

The Florida Bar's Probate Rules Committee (Committee) has submitted to the Florida Supreme Court an out-of-cycle report of proposed amendments to the Florida Probate Rules. The amendments are intended to minimize the amount of sensitive personal information required in documents filed in probate cases, consistent with the requirements of Florida Rule of Judicial Administration 2.425 (Minimization of the Filing of Sensitive Information).

The Court invites all interested persons to comment on the proposed amendments, which are reproduced in full below, as well as online at <http://www.floridasupremecourt.org/decisions/proposed.shtml>. All comments must be filed with the Court on or before September 3, 2013, with a certificate of service verifying that a copy has been served on the Committee Chair, Marsha Gerre Madorsky, 100 S.E. 2nd Street, Suite 4200, Miami, Florida 33131-2113, [mmadorsky@carltonfields.com](mailto:mmadorsky@carltonfields.com), 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 September 24, 2013, 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 Portal in accordance with In re Electronic Filing in the Supreme Court of Florida via the Florida Courts E-Filing Portal, Fla. Admin. Order No. AOSC13-7 (Feb 18, 2013). If filed by a non-lawyer or a lawyer not licensed to practice in Florida, the comment must be electronically filed via e-mail in accordance with In re Mandatory Submission of Electronic Copies of Documents, Fla. Admin. Order No. AOSC04-84 (Sept. 13, 2004). Electronically filed documents must be submitted in Microsoft Word 97 or higher. 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; no additional copies are required or will be accepted.

## **IN THE SUPREME COURT OF FLORIDA**

**IN RE: AMENDMENTS TO THE FLORIDA PROBATE RULES, CASE NO. SC13-888**

**RULE 5.120. ADMINISTRATOR AD LITEM AND GUARDIAN AD LITEM**

**(a) [No Change]**

**(b) Petition.** The petition for appointment of a guardian ad litem shall state to the best of petitioner's information and belief:

(1) the ~~name~~initials and residence address of each minor, person with a developmental disability, or incapacitated person and ~~birth-date~~year of birth of each minor who has an interest in the proceedings;

(2) – (5) [No Change]

(c) – (g) [No Change]

### **Committee Notes**

#### **Rule History**

1977 Revision – 2012 Revision: [No Change]

2013 Revision: Amends subdivision (b)(1) to conform to Fla. R. Jud. Admin. 2.425. Committee notes revised.

#### **Statutory References**

[No Change]

#### **Rule References**

Fla. Prob. R. 5.041 Service of pleadings and documents.

Fla. R. Jud. Admin. 2.516 Service of pleadings and documents.

Fla. R. Jud. Admin. 2.425 Minimization of the Filing of Sensitive Information.

### **RULE 5.200. PETITION FOR ADMINISTRATION**

The petition for administration shall be verified by the petitioner and shall contain:

(a) – (b) [No Change]

(c) so far as is known, the names and addresses of the surviving spouse, if any, ~~and~~ the beneficiaries and their relationship to the decedent and the ~~date~~year of birth of any beneficiaries who are minors;

(d) – (j) [No Change]

## **Committee Notes**

### **Rule History**

1977 Revision – 2012 Revision: [No Change]

2013 Revision: Subdivision (c) amended to conform to Fla. R. Jud. Admin. 2.425. Committee notes revised.

### **Statutory References**

[No Change]

### **Rule References**

Fla. Prob. R. 5.020 Pleadings; verification; motions.

Fla. Prob. R. 5.040 Notice.

Fla. Prob. R. 5.041 Service of pleadings and documents.

Fla. Prob. R. 5.180 Waiver and consent.

Fla. Prob. R. 5.201 Notice of petition for administration.

Fla. R. Jud. Admin. 2.516 Service of pleadings and documents.

Fla. R. Jud. Admin. 2.425 Minimization of the Filing of Sensitive Information.

