

Supreme Court of Florida

No. SC2026-0039

IN RE: AMENDMENTS TO FLORIDA PROBATE 5.171 AND 5.205.

October 1, 2026

PER CURIAM.

The Florida Bar’s Probate Rules Committee filed a report proposing amendments to Florida Probate Rules 5.171 (Evidence of Death) and 5.205 (Filing Evidence of Death).¹ The Court published the proposed amendments for comment, and one comment was received. The Committee filed a response, revising its proposal in light of the comment. We adopt the amendments as revised by the Committee and discuss the more significant amendments below.

First, we delete rule 5.171 in its entirety as it simply reiterates section 731.103, Florida Statutes. Next, to clarify that a death certificate is not required to open a formal administration of an

1. We have jurisdiction. See art. V, § 2(a), Fla. Const.; see also Fla. R. Gen. Prac. & Jud. Admin. 2.140(b)(1).

estate, we revise rule 5.205(a) (Requirements for Filing) by deleting the specific requirement that a copy of an official death record must be filed by the personal representative and replace it with the requirement that evidence of the death under section 731.103, Florida Statutes, must be filed within the time specified under the rule. Additionally, we revise rule 5.205(c) by retitling it “No Authority to Require Early Filing” and rewrite the subdivision to clarify that a “court may not require the filing of an official record of death at any time earlier than otherwise required by this rule, unless there is reasonable cause to believe the decedent is alive.”

Accordingly, the Florida Probate Rules are amended as set forth in the appendix to this opinion. New language is indicated by underscoring; deletions are indicated by struck-through type. The amendments become effective January 1, 2027, at 12:01 a.m.

It is so ordered.

COURIEL, C.J., and LABARGA, MUÑIZ, GROSSHANS, FRANCIS, BARRIOS, and TANENBAUM, JJ., concur.

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

Original Proceeding – Florida Probate Rules

J. Allison Archbold, Co-Chair, Probate Rules Committee, Sarasota, Florida, Marve Ann M. Alaimo, Co-Chair, Probate Rules Committee, Naples, Florida, Michael A. Sneeringer, Past Chair, Probate Rules Committee, Bonita Springs, Florida, Joshua E. Doyle, Executive Director, The Florida Bar, Tallahassee, Florida, and Heather Savage Telfer, Staff Liaison, The Florida Bar, Tallahassee, Florida,

for Petitioner

Laird A. Lile of Laird A. Lile, PLLC, Naples, Florida,

Responding with comments

APPENDIX

RULE 5.171. EVIDENCE OF DEATH

In a proceeding under these rules, the following shall apply:

(a) — Death Certificate. An authenticated copy of a death certificate issued by an official or agency of the place where the death purportedly occurred or by an official or agency of the United States is prima facie proof of the fact, place, date, and time of death and the identity of the decedent.

(b) — Other Records. A copy of any record or report of a governmental agency, domestic or foreign, that a person is dead, alive, missing, detained, or, from the facts related, presumed dead is prima facie evidence of the status, dates, circumstances, and places disclosed by the record or report.

(c) — Extended Absence. A person who is absent from the place of that person's last known domicile for a continuous period of 5 years and whose absence is not satisfactorily explained after diligent search and inquiry is presumed dead. The person's death is presumed to have occurred at the end of the period unless there is evidence establishing that death occurred earlier.

Committee Notes

This rule represents a rule implementation of the procedure found in section 731.103, Florida Statutes. It is not intended to change the effect of the statute from which it was derived but has been reformatted to conform with the structure of these rules. It is not intended to create a new procedure or modify an existing procedure, except that additional language has been added which was not in the statute, to permit issuance of a death certificate by an official or agency of the United States. An example would be such a certificate issued by the Department of State or the Department of Defense.

Rule History

~~1988 Revision: New rule.~~

~~1992 Revision: Editorial changes. Committee notes revised.
Citation form changes in committee notes.~~

Statutory References

~~§ 731.103, Fla. Stat. Evidence as to death or status.~~

~~§ 744.521, Fla. Stat. Termination of guardianship.~~

Rule References

~~Fla. Prob. R. 5.205 Filing evidence of death.~~

~~Fla. Prob. R. 5.680 Termination of guardianship.~~

RULE 5.205. FILING EVIDENCE OF DEATH

(a) Requirements for Filing. ~~A copy of an official record~~Evidence of the death of a decedent, under section 731.103, Florida Statutes, shall~~must~~ be filed by the personal representative, if any, or the petitioner in each of the following proceedings and at the times specified:

(1) ~~Administration of decedent's estate:~~
~~not~~Administration of Decedent's Estate. No later than 3 months following the date of the first publication of the notice to creditors.

(2) ~~Ancillary proceedings:~~~~not~~Ancillary Proceedings. No later than 3 months following the date of first publication of notice to creditors.

(3) ~~Summary administration:~~~~at~~Summary Administration. At any time ~~prior to~~before entry of the order of summary administration.

(4) ~~Disposition without administration:~~~~at~~Disposition Without Administration. At the time of filing the application for disposition without administration.

(5) ~~Determination of beneficiaries: at~~Determination of Beneficiaries. At any time ~~prior to~~before entry of the final judgment determining beneficiaries.

(6) ~~Determination of protected homestead:~~Determination of Protected Homestead. At any time ~~prior to~~before entry of the final judgment determining protected homestead status of real property.

(7) ~~Probate of will without administration: at~~Probate of Will Without Administration. At any time ~~prior to~~before entry of the order admitting will to probate.

(b) [No Change]

(c) **~~Authority to Require Filing.~~** The court may, without notice or hearing, enter an order requiring the personal representative, if any, or the petitioner to file a copy of an official record of death at any time during the proceedings.**No Authority to Require Early Filing.** The court may not require the filing of an official record of death at any time earlier than otherwise required by this rule, unless there is reasonable cause to believe the decedent is alive.

Committee Notes

~~A short form certificate of death, which does not disclose the cause of death, should be filed.~~

Rule History

1980 Revision – 2010 Revision [No Change]

2026 Revision: Subdivision (a) amended to reference section 731.103, Florida Statutes. Subdivision (c) replaced to prohibit the filing of an official record of death at any time earlier than otherwise required in this rule. Committee notes revised.

Statutory References

[No Change]

Rule References

Fla. Prob. R. 5.042(a) Time.

~~Fla. Prob. R. 5.171 Evidence of death.~~

Fla. Prob. R. 5.241 Notice to creditors.