ~~such~~the deposition or otherwise permanently removed from the possession of the witness producing it, but ~~in lieu thereof~~ a copy may be annexed to and transmitted with ~~such~~the executed commission to the court of issuance.

(h) [No Change]

Committee Note

[No Change]