## **RULE 5.210. PROBATE OF WILLS WITHOUT ADMINISTRATION**

(a) **Petition and Contents.** A petition to admit a decedent's will to probate without administration shall be verified by the petitioner and shall contain:

(1) – (2) [No Change]

(3) so far as is known, the names and addresses of the surviving spouse, if any, ~~and~~ the beneficiaries and their relationships to the decedent, and the ~~date~~ name and year of birth of any who are minors;

(4) – (8) [No Change]

**(b) – (d) [No Change]**

### **Committee Notes**

[No Change]

### **Rule History**

1975 Revision – 2011 Revision: [No Change]

2013 Revision: Subdivision (a)(3) amended to conform to Fla. R. Jud. Admin. 2.425. Committee notes revised.

### **Statutory References**

[No Change]

### **Rule References**

Fla. Prob. R. 5.015 General definitions.

Fla. Prob. R. 5.020 Pleadings, verification; motions.

Fla. Prob. R. 5.205(a)(7) Filing evidence of death.

Fla. Prob. R. 5.215 Authenticated copy of will.

Fla. Prob. R. 5.216 Will written in foreign language.

Fla. Prob. R. 5.230 Commission to prove will.

Fla. Prob. R. 5.240 Notice of administration.

Fla. Prob. R. 5.270 Revocation of probate.

Fla. R. Jud. Admin. 2.425 Minimization of the Filing of Sensitive Information.

**RULE 5.385.                      DETERMINATION OF BENEFICIARIES AND  
SHARES**

**(a) – (c)            [No Change]**

**Committee Notes**

[No Change]

**Rule History**

1988 Revision – 2012 Revision:            [No Change]

2013 Revision: Fla. R. Jud. Admin. 2.425(b)(6) provides an exception for the full name of any minor “in any document or order affecting minor’s ownership of real property.” Committee notes revised.

**Statutory References**

[No Change]

**Rule References**

Fla. Prob. R. 5.025 Adversary proceedings.

Fla. Prob. R. 5.040 Notice.

Fla. Prob. R. 5.041 Service of pleadings and documents.

Fla. Prob. R. 5.120 Administrator ad litem and guardian ad litem.

Fla. Prob. R. 5.205(a)(5) Filing evidence of death.

Fla. R. Jud. Admin. 2.516 Service of pleadings and documents.

Fla. R. Jud. Admin. 2.425 Minimization of the Filing of Sensitive Information.

**RULE 5.405.                      PROCEEDINGS TO DETERMINE PROTECTED  
HOMESTEAD REAL PROPERTY**

(a) [No Change]

(b) **Contents.** The petition shall be verified by the petitioner and shall state:

(1) – (2) [No Change]

(3) the name of the decedent's surviving spouse and the names ~~and dates of birth of the decedent's~~ of surviving lineal descendants, and a statement as to whether the decedent had any minor children as of the date of death. If so, they should be identified with name and year of birth.

(4) – (5) [No Change]

(c) **Order.** The court's order on the petition shall describe the real property and determine whether any of the real property constituted the protected homestead of the decedent. If the court determines that any of the real property was the protected homestead of the decedent, the order shall identify by name the person or persons entitled to the protected homestead real property and define the interest of each.

### **Committee Notes**

[No Change]

### **Rule History**

1984 Revision – 2012 Revision: [No Change]

2013 Revision: Amends subdivisions (b)(3) and (c) to conform to Fla. R. Jud. Admin. 2.425. Committee notes revised.

### **Constitutional Reference**

[No Change]

### **Statutory References**

[No Change]

### **Rule References**

Fla. Prob. R. 5.020 Pleadings; verification; motions.

Fla. Prob. R. 5.040 Notice.

Fla. Prob. R. 5.041 Service of pleadings and documents.

Fla. Prob. R. 5.205(a)(6) Filing evidence of death.

Fla. Prob. R. 5.340 Inventory.

Fla. Prob. R. 5.404 Notice of taking possession of protected homestead.

Fla. R. Jud. Admin. 2.516 Service of pleadings and documents.

