

## New Florida Legislation Helps Unwed Fathers Gain Parental Rights

Article

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In recognition of Father's Day this past weekend, a change in the law may be of particular importance to fathers. Effective July 1, 2023, a new law signed by Governor DeSantis now acknowledges rights of "unwed fathers." Until now, the natural guardianship of a child born to unmarried parents defaulted to the mother. However, as a result of a bipartisan effort, Florida's statute governing "natural guardians" (Section 744.301) will now provide that both the mother *"and a father who has established paternity under s. 742.011 or s. 742.10 are the natural guardians of the child and are entitled and subject to the rights and responsibilities of parents."*

A father can establish paternity through the initiation of a court action; however, paternity can also be established outside such a proceeding through other avenues, including the execution of a notarized voluntary acknowledgment of paternity (a document signed by both parents that is properly witnessed and signed under penalty of perjury). Pursuant to Sect. 742.10 of the Florida Statutes, a voluntary acknowledgment will constitute an establishment of paternity if not rescinded within 60 days after the date it is signed or otherwise by judicial proceeding/court order and can only be challenged in court under certain circumstances.

The significance of this expansion of natural guardianship rights is that a father, who has undergone the process of establishing paternity, now has parental rights – and responsibilities – to the child *outside* the initiation of a paternity proceeding, although same may be inevitable if the parents are unable to agree as to timesharing, child support or other matters concerning the child, in which case judicial intervention may be required.

If the father has not established paternity, the law remains that "the mother of a child born out of wedlock is the natural guardian of the child and is entitled to primary residential care and custody of the child unless the court enters an order stating otherwise."

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