



FCCC ADVISORY

SUPREME COURT AMENDS RULE 2.420 IN RESPONSE TO STATUTORY CHANGE

NO. 23-085

DATE: October 25, 2023

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CATEGORY: Clerk Administration,
Courts

The Supreme Court of Florida, on its own motion, recently amended Florida Rule of General Practice and Judicial Administration 2.420 (Public Access to and Protection of Judicial Branch Records) to adopt a recent statutory change making court records in cases giving rise to sealed criminal history records confidential.

Clerks of the Circuit Court send criminal case dispositions to the Florida Department of Law Enforcement (FDLE) via the OBTS/LOGAN/CCH process. Since 2019, under paragraph 943.0595(3)(a), Florida Statutes, certain of those dispositions cause FDLE to seal the criminal history record associated with the case in question. A new paragraph (3)(b) of that section was created by the Florida Legislature during the 2023 session, and became effective July 1, 2023.

That paragraph requires FDLE to notify Clerks upon the sealing of the criminal history record. "Upon such notification [from FDLE], the clerk of the court must automatically keep the related court record in the case giving rise to the department's sealing of the criminal history record confidential and exempt from s. 119.071(1) and s 24(a), Art. I of the State Constitution." Ch. 2023-189, § 1, Laws of Fla.

It was in response to this recent statutory amendment that the Court issued SC2023-1320 which amended Rule 2.420 by adding a new sub-sub-subparagraph 2.420(d)(1)(B)(xxiv). This amendment is effective immediately, and requires Clerks to make confidential the court record in the case giving rise to the sealed criminal history record. This is an automatic statutory process that has now been adopted by the Court.

Although the amendment is effective immediately, interested persons have 75 days from the date of this opinion in which to file comments with the Court. All comments must be filed with the Court on or before Tuesday, January 2, 2024, 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.

In order to manage the information coming from FDLE, there are discussions about potentially using the Florida Courts E-Filing Portal for this process. The issue will be presented to the E-Filing Authority Board as more information is received from FDLE and the concept becomes more delineated.

A copy of SC2023-1320 is attached for reference.