Fla. R. Jud. Admin. 2.425 Minimization of the Filing of Sensitive Information.

### **RULE 5.406. PROCEEDINGS TO DETERMINE EXEMPT PROPERTY**

(a) [No Change]

(b) **Contents.** The petition shall be verified by the petitioner and shall:

(1) describe the property and the basis on which it is claimed as exempt property; and

(2) state the name and address of the decedent's surviving spouse or, if none, the names and addresses of decedent's children entitled by law to the exempt property and the ~~dates~~year of birth of those who are minors.

(c) [No Change]

### **Committee Notes**

[No Change]

### **Rule History**

1984 Revision – 2012 Revision: [No Change]

2013 Revision: Subdivision (b)(2) amended to conform to Fla. R. Jud. Admin. 2.425 and provide the year of birth of a minor. Committee notes revised.

### **Statutory References**

[No Change]

### **Rule References**

Fla. Prob. R. 5.020 Pleadings; verification; motions.

Fla. Prob. R. 5.040 Notice.

Fla. Prob. R. 5.041 Service of pleadings and documents.

Fla. Prob. R. 5.042 Time.

Fla. Prob. R. 5.420 Disposition of personal property without administration.

Fla. R. Jud. Admin. 2.516 Service of pleadings and documents.

Fla. R. Jud. Admin. 2.425 Minimization of the Filing of Sensitive Information.

## **RULE 5.407. PROCEEDINGS TO DETERMINE FAMILY ALLOWANCE**

(a) [No Change]

(b) **Contents.** The petition shall be verified by the petitioner and shall:

(1) state the names and addresses of the decedent's surviving spouse and the decedent's adult lineal heirs and the initials, address, and year of birth of the decedents' lineal heirs who are minors and who were being supported by the decedent or who were entitled to be supported by the decedent at the time of the decedent's death, ~~stating the dates of birth of those who are minors;~~ and

(2) for each person for whom an allowance is sought, state the adult person's name, or minor child's initials, and relationship to the decedent, the basis on which the allowance is claimed, and the amount sought.

(c) [No Change]



## Committee Notes

### Rule History

2003 Revision -2012 Revision: [No Change]

2013 Revision: Subdivisions (b)(1) and (b)(2) are amended to conform to Fla. R. Jud. Admin. 2.425. Committee notes revised.

### Statutory References

[No Change]

### Rule References

Fla. Prob. R. 5.020 Pleadings; verification; motions.

Fla. Prob. R. 5.040 Notice.

Fla. Prob. R. 5.041 Service of pleadings and documents.

Fla. R. Jud. Admin. 2.516 Service of pleadings and documents.

Fla. R. Jud. Admin. 2.425 Minimization of the Filing of Sensitive Information.

## **RULE 5.530. SUMMARY ADMINISTRATION**

(a) **Petition.** The petition shall be verified as required by law and shall contain:

(1) – (2) [No Change]

(3) so far as is known, the names and addresses of the surviving spouse, if any, and the beneficiaries and their relationship to the decedent and the dateyear of birth of any who are minors;

(4) – (8) [No Change]

(9) a statement either that all creditors' claims are barred or that a diligent search and reasonable inquiry for any known or reasonably ascertainable creditors has been made and one of the following:

(A) A statement that the estate is not indebted.

(B) The name and address of each creditor, the nature of the debt, the amount of the debt and whether the amount is estimated or exact, and when the debt is due. If provision for payment of the debt has been made other than for full payment in the proposed order of distribution, the following information shall be shown:

(i) The name of the person who will pay the debt.

(ii) The creditor's written consent for substitution or assumption of the debt by another person.

(iii) The amount to be paid if the debt has been compromised.

(iv) The terms for payment and any limitations on the liability of the person paying the debt.

