

LOUISIANA CIVIL LAW TREATISE

Volume 10

SUCCESSIONS AND DONATIONS

Third Edition

By

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Third Edition Highlights

This edition includes developments in Louisiana successions and donations law since publication of the last edition in 2009 through the end of 2025, including the regular legislative session of 2025. Diagrams to illustrate the intestate successions laws are updated to enhance readability, and chapters are reorganized when necessary to address revisions. An extensive discussion of the 2005 revisions to the law of filiation is included, along with developments in the case law and later amendments to the law. New forms of donations inter vivos, payable on death and transfer on death accounts, are discussed, and the significant revision to will formalities in 2025 are also explored. Finally, changes in succession procedure due to changes in will formalities are also addressed.

DEDICATION

To my incredible mentor,
Professor Kathryn Venturatos Lorio
Your memory lives on in these words
and forever in my thoughts.

ABOUT THE AUTHOR

Monica Hof Wallace is the Dean Marcel Garsaud, Jr. Distinguished Professor of Law at Loyola University New Orleans College of Law. Professor Wallace received her B.S. degree in Finance, *cum laude*, from Louisiana State University and her J.D., *summa cum laude*, from Loyola University New Orleans. Graduating first in her class from law school, she served on the Law Review and as Chairman of the Moot Court Program. After graduation, Professor Wallace clerked for the Honorable Jacques L. Wiener, Jr. of the United States Fifth Circuit Court of Appeals and then for the Honorable Barry Ted Moskowitz of the United States District Court for the Southern District of California. She joined the law faculty in 2002 after practicing at the New Orleans firm of Correro Fishman Haygood Phelps Walmsley & Casteix.

Since joining the faculty, Professor Wallace has taught in the area of successions, donations, trusts, family law, and community property. Most recently, she has engaged in leadership training for law students, creating and teaching a Leadership in Law course for upperclassmen. Professor Wallace also designed, developed, and fundraised for the Loyola Advocacy Center, over which she served as Director at its inception.

Professor Wallace is a frequent speaker, author, and consultant in the areas of successions, donations, trusts, family law, and community property. She has served on the Louisiana Law Institute Council, as well as various committees for the Institute, including the Successions and Donations and Marriage-Persons Committees. She also lectures on family law for Barbri nationally. Professor Wallace is an active member of many professional organizations, including service on the Board of Governors for the Louisiana Bar Association, the Executive Committee of the St. Thomas More American Inn of Court, as a Fellow for Educating Tomorrow's Lawyers, and as an active member of the Louisiana Bar Foundation.

Professor Wallace has authored several books and articles, and she has given numerous presentations on issues involving successions, donations, trusts, and family law. She is the author of casebooks on successions and donations, probate and trusts, and family law. Along with Professor Sandi Varnado, she is also the author of the Louisiana Treatise on Family Law. Professor Wallace has received numerous awards for her teaching, scholar-

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ship, and service at the university and in the greater community. She is three-time recipient of Professor of the Year, received the Gillis Long Poverty Law Center Public Service Award, received the Louisiana Youth Seminar's No Man Is An Island award, and was named a City Business Leader in Law.

ACKNOWLEDGMENTS

The third edition of this treatise would not have been possible but for the assistance and many individuals to whom I offer my sincerest thanks.

I am thankful to Professors Leonard Oppenheim, Frederick W. Swaim, Jr., and Kathryn Venturatos Lorio who authored the prior editions of this treatise. I also wish to thank the many students who assisted in updating those prior editions.

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The culture among the Louisiana civil law faculty is extraordinary, and I am thankful for the relationships I enjoy with many of the professors, whose commentary and debate has enhanced my work not only on this project, but on my teaching and scholarship in general. Specifically, Loyola law professors Sandi S. Varnado, Dian Tooley-Knoble, and Courtney Harper Turkington, you have all been wonderful collaborators not only on my scholarship but on finding ways to effectively teach these concepts to budding lawyers. To my colleagues throughout the state and beyond, Melissa T. Lonegrass, Elizabeth R. Carter, Nikolaos A. Davrados, Ronald J. Scalise, Jr., and Milton J. “MJ” Hernandez IV, thank you for offering your perspectives when discussing vexing issues involving successions and donations. And to my experts in practice, Vincent B. “Chip” LoCoco, Stephanie Mumme Quinlan, Marguerite L. “Peggy” Adams, and Miriam Wogan Henry, thank you for always taking my calls, answering my nuanced questions, and assisting me in the classroom by offering your wit and wisdom to countless Loyola law students. I would specifically like to thank Professors Sandi S. Varnado, Melissa T. Lonegrass, and Elizabeth R. Carter, who read drafts to find my errors and omissions in each chapter.

To the many students over the years whose probing questions and analysis of cases and legislation have inspired me to prepare this treatise, my sincere thanks. I began working on the pocket

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parts to the second edition with Professor Lorio many years ago and wish to thank all of the students who contributed to those updates: Megan Peterson, Tyler Rensch, Mis Scoggin, Jonathan Gamble, Kristen Frick, Margaret Mentz, Rachel Breau, Gabrielle Broders, Grace Sossaman, Alexis Smith, and Lucy Brown. Particular thanks to Dillon Knight and Bobby Sanders, who worked with me continuously over the last year to integrate, update, and proofread each chapter in preparation for the new edition. I could not have completed this project without your incredible work. And to Chris Caldarera and Breanna Burkhead, thank you for helping me complete the finishing touches.

Finally, I wish to thank my friends and family for their patience and understanding while I worked to complete this edition, especially my wonderful husband Todd, and my two precious children, Jack and Grace.

PREFACE

In addition to providing historical materials on the original sources of Louisiana succession law, this third edition of the treatise reflects the many significant changes in Louisiana successions and donations law that have occurred over the last several decades. Included is an analysis of the intestate revisions of 1981, as well as the sweeping changes that took place in the 1990s, necessitated by the changes in forced heirship, most of which were reflected in revisions to the Civil Code in 1996. In addition, the Louisiana State Law Institute's Committee on Successions and Donations worked on an extensive revision of Book III, Titles I and II of the Civil Code throughout the 1990s and into the new millennium. In 2005, the law of filiation underwent a complete revision, affecting the rights of successors. In 2025, extensive changes to the will forms in Louisiana were made. Some of the revisions entailed a modernization, reflecting new terminology, and little substantive change. While some laws were altered in such a way that the subtleties are not readily discernible, other laws were significantly altered, and new issues will continue to arise. Hopefully, this edition will serve as a blue print and a resource as one works through these various changes.

The initial work of Professor Oppenheim has been adopted in some areas, particularly those dealing with historical material. The outstanding work of Professors Frederick Swaim and Kathryn Venturatos Lorio resulted in an analysis of the laws through 1995, and Professor Lorio completed the second edition after the turn of the century. I joined Professor Lorio after her gracious invitation, and we updated the second edition until her retirement in 2016. Discussions of the revisions post 2016 are my work product, and I apologize for any misinterpretations that I have made.



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