

PUBLICATION UPDATE

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Florida Probate Code Manual

Publication 80736

Release 101

December 2024

HIGHLIGHTS

- Florida Sessions Laws relevant to probate, trusts, and guardianship have been updated
- Florida Probate Forms (revised July 1, 2024) have been updated
- New discussions of recent case law have been added

Estates Materials on Lexis.com®

- For the complete collection of estates practice information and resources available online, sign onto Lexis.com® and follow this path: Explore > Practice Area > Estate, Gift & Trust Law.

Florida Sessions Laws

- Chapter 2024-30, CS/HB 487: Lost and Abandoned Property
- Chapter 2024-216, CS/HB

1093: Florida Uniform Fiduciary Income and Principal Act

- Chapter 2024-217, CS/HB 1161: Homestead Exemption Eligibility
- Chapter 2024-238, CS/HB 923: Wills and Estates
- Chapter 2024-261, CS/HB 7019: Homestead Exemption Value

Revised Florida Probate Forms

- Notice to Creditors (Form P-3.0740)
- Notice of Administration (testate) (Form P-3.0802)
- Notice of Administration (intestate) (Form P-3.0804)

Recent Case Law

Capalongo v. Deutsche Bank National Trust Co., 386 So. 3d 238 (Fla. 2d DCA 2024). There are no consti-

tutional restrictions on how a spouse may join the transfer for the purposes of waiving homestead rights. If two documents are considered together, one by each spouse, they do not have to be physically attached or fastened to constitute joinder. [§ 4.06]

Steele v. Commissioner of Social Security, 385 So. 3d 587 (Fla. 2024). The Supreme Court of Florida, in an inheritance dispute involving the interpretation of federal law, stated that the phrase “afterborn children” refers to children born after a will was drafted but conceived before the testator’s death and does not cover children conceived after the testator’s death via in vitro fertilization from the testator’s cryopreserved sperm samples. [§ 5.03]

Holley v. Erwin-Jenkins, 369 So.

3d 1218 (Fla. 2d DCA 2023). Unpaid child support payments are generally considered to be vested property rights that are not subject to modification and thus can constitute a claim. [§ 7.04]

Ripple v. CBS Corporation, 385 So. 3d 1021 (Fla. 2024). The Supreme Court of Florida concluded that a “surviving spouse,” under Fla. Stat. § 768.21(2), is a spouse at the time of the decedent’s death because the ordinary meaning of “surviving spouse” is a spouse who outlives the other spouse. A spouse who married the decedent after the onset of the injury that caused the decedent’s death can recover damages as a “surviving spouse” under Fla. Stat. § 768.21(2). [§ 13.09]

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Publication 80736, Release 101, December 2024

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