(10) – (12) [No Change]

(b) – (d) [No Change]

### **Committee Notes**

[No Change]

### **Rule History**

1977 Revision – 2012 Revision : [No Changes]

2013 Revision: Subdivision (a)(3) amended to provide only the year of birth of a minor to conform to Fla. R. Jud. Admin. 2.425. Committee notes revised.

### **Statutory References**

§ 731.104, Fla. Stat. Verification of documents.

§§ 735.201–735.2063, Fla. Stat. Summary administration.

## **Rule References**

Fla. Prob. R. 5.020 Pleadings; verification; motions.

Fla. Prob. R. 5.040 Notice.

Fla. Prob. R. 5.041 Service of pleadings and documents.

Fla. Prob. R. 5.205(a)(3) Filing evidence of death.

Fla. R. Jud. Admin. 2.516 Service of pleadings and documents.

Fla. R. Jud. Admin. 2.425 Minimization of the Filing of Sensitive Information.

## **RULE 5.550. PETITION TO DETERMINE INCAPACITY**

(a) **Contents.** The petition to determine incapacity shall be verified by the petitioner and shall state:

(1) – (6) [No Change]

(7) the names, relationships, and addresses of the next of kin of the alleged incapacitated person, specifying the ~~dates~~year of birth of any who are minors, to the extent known to the petitioner.

(b) –(d) [No Change]

## **Committee Notes**

### **Rule History**

1980 Revision – 2006 Revision: [No Change]

2013 Revision: Amends subdivision (a)(7) to conform with Fla. R. Jud. Admin. 2.425. Committee notes revised.

### **Statutory References**

[No Change]

## **Rule References**

Fla. Prob. R. 5.020 Pleadings; verification; motions.

Fla. Prob. R. 5.040(a)(3) Notice.

Fla. Prob. R. 5.800(a) Application of revised chapter 744 to existing guardianships.

Fla. R. Jud. Admin. 2.425 Minimization of the Filing of Sensitive Information.

## **RULE 5.555. GUARDIANSHIPS OF MINORS**

(a) – (f) [No Change]

### **Committee Notes**

[No Change]

## **Rule History**

1991 Revision – 2006 Revision: [No Change]

2013 Revision: Fla. R. Jud. Admin. 2.425(b)(4) – (5) provides exceptions for using the birth date of any minor “whenever the birth date is necessary for the court to establish or maintain subject matter jurisdiction,” as well as using the full name in situations in which the “name of the minor in any order relating to parental responsibility, time-sharing, or child support.” Committee notes revised.

## **Statutory References**

[No Change]

## **Rule References**

Fla. Prob. R. 5.040 Notice.

Fla. Prob. R. 5.541 Recording of hearings.

Fla. Prob. R. 5.560 Petition for appointment of guardian of an incapacitated person.

Fla. Prob. R. 5.620 Inventory.

Fla. Prob. R. 5.636 Settlement of minors' claims.

Fla. Prob. R. 5.690 Initial guardianship report.

Fla. R. Jud. Admin. 2.425 Minimization of the Filing of Sensitive Information.

## **RULE 5.560. PETITION FOR APPOINTMENT OF GUARDIAN OF AN INCAPACITATED PERSON**

(a) – (c) [No Change]

### **Committee Notes**

#### **Rule History**

1975 Revision – 2006 Revision: [No Change]

2013 Revision: Fla. R. Jud. Admin. 2.425(b)(4) – (5) provides exceptions for using the birth date of any minor “whenever the birth date is necessary for the court to establish or maintain subject matter jurisdiction,” as well as using the full name in situations in which the “name of the minor in any order relating to parental responsibility, time-sharing, or child support.” Committee notes revised.

#### **Statutory References**

[No Change]

#### **Rule References**

Fla. Prob. R. 5.020 Pleadings; verification; motions.

Fla. Prob. R. 5.040 Notice.

Fla. Prob. R. 5.550 Petition to determine incapacity.

Fla. R. Jud. Admin. 2.425 Minimization of the Filing of Sensitive Information.

