

# Supreme Court of Florida

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No. SC13-888

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**IN RE: AMENDMENTS TO THE FLORIDA PROBATE RULES.**

[May 22, 2014]

PER CURIAM.

Before the Court are proposed amendments to the Florida Probate Rules. See Fla. R. Jud. Admin. 2.140(f). The proposals were approved by the Board of Governors of The Florida Bar and are intended to conform the Florida Probate Rules to Florida Rule of Judicial Administration 2.425 (Minimization of the Filing of Sensitive Information). After considering the comment concerning the proposals filed with the Court, and the response of the Probate Rules Committee (Committee), we adopt the amendments as proposed by the Committee.<sup>1</sup>

In In re Implementation of Committee on Privacy & Court Records Recommendations, 78 So. 3d 1045 (Fla. 2011), the Court adopted new Florida Rule of Judicial Administration 2.425, along with various amendments to other

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1. We have jurisdiction. See art. V, § 2(a), Fla. Const.

rules, in order to minimize the amount of unnecessary sensitive personal information included in documents filed with the courts. The proposals we adopt here are in response to the Court's request in that opinion that the various rules committees review their bodies of rules and forms and propose any amendments needed to ensure consistency with the minimization amendments. Id. at 1055 n.31.

As proposed by the Committee, we amend rules 5.120 (Administrator Ad Litem and Guardian Ad Litem); 5.200 (Petition for Administration); 5.210 (Probate of Wills Without Administration); 5.385 (Determination of Beneficiaries and Shares); 5.405 (Proceedings to Determine Protected Homestead Real Property); 5.406 (Proceedings To Determine Exempt Property); 5.407 (Proceedings to Determine Family Allowance); 5.530 (Summary Administration); 5.550 (Petition to Determine Incapacity); 5.555 (Guardianships of Minors); 5.560 (Petition for Appointment of Guardian of an Incapacitated Person); 5.590 (Application for Appointment as Guardian; Disclosure Statement; Filing); 5.636 (Settlement of Minors' Claims); and 5.646 (Standby Guardians). Consistent with the requirements of rule 2.425, the amendments are intended to minimize the amount of sensitive personal information required in documents filed with the court in probate proceedings. The amendments include, among other things, requiring a minor's initials and year of birth instead of a minor's name and date of

birth, and adding committee notes explaining rule 2.425 exceptions for use of a minor's name and birth date. References to rule 2.425 also are added.

Accordingly, we amend the Florida Probate Rules as reflected in the appendix to this opinion. New language is underscored, and deleted language is struck through. The committee notes are offered for explanation only and are not adopted as an official part of the rules. The amendments shall become effective immediately upon the release of this opinion.

It is so ordered.

POLSTON, C.J., and PARIENTE, LEWIS, QUINCE, CANADY, LABARGA,  
and PERRY, JJ., concur.

**THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE  
EFFECTIVE DATE OF THESE AMENDMENTS.**

Original Proceedings – The Florida Probate Rules Committee

James Raymond George, Chair, Florida Probate Rules Committee, Fort  
Lauderdale, Florida; John F. Harkness, Jr., Executive Director, and Heather Savage  
Telfer, Staff Liaison, The Florida Bar, Tallahassee, Florida,

for Petitioner

Henry P. Trawick, Jr., Sarasota, Florida,

Responding with comments

## APPENDIX

### **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]

2014 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]

2014 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]

2014 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]

2014 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 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]

2014 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]

2014 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]

2014 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 must be verified as required by law and must contain:

(1) a statement of the interest of each petitioner, each petitioner's name and address, and the name and office address of each petitioner's attorney;

(2) the name and last known address of the decedent, last 4 digits of the decedent's social security number, date and place of death of the decedent, and state and county of the decedent's domicile;

(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 date of birth of any who are minors;

(4) – (8) [No Change]

(9) a statement either;

(A) that all creditors' claims are barred or

(B) that a diligent search and reasonable inquiry for any known or reasonably ascertainable creditors has been made and one of the following:

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

(ii) 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 must be shown:

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

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

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

(d) 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 – 2013 Revision: [No Change]

2014 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**

[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)(3) Filing evidence of death.

Fla. R. Jud. Admin. 2.420 Public access to judicial branch records.

Fla. R. Jud. Admin. 2.425 Minimization of the filing of sensitive information.

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

## **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]

2014 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]

2014 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]

2014 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]

2014 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]

2014 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]

2014 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.