

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #: HB 851 (SB 990)

FINAL HOUSE FLOOR ACTION:

SPONSOR(S): Schwartz (Joyner and others)

118 Y's

0 N's

**COMPANION
BILLS:** SB 990

GOVERNOR'S ACTION: Approved

SUMMARY ANALYSIS

SB 990 passed the Senate on February 14, 2012, and subsequently passed the House on March 7, 2012. The bill modifies the terminology used in the statute relating to natural guardians.

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 was approved by the Governor on April 6, 2012, ch. 2012-48, Laws of Florida. The bill provides an effective date of July 1, 2012.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF 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.¹ 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 \$15,000.²

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."³ Chapter 61, F.S., 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.

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.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

¹ Section 744.301, F.S.

² *Id.*

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

D. FISCAL COMMENTS:

None.