

PUBLICATION UPDATE

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Florida Family Law Practice Manual

Publication 80643

Release 87

September 2021

HIGHLIGHTS

- *Confidentiality of Court Records*
- Amended Rule of Judicial Administration 2.420 Places Greater Responsibility on Party Filing Document to Identify Confidential Material
- *Modification of Timesharing*
- Florida Supreme Court Resolves Conflict as to Whether Trial Court Must Set Forth “Concrete Steps” Parent May Take to Restore Timesharing Lost in Modification
- *Hague Convention on the Civil Aspects of International Child Abduction*
- Discussion of Hague Convention Added; Recent United States Supreme Court and Florida District

Court Decisions Covered

Rule Amendments

Rule 2.110—Title of Rules of Judicial Administration. The Florida Supreme Court adopted an amendment to Florida Rule of Judicial Administration 2.110 through which the name of the Florida Rules of Judicial Administration has been changed to “Florida Rules of General Practice and Judicial Administration.” Citations to the rules should read “Fla. R. Gen. Prac. & Jud. Admin.” instead of “Fla. R. Jud. Admin.” [*see* In re Amendments to the Fla. Rules of Judicial Admin.-2020 Regular-Cycle Rep., 310 So. 3d 374 (Fla. 2021)]. In this release, all prior references in Volumes 1 and 2 to the “Florida Rules of Judicial Administration” have been replaced with the new title and all citations to “Fla. R. Jud.

Admin.” have been replaced with correct citation form.

Rule 2.420—Confidentiality of Court Records. This release contains a revised discussion of Florida Rule of General Practice and Judicial Administration 2.420 (formerly Florida Rule of Judicial Administration 2.420) as it pertains to responsibility for identifying, in documents submitted for filing, material that is confidential so it is properly screened from public access. In particular, the revised discussion covers amended Rule 2.420(d)(1), under which responsibility to identify enumerated types of confidential material in documents submitted for filing is placed on persons filing documents (“filers”) instead of court clerks [*see* Fla. R. Gen. Prac. & Jud. Admin. 2.420(d)(1)(C); *see also* Fla. R. Gen. Prac. & Jud. Admin. 2.420(d)(1)(B)(i)–(xxiii) (enumerated list of confidential documents)]. Court clerks are no longer required to independently review documents to determine whether they qualify as one of the enumerated types, but instead must only review documents as to which they have been provided notice of such confidential status and notify filers if they disagree [*see* Fla. R. Gen. Prac. & Jud. Admin. 2.420(d)(1)(C), (d)(2)]. This elimination of independent clerical review of filed documents for confidentiality in the first instance reduces delay in providing public access to documents that do not qualify as confidential [*see In re: Amendments to Fla. Rule of Judicial Admin. 2.420*, 2021 Fla. LEXIS 90, 46 Fla. L. Weekly S22,

___ So. 3d ___ (Fla. January 21, 2021)]. Amended Rule 2.420(d)(1) is discussed in Chapter 4, *Initiating the Dissolution*.

Cases

This release covers a Florida Supreme Court case in which the Court addressed a certified conflict as to whether a final judgment that modifies a preexisting parenting plan must give a parent “concrete steps” to restore lost timesharing and return to the premodification *status quo*. The Supreme Court held that there is no such requirement [*see C.N. v. I.G.C.*, 46 Fla. L. Weekly S93, 316 So. 3d 287, 2021 Fla. LEXIS 683 (Fla. April 29, 2021) (approving *C.N. v. I.G.C.* [291 So. 3d 204, 207 (Fla. 5th DCA 2020)]) to extent Fifth District ruled that judgment modifying prior timesharing is not required to state concrete steps to restore lost timesharing, but expressly not addressing Fifth District’s ruling that under Florida Statutes Section 61.13(3), trial courts are not authorized to include such steps in modification judgment)]. The Supreme Court’s decision is covered in Chapters 8, *Parental Responsibility and Timesharing*, and 15, *Modification*.

Florida District Court of Appeal decisions covering a variety of topics have been added in this release, including one by the Fourth District in which the court held that timesharing could be modified based on the parties’ relationship, which was “beyond acrimonious” [*see Aiala v. Larkin*, 312 So. 3d 936 (Fla. 4th DCA 2021); *see also* ch. 8, *Parental Responsibility*].

ity and Timesharing].

A noteworthy decision by the Second District concerning the enhanced value of nonmarital retirement plans is covered in Chapter 10B, *Equitable Distribution*. The court ruled that any enhancement or appreciation in the value of a nonmarital retirement plan is a marital asset if the increased value resulted from the efforts of either party during the marriage or the contribution of marital assets, or both [*see* *Murphy v. Murphy*, 313 So. 3d 237 (Fla. 2d DCA 2021)].

The First District ruled that for purposes of determining the duration of parties' marriages under the alimony statute, if the parties have been married multiple times, the marriages are considered to be one marriage under the statute. That is, the numbers of years of each marriage should be added together and the total considered to be the duration of the parties' marriage for purposes of determining what type of alimony to award [*see* *Potter v. Potter*, ___ So. 3d ___, 2021 Fla. App. LEXIS 3717, 46 Fla. L. Weekly D573 (Fla. 1st DCA March 15, 2021); *see also* ch. 10, *Alimony*].

New Discussion

Hague Convention on the Civil Aspects of International Child Abduction. A discussion of the Hague Convention on the Civil Aspects of International Child Abduction has been added to Chapter 8, *Parental Responsibility and Timesharing*, in this release [*see* *Convention on the Civil Aspects of International Child Abduction*, Oct. 25, 1980, T.I.A.S. No. 11670, S. Treaty Doc. No. 99-11, 1343 U.N.T.S. 89]. In addition, coverage of the federal *International Child Abduction Remedies Act (ICARA)*, which implements the Hague Convention in the United States, has been added [*see* 22 U.S.C. §§ 9001–9011]. Recent United States Supreme Court and Florida District Court of Appeal decisions addressing issues under the Convention, as well as under ICARA, are included in the discussions [*see, e.g.*, *Monasky v. Taglieri*, 140 S. Ct. 719, 206 L. Ed. 2d 9 (2020); *De Carvalho v. Pereira*, 308 So. 3d 1078 (Fla. 1st DCA 2020); *Stone v. Suzuki*, 308 So. 3d 1100 (Fla. 2d DCA 2020)].

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