

RULE 3.720 | SENTENCING HEARING

As soon as practicable after the determination of guilt and after the examination of any presentence reports, the sentencing court shall order a sentencing hearing. At the hearing:

(a) The court shall inform the defendant of the finding of guilt against the defendant and of the judgment and ask the defendant whether there is any legal cause to show why sentence should not be pronounced. The defendant may allege and show as legal cause why sentence should not be pronounced only:

- (1) that the defendant is insane;
- (2) that the defendant has been pardoned of the offense for which he or she is about to be sentenced;
- (3) that the defendant is not the same person against whom the verdict or finding of the court or judgment was rendered; or
- (4) if the defendant is a woman and sentence of death is to be pronounced, that she is pregnant.

(b) The court shall entertain submissions and evidence by the parties that are relevant to the sentence.

(c) In cases where guilt was determined by plea, the court shall inform itself, if not previously informed, of the existence of plea discussions or agreements and the extent to which they involve recommendations as to the appropriate sentence.

(d)

(1) If the accused was represented by a public defender or other court appointed counsel, the court shall notify the accused of the imposition of a lien pursuant to section 938.29, Florida Statutes. The amount of the lien shall be given and a judgment entered in that amount against the accused. Notice of the accused's right to a hearing to contest the amount of the lien shall be given at the time of sentence.

(2) If the accused requests a hearing to contest the amount of the lien, the court shall set a hearing date within 30 days of the date of sentencing.



Committee Notes

1968 Adoption (of Rule 3.730). A revamped version of section 921.08, Florida Statutes.

1972 Amendment. 3.720(a): Substantially the same as former rule 3.730. 3.720(b): The defendant is to be permitted to challenge factual bases for the sentence that the defendant believes to be incorrect. When possible, submissions should be done informally, but the rule does not preclude an evidentiary hearing if it should be necessary. 3.720(c): Provides for plea discussions to be made a part of the record.

1980 Amendment. Modification of the rule by the addition of (d)(1) and (d)(2) requires a trial judge to adequately inform a defendant of the imposition of a lien for public defender services. A uniform procedure for scheduling hearings to contest liens would reduce the number of postsentence petitions from incarcerated defendants at times remote from sentencing. The procedure is designed to complete all lien requirements established by section 27.56, Florida Statutes, before defendants are removed from the jurisdiction of the trial court.

