

Committee on Judiciary

CS/HB 401 — Effect of Dissolution or Annulment of Marriage on Certain Designations

by Judiciary Committee and Rep. Moraitis (CS/CS/SB 1146 by Budget Subcommittee on General Government Appropriations; Judiciary Committee; and Senator Simmons)

The bill generally nullifies upon divorce or annulment the designation of a spouse as a beneficiary of nonprobate assets such as life insurance policies, individual retirement accounts, and payable on death accounts. Certain state-administered retirement plans are exempt from the bill. If the provisions of the bill apply, an asset will pass as if the former spouse predeceased the decedent.

The bill also specifies criteria for a payor of a nonprobate asset to use in identifying the appropriate beneficiary. The bill specifically provides that the payor is not liable in some circumstances for transferring an asset to the beneficiary identified through the bill's criteria.

If approved by the Governor, these provisions take effect July 1, 2012.

Vote: Senate 34-6; House 116-0

THE FLORIDA SENATE
2012 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

SB 520 — Veteran's Guardianship

by Senator Braynon

Section 744.103, F.S., provides that in the event of a conflict between general guardianship law and a provision of the Veterans' Guardianship Law which apply to incapacitated world war veterans, the general guardianship law prevails. Senate Bill 520 repeals s. 744.103, F.S.

If approved by the Governor, these provisions take effect July 1, 2012.

Vote: Senate 38-0; House 118-0

Committee on Judiciary

CS/HB 701 — Florida Evidence Code

by Civil Justice Subcommittee and Reps. Logan, Holder, and others (CS/SB 782 by Judiciary Committee and Senator Bennett)

This bill creates a hearsay exception to allow a court to consider statements that would otherwise be inadmissible into evidence if a party wrongfully makes a witness unavailable. Specifically, this bill creates a hearsay exception for a statement offered by an unavailable witness against a party that has engaged or acquiesced in wrongdoing intended to make the witness unavailable. The Florida Evidence Code generally prohibits a judge or jury from considering hearsay, which is an out-of-court statement offered by someone other than the declarant while testifying at trial or a hearing used to prove the truth of the matter asserted.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 40-0; House 114-0

THE FLORIDA SENATE
2012 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

HB 733 — Probate

by Rep. Kiar and others (SB 988 by Senator Joyner)

The bill revises the effective date of the 2011 amendments to s. 732.102, F.S., so that the changes to that section apply only to the estates of decedents dying on or after October 1, 2011. Section 732.102, F.S., was amended in 2011 to revise the share a decedent's spouse receives as part of an intestate estate under certain circumstances.

Effective July 1, 2012, and applicable to estates of persons dying on or after July 1, 2012, the bill:

- Clarifies that real property owned in joint tenancy with right of survivorship is not protected homestead. Thus, clarifying that property not subject to devise may be transferred before a person dies by titling the property in joint tenancy with right of survivorship.
- Revises the time in which an attorney in fact or guardian for an incapacitated spouse must file a petition for authority to make an election to take an undivided one-half interest as a tenant in common in the decedent's homestead.
- Bars inheritance through intestate succession by a parent from a child in cases when the natural or adoptive parent's parental rights were terminated prior to the death of the child. In such cases, the natural or adoptive parent must be treated as if the parent predeceased the child.

If approved by the Governor, and except as otherwise provided in the bill, these provisions take effect upon becoming law.

Vote: Senate 40-0; House 115-0

Committee on Judiciary

CS/CS/HB 897 — Construction Contracting

by Judiciary Committee; Civil Justice Subcommittee; and Rep. Moraitis (CS/SB 1202 by Judiciary Committee; and Senator Bogdanoff)

The bill increases the information that must be shared among parties involved in a construction project and increases the time periods within which construction liens may be recorded or claims against a payment bond may be made. Additionally, the bill:

- Establishes a uniform time period of 5 years to initiate an action to enforce a claim against a payment bond.
- Requires a contractor to supply a copy of the payment bond to the public entity contracting for a public works project before commencing construction.
- Requires government entities to open sealed bids for public works projects at a public meeting.
- Simplifies procedures for a lessor to prohibit the attachment of liens to a parcel of property as the result of an improvement to a leased premises by a tenant.
- Revises the methods by which notices and other documents relating to construction liens must be served.
- Authorizes a contractor to satisfy certain grandfathering provisions for certification as a contractor by 2015 and allows glass glazing contractors to receive certification through the grandfathering provisions.

If approved by the Governor, these provisions take effect October 1, 2012, except as otherwise provided in the bill.

Vote: Senate 40-0; House 114-0

THE FLORIDA SENATE
2012 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

SB 990 — Natural Guardians

by Senators Joyner and Lynn

Under s. 744.301, F.S., the mother and father of a child generally are the natural guardians of the child. The statute gives natural guardians 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 s. 744.301, F.S., to terminology used in ch. 61, F.S., which relates to divorce and child custody. Specifically, the bill changes “mother and father” to “parents” and changes “child custody” to “parental responsibility.”

If approved by the Governor, these provisions take effect July 1, 2012.

Vote: Senate 40-0; House 118-0

Committee on Judiciary

CS/CS/HB 1193 — Public Records/Victims of Violence

by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Jones and others (CS/CS/SB 1390 by Judiciary Committee; Governmental Oversight and Accountability Committee; and Senator Joyner)

The bill creates public records exemptions for the personal contact information provided by a petitioner in his or her request for notices relating to an injunction for protection against domestic violence, repeat violence, sexual violence, or dating violence. The court clerk must apprise the petitioner of the right to make a written request that his or her contact information be exempt from public records requirements. After receipt of the written request, the information is exempt for 5 years. The bill grants access to any state or federal agency that is authorized by law to have access to such information in furtherance of the agency's statutory duties. The public records exemptions will be repealed on October 2, 2017, unless reviewed and saved from repeal through reenactment by the Legislature.

If approved by the Governor, these provisions take effect October 1, 2012.

Vote: Senate 39-0; House 116-0

THE FLORIDA SENATE
2012 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

HB 4047 — Judicial Census Commissions

by Rep. Nehr (SB 522 by Senator Braynon)

This bill repeals s. 26.011, F.S., an obsolete statute, which provides for the use of judicial census commissions in determining the population of a judicial circuit. The Legislature created the judicial census commissions to determine the population of a given judicial circuit because the State Constitution formerly required one circuit judge for every 50,000 people in a circuit. The Constitution was amended in 1973 to provide for a different method of determining the number of circuit judges, making the judicial census commissions unnecessary.

If approved by the Governor, these provisions will take effect July 1, 2012.

Vote: Senate 40-0; House 117-0

THE FLORIDA SENATE
2012 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

HB 4077 — Actions for Damages

by Rep. Metz (SB 1268 by Senator Simmons)

This bill repeals s. 768.75, F.S., which authorizes a court in a negligence action to require the attorneys, parties, and persons having authority to settle to attend a settlement conference at least 3 weeks before trial. Courts, however, retain this authority under the Florida Rules of Civil Procedure.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 117-0