

PUBLICATION UPDATE

Route to: ☐ _____ ☐ _____ ☐ _____ ☐ _____
☐ _____ ☐ _____ ☐ _____ ☐ _____

Florida Probate Code Manual

Publication 80736

Release 94

April 2023

HIGHLIGHTS

- Florida Probate Forms have been updated
- Florida Guardianship Statutes have been updated
- Florida Probate Code has been updated
- Miscellaneous Florida Statutes have been updated

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.

New Florida Probate Form

- Disclosure Regarding Attorney Compensation (Form P-1.0920)

New Florida Guardianship Statute

- § 744.2112 Guardianship Information and Transparency

Recent Case Law

Rasor v. Estate of Rasor, 337 So. 3d 346 (Fla. 4th CA 2022). Compliance with Fla. Prob. R. 5.360(b)(3) initiates a 20-day period of time for interested persons to object to the election under Fla. Prob. R. 5.360(b)(4). [§ 4.05]

All Insurance Restoration Services, Inc. v. American Integrity Insurance Company of Florida, 336 So. 3d 325 (Fla. 4th DCA 2022). The constitutional provision restricting methods of alienation for homestead property is not implicated when dealing with a voluntary assignment of post-loss insurance benefits. [§ 4.06]

Gundlach v. Gundlach, 339 So. 3d 997 (Fla. 4th DCA 2022). A petition to construe a will does not constitute a challenge to the validity of a will within the meaning of Fla. Stat. § 733.212(3). [§ 10.02]

Estate of Pounds v. Miller & Jacobs, P.A., 336 So. 3d 14 (Fla. 4th DCA 2022). The mother of an intestate decedent's child, who was a minor and was the decedent's only heir, was not entitled to preference as personal representative of decedent's estate over decedent's mother even though the child's mother was the child's natural guardian because she was never appointed as guardian of the property of the child. [§ 12.05]

Ripple v. CBS Corporation, 337 So. 3d 45 (Fla. 4th DCA 2022). The court held that if a spouse who had married the decedent after the decedent's injury is barred from recover-

ing damages under the Florida Wrongful Death Act, then the decedent's surviving adult children may recover damages. The court was also of the opinion that it and *Kelly v. Georgia-Pacific, LLC*, 211 So. 3d 340 (Fla. 4th DCA 2017), were contra to *Domino's Pizza, LLC v. Wiederhold*, 248 So. 3d 212 (Fla. 5th DCA 2018), where the term "surviving spouse" was determined on the date of the other spouse's death because one cannot be a survivor before that date. Finally, the court certified conflict between *Kelly* and *Domino's Pizza*. [§ 13.09]

Philip Morris USA Inc. v. Rintoul, 342 So. 3d 656 (Fla. 4th DCA 2022). Punitive damages cannot be based on conduct which is dissimilar to the conduct which harmed the plaintiff in the wrongful death action. [§ 13.09]

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April 2023

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VOLUME 1

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	1-1 thru 1-2.1.	1-1 thru 1-2.1
<input type="checkbox"/>	2-1 thru 2-2.1.	2-1 thru 2-2.1
<input type="checkbox"/>	3-1.	3-1 thru 3-2.1
<input type="checkbox"/>	4-1 thru 4-2.1.	4-1 thru 4-2.1
<input type="checkbox"/>	4-23 thru 4-34.1.	4-23 thru 4-34.1
<input type="checkbox"/>	4-46.1 thru 4-46.3.	4-46.1 thru 4-46.3
<input type="checkbox"/>	4-57 thru 4-65.	4-57 thru 4-66.1
<input type="checkbox"/>	4-123 thru 4-125.	4-123 thru 4-125
<input type="checkbox"/>	5-1.	5-1
<input type="checkbox"/>	6-1 thru 6-2.1.	6-1 thru 6-2.1
<input type="checkbox"/>	7-1.	7-1 thru 7-2.1
<input type="checkbox"/>	7-60.1 thru 7-61.	7-61 thru 7-62.1

VOLUME 2

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	8-1 thru 8-2.1.	8-1 thru 8-2.1
<input type="checkbox"/>	9-1.	9-1 thru 9-2.1
<input type="checkbox"/>	10-1 thru 10-5.	10-1 thru 10-6.1
<input type="checkbox"/>	11-1 thru 11-7.	11-1 thru 11-8.1
<input type="checkbox"/>	12-1 thru 12-3.	12-1 thru 12-4.1
<input type="checkbox"/>	12-17 thru 12-18.1.	12-17 thru 12-18.1
<input type="checkbox"/>	13-1 thru 13-4.1.	13-1 thru 13-4.1
<input type="checkbox"/>	13-59.	13-59 thru 13-60.1
<input type="checkbox"/>	13-68.1 thru 13-69.	13-69 thru 13-70.1
<input type="checkbox"/>	13-87 thru 13-89.	13-87 thru 13-90.1
<input type="checkbox"/>	13-101.	13-101 thru 13-102.1
<input type="checkbox"/>	14-1 thru 14-2.1.	14-1 thru 14-2.1
<input type="checkbox"/>	15-1 thru 15-2.1.	15-1 thru 15-2.1
<input type="checkbox"/>	16-1 thru 16-2.1.	16-1 thru 16-2.1
<input type="checkbox"/>	17-1.	17-1
<input type="checkbox"/>	18-1 thru 18-331.	18-1 thru 18-333

VOLUME 3

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	19-1 thru 19-2.1.	19-1 thru 19-2.1
<input type="checkbox"/>	19-13.	19-13 thru 19-14.1
<input type="checkbox"/>	19-47.	19-47 thru 19-48.1
<input type="checkbox"/>	19-57.	19-57 thru 19-58.3
<input type="checkbox"/>	20-1 thru 20-2.1.	20-1 thru 20-2.1
<input type="checkbox"/>	FGS-1 thru FGS-2.1.	FGS-1 thru FGS-2.1
<input type="checkbox"/>	FGS-19 thru FGS-43	FGS-19 thru FGS-44.3

VOLUME 4

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	FPC-1	FPC-1 thru FPC-2.1
<input type="checkbox"/>	FPC-117 thru FPC-119	FPC-117 thru FPC-120.1
<input type="checkbox"/>	MISC-1 thru MISC-2.1	MISC-1 thru MISC-2.1
<input type="checkbox"/>	MISC-55 thru MISC-56.1	MISC-55 thru MISC-56.1
<input type="checkbox"/>	MISC-155 thru MISC-157	MISC-155 thru MISC-158.1
<input type="checkbox"/>	MISC-273 thru MISC-311	MISC-273 thru MISC-312.5
<input type="checkbox"/>	MISC-322.1 thru MISC-326.1	MISC-323 thru MISC-326.5
<input type="checkbox"/>	TC-1 thru TC-53	TC-1 thru TC-53
<input type="checkbox"/>	I-1 thru I-13	I-1 thru I-13

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