

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 851 Natural Guardians

**SPONSOR(S):** Schwartz

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 990

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	13 Y, 0 N	Caridad	Bond
2) Judiciary Committee	15 Y, 0 N	Caridad	Havlicak

### SUMMARY ANALYSIS

Under current law, the mother and father of a child are the natural guardians of their child. Natural guardians have substantial authority to act on the behalf of their minor child in matters of managing assets, transferring real or personal property, and settling of disputes when, in the aggregate, those matters do not exceed \$15,000.

This bill conforms terminology used in the law regarding natural guardians to terminology used in other laws regarding parents and children. Specifically, the bill changes the terms "mother and father" to "parents" and changes "child custody" to "parental responsibility."

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of October 1, 2012.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

Chapter 744, F.S., governs issues related to natural guardians. A mother and father, together, are natural guardians of their own children and of their adopted children, during minority.<sup>1</sup> If the marriage between the parents dissolves, guardianship belongs to the parent to whom "custody" was awarded. If the parents are given "joint custody," then both continue as natural guardians. The statute gives natural guardians substantial authority to act on the behalf of their minor child in various matters, such as managing assets, transferring real or personal property, and settling of disputes when — in the aggregate — those matters do not exceed \$15,000.<sup>2</sup>

Chapter 61, F.S., governs issues arising from dissolution of marriage such as parental responsibility and child support. Over the years, revisions to the family law statute have resulted in a change to terminology. For instance, the Legislature revised the statute to shift away from an award of "custody" to a presumption of "shared parental responsibility."<sup>3</sup> Chapter 61 also defines and refers to "parents" throughout the chapter; while s. 744.301, F.S., currently uses the phrase "mother and father." As a result, s. 744.301, F.S., does not reflect current statutory terminology as defined and used in family law.

The bill replaces the terms "custody" with "parental responsibility" and "mother and father" with "parents." As a result, the bill merely clarifies current law to provide that if parents are granted shared parental responsibility, both may serve as natural guardians; and if a court grants sole parental responsibility to one parent, the natural guardianship belongs to the parent to whom sole parental responsibility was awarded.

#### B. SECTION DIRECTORY:

Section 1 amends 744.301, F.S., relating to natural guardians.

Section 2 provides an effective date of October 1, 2012.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

The bill does not appear to have any impact on state revenues.

##### 2. Expenditures:

The bill does not appear to have any impact on state expenditures.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

The bill does not appear to have any impact on local government revenues.

##### 2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

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<sup>1</sup> Section 744.301, F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Section 61.046(17), F.S., (providing a definition of "shared parental responsibility").

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.