**RULE 5.590.**

**APPLICATION FOR APPOINTMENT AS  
GUARDIAN; DISCLOSURE STATEMENT;  
FILING**

**(a) Individual Applicants.**

(1) The application for appointment shall contain:

(A) the applicant's qualifications to serve as a guardian; and

(B) the names of all wards who are adults and the initials of any ward who is a minor for whom the applicant is then acting as guardian, the court file number and circuit court in which each case is pending, and a statement as to whether the applicant is acting as a limited or plenary guardian of the person or property, or both, of each ward.

(2) [No Change]

**(b) Nonprofit Corporate Guardians.**

(1) [No Change]

(2) A disclosure statement shall contain:

(A) the corporation's qualifications to serve as a guardian;

and

(B) the names of all wards who are adults and the initials of any ward who is a minor for whom the corporation is then acting as guardian, the court file number and circuit court in which each case is pending, and a statement as to whether the corporation is acting as a limited or plenary guardian of the person or property, or both, of each ward.

(3) [No Change]

**(c) – (d) [No Change]**

## Committee Notes

### Rule History

1988 Revision – 2008 Revision: [No Change]

2013 Revision: Amends subdivisions (a)(1)(B) and (b)(1)(B) to conform to Fla. R. Jud. Admin. 2.425. Creates a rule reference. Committee notes revised.

### Statutory References

[No Change]

### Rule References

Fla. R. Jud. Admin. 2.425 Minimization of the Filing of Sensitive Information.

## **RULE 5.636. SETTLEMENT OF MINORS' CLAIMS**

(a) [No Change]

(b) **Petition.** The petition for approval of a settlement shall contain:

(1) the ~~name~~initials, residence address, and ~~date~~the year of birth of the minor;

(2) the name and address of any guardian appointed for the minor;

(3) the name and residence address of the natural guardians or other persons having legal custody of the minor;

(4) a statement disclosing the interests of any natural or court-appointed guardian whose interest may be in conflict with that of the minor;

(5) a description of the cause of action in which the minor's interest arises;

(6) a summary of the terms of the proposed settlement; and

(7) copies of all agreements, releases, or other documents to be executed on behalf of the minor.

(c) – (f) [No Change]

### **Committee Notes**

[No Change]

### **Rule History**

1992 Revision – 2006 Revision: [No Change]

2013 Revision: Amends subdivision (b)(1) to conform to Fla. R. Jud. Admin. 2.425. Committee notes revised.

### **Statutory References**

[No Change]

### **Rule References**

Fla. Prob. R. 5.040 Notice.

Fla. Prob. R. 5.042 Time.

Fla. Prob. R. 5.120 Administrator ad litem and guardian ad litem.

Fla. Prob. R. 5.610 Execution by guardian.

Fla. Prob. R. 5.630 Petition for approval of acts.

Fla. R. Jud. Admin. 2.425 Minimization of the Filing of Sensitive Information.

## **RULE 5.646. STANDBY GUARDIANS**

(a) – (b) [No Change]

(c) **Petition for Confirmation.**



(1) **Contents.** A standby guardian, not later than 20 days after the assumption of duties as guardian, shall petition for confirmation of appointment. The petition shall be verified by the petitioner and shall state:

(A) the petitioner's residence and post office address;

(B) the name, age, and residence and post office address of the adult incapacitated person or initials, year of birth, and residence address of minor;

(C) –(H) [No Change]

(2) [No Change]

### **Committee Notes**

[No Change]

### **Rule History**

2006 Revision – 2008 Revision: [No Change]

2013 Revision: Subdivision (c)(1)(B) amended to conform to Fla. R. Jud. Admin. 2.425. Committee notes revised.

### **Statutory Reference**

[No Change]

### **Rule References**

Fla. Prob. R. 5.590 Application for appointment as guardian; disclosure statement; filing.

Fla. Prob. R. 5.600 Oath.

Fla. R. Jud. Admin. 2.425 Minimization of the Filing of Sensitive Information.