

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Military Affairs, Space, and Domestic Security Committee

BILL: SB 520

INTRODUCER: Senator Braynon

SUBJECT: Veteran's Guardianship

DATE: December 5, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Munroe</u>	<u>Maclure</u>	<u>JU</u>	Favorable
2.	<u>Fleming</u>	<u>Carter</u>	<u>MS</u>	Favorable
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

A provision within the guardianship statutes specifies a rule of statutory construction for the Veterans' Guardianship Law that is applicable to incapacitated world war veterans when there is any conflict with general law relating to guardianship. The section provides that, with respect to guardianship matters, the Veterans' Guardianship Law is a special or limited law, to which the general law relating to guardianship is cumulative. This bill repeals that particular section.

This bill repeals section 744.103, Florida Statutes.

II. Present Situation:

Chapter 744, F.S., outlines the statutory requirements for matters relating to guardians and wards. The chapter provides the general law by which all matters pertaining to guardians and wards and the property of wards are governed.¹ A guardian is a court-appointed surrogate decision-maker to make personal or financial decisions for a minor or for an adult with mental or physical disabilities. Section 744.102(9), F.S., defines "guardian" to mean a person who has been appointed by the court to act on behalf of a ward's person or property or both. A ward is defined as a person for whom a guardian has been appointed.²

The Legislature enacted chapters 293 and 294, F.S., relating to veterans' guardianship, in 1929.³ The provisions of chapters 293 and 294, F.S., specifying requirements for veterans'

¹ *Hughes v. Bunker*, 76 So. 2d 474, 476 (Fla. 1954).

² Section 744.102(22), F.S.

³ Chapter 14579, Laws of Fla. (1929) ("This Act may be cited as the 'Uniform Veterans' Guardianship Act.'").

guardianship, limit the application of those chapters to veterans and other persons entitled to receive benefits from the United States Department of Veterans Affairs.⁴ The provisions of the “Uniform Veterans’ Guardianship Act” codified in chapters 293 and 294, F.S., were repealed or transferred to part VIII of ch. 744, F.S., and renamed the “Veterans’ Guardianship Law.”⁵

With respect to guardianship matters, the Veterans’ Guardianship Law is a special or limited law, to which the general law relating to guardianship are cumulative.⁶ Section 744.602(2), F.S., which is a provision within the Veterans’ Guardianship Law, outlines a rule of statutory construction applicable to veterans and other persons who are entitled to receive benefits from the United States Department of Veteran Affairs. Under this rule of statutory construction, when there is any conflict with general law relating to guardianship and the Veterans’ Guardianship Law, the conflict must be resolved by giving effect to the Veterans’ Guardianship Law. Section 744.602(2), F.S., states:

The application of this part is limited to veterans and other persons who are entitled to receive benefits from the United States Department of Veterans Affairs. This part is not intended to replace the general law relating to guardianship except insofar as this part is inconsistent with the general law relating to guardianship; in which event, this part and the general law relating to guardianship shall be read together, with any conflict between this part and the general law of guardianship to be resolved by giving effect to this part.

In 1945, the Legislature enacted s. 744.05, F.S., now codified as s. 744.103, F.S., which applies to incapacitated world war veterans and provides a similar rule of statutory construction for the Veterans’ Guardianship Law and the general law relating to guardianship.⁷ Section 744.103, F.S., provides:

The provisions of this law shall extend to incapacitated world war veterans, provided for in chapters 293 and 294 or any amendment or revision of them. The provisions of this law are cumulative to those chapters. Any conflict between chapters 293 and 294, or any amendment or revision of them, and this law shall be resolved by giving effect to those chapters.

Section 744.103, F.S., applies to incapacitated world war veterans and provides that the general laws relating to guardianship are cumulative to the Veterans’ Guardianship Law. Under s. 744.103, F.S., any conflict between the Veterans’ Guardianship Law and the general law relating to guardianship must be resolved by giving effect to the Veterans’ Guardianship Law.⁸

⁴ *Id.* See also *In re Adams’ Guardianship*, 99 So. 2d 723, 725 (Fla. 2d DCA 1958).

⁵ Chapter 84-62, Laws of Fla.

⁶ 28 Fla. Jur 2d Guardian and Ward s. 5; *In re Adams’ Guardianship*, 99 So. 2d at 725.

⁷ Chapter 22750, Laws of Fla. (1945), and ch. 74-106, s. 1, Laws of Fla.; *In re Adams’ Guardianship* 99 So. 2d at 725 (“The Florida Uniform Veterans’ Guardianship Law relates to veterans or others entitled to receive benefits through the veterans’ administration, and was adopted as a uniform veterans’ guardianship law.”).

⁸ *In re Adams’ Guardianship*, 99 So. 2d at 725.

III. Effect of Proposed Changes:

The bill repeals s. 744.103, F.S., which specifies a rule of statutory construction for the Veterans' Guardianship Law that is applicable to incapacitated world war veterans. Under the section, the general guardianship laws are extended to incapacitated world war veterans. The section also provides that the general laws relating to guardianship are cumulative to the Veterans' Guardianship Law. The section provides that any conflict between the Veterans' Guardianship Law and the general law relating to guardianship must be resolved by giving effect to the Veterans' Guardianship Law.

Although s. 744.103, F.S., is being repealed by the bill, s. 744.602(2), F.S., which is a provision within the Veterans' Guardianship Law, outlines a rule of statutory construction applicable to veterans and other persons who are entitled to receive benefits from the United States Department of Veteran Affairs.

This bill provides an effective date of July 1, 2012.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
