

1                   A bill to be entitled  
2           An act relating to support for incapacitated adult  
3           children; creating s. 61.1255, F.S.; defining the term  
4           "incapacitated adult child;" providing rights and  
5           responsibilities of parents of an incapacitated adult  
6           child; authorizing a suit to establish support for an  
7           incapacitated adult child after a specified time;  
8           providing for court jurisdiction; specifying to whom  
9           support payments may be made; amending s. 61.13, F.S.;  
10          revising an exception to child support termination;  
11          revising when a court retains jurisdiction; amending  
12          s. 61.29, F.S.; providing that the child support  
13          guidelines to not apply to certain cases; amending s.  
14          61.30, F.S.; specifying to whom a court may order  
15          child support; creating s. 61.31, F.S.; providing  
16          factors a court must consider when determining child  
17          support for an incapacitated adult child; amending s.  
18          393.12, F.S.; revising exceptions to when a guardian  
19          advocate may need attorney representation; specifying  
20          what may be included in a petition to appoint a  
21          guardian advocate; conforming provisions to changes  
22          made by the act; creating s. 744.1013, F.S.; providing  
23          for court jurisdiction, enforcement, and precedence of  
24          certain support orders; amending s. 744.3201, F.S.;  
25          providing that a petition to determine incapacity may

26 | include a request for certain support payments;  
 27 | creating s. 744.422, F.S.; authorizing a guardian to  
 28 | petition the court for certain support payments;  
 29 | amending ss. 742.031, 742.06, and 744.3021, F.S.;  
 30 | conforming provisions to changes made by the act;  
 31 | providing an effective date.

32 |  
 33 | Be It Enacted by the Legislature of the State of Florida:

34 |  
 35 | Section 1. Section 61.1255, Florida Statutes, is created  
 36 | to read:

37 | 61.1255 Support for incapacitated adult children; access;  
 38 | powers of court.-

39 | (1) For purposes of this section, the term "incapacitated  
 40 | adult child" means an unmarried adult who is incapable of self-  
 41 | support as a result of a physical or mental incapacity that  
 42 | began before the person attained the age of 18.

43 | (2) The parent or parents of an incapacitated adult child  
 44 | is responsible for supporting that child. The right of a parent  
 45 | or other person to receive and manage support for or the  
 46 | property of an incapacitated adult child or to make decisions to  
 47 | meet essential requirements for the health or safety of the  
 48 | incapacitated adult child must be established in a guardianship  
 49 | proceeding under chapter 744 or chapter 393. A parent or other  
 50 | person does not have the power to manage support for or the

51 property of an incapacitated adult child or to make decisions to  
52 meet essential requirements for the health or safety of an  
53 incapacitated adult child unless appointed as guardian for the  
54 incapacitated adult child under chapter 744 or as guardian  
55 advocate under chapter 393.

56 (3) The right of a parent or other person to decide where  
57 the incapacitated adult child will live must be established in a  
58 guardianship proceeding under chapter 744 or chapter 393.

59 (4) A suit to establish support for an incapacitated adult  
60 child may only be filed by:

61 (a) The incapacitated adult child, if the right to sue or  
62 defend lawsuits has not been removed by a court.

63 (b) A parent or other person on behalf of the  
64 incapacitated adult child, if he or she has not been appointed a  
65 guardian.

66 (c) A court appointed guardian or guardian advocate for  
67 the incapacitated adult child.

68 (5) A suit to establish support for an incapacitated adult  
69 child may be filed at any time after he or she reaches the age  
70 of 17 years and 6 months.

71 (6) If a court has jurisdiction over the parties because  
72 of a child support issue, the parents may agree, in writing, to  
73 extend support in the existing case if the agreement is  
74 submitted to the court for approval before the incapacitated  
75 adult child reaches the age of 18. Otherwise, the amount of

76 | support to be paid by one parent to the other must be  
 77 | established in a guardianship proceeding.

78 | (7) Support paid after the incapacitated adult child  
 79 | reaches the age of 18 may only be paid to the incapacitated  
 80 | adult child's court appointed guardian.

81 | Section 2. Paragraph (a) of subsection (1) of section  
 82 | 61.13, Florida Statutes, is amended to read:

83 | 61.13 Support of children; parenting and time-sharing;  
 84 | powers of court.—

85 | (1)(a) In a proceeding under this chapter, the court may  
 86 | at any time order either or both parents who owe a duty of  
 87 | support to a child to pay support to the other parent or, ~~in the~~  
 88 | ~~ease of both parents,~~ to a third party who has custody in  
 89 | accordance with the child support guidelines schedule in s.  
 90 | 61.30.

91 | 1. All child support orders and income deduction orders  
 92 | entered on or after October 1, 2010, must provide:

93 | a. For child support to terminate on a child's 18th  
 94 | birthday unless the court finds or previously found that the  
 95 | child or child who is dependent in fact is 18 years of age and  
 96 | still in high school, and is performing in good faith with a  
 97 | reasonable expectation of graduation before he or she reaches  
 98 | the age of 19 ~~s. 743.07(2) applies,~~ or is otherwise agreed to by  
 99 | the parties;

100 | b. A schedule, based on the record existing at the time of

101 the order, stating the amount of the monthly child support  
 102 obligation for all the minor children at the time of the order  
 103 and the amount of child support that will be owed for any  
 104 remaining children after one or more of the children are no  
 105 longer entitled to receive child support; and

106 c. The month, day, and year that the reduction or  
 107 termination of child support becomes effective.

108 2. The court initially entering an order requiring one or  
 109 both parents to make child support payments has continuing  
 110 jurisdiction after the entry of the initial order to modify the  
 111 amount and terms and conditions of the child support payments if  
 112 the modification is found by the court to be in the best  
 113 interests of the child and; ~~when the child reaches majority; if~~  
 114 there is a substantial change in the circumstances of the  
 115 parties; if the minor child or child who is dependent in fact,  
 116 between 18 and 19 years of age, and still in high school and is  
 117 performing in good faith with a reasonable expectation of  
 118 graduation before he or she reaches the age of 19 ~~s. 743.07(2)~~  
 119 ~~applies~~; or when a child is emancipated, marries, joins the  
 120 armed services, or dies. The court initially entering a child  
 121 support order has continuing jurisdiction to require the obligee  
 122 to report to the court on terms prescribed by the court  
 123 regarding the disposition of the child support payments.

124 Section 3. Subsection (4) is added to section 61.29,  
 125 Florida Statutes, to read:

126           61.29 Child support guidelines; principles.—The following  
 127 principles establish the public policy of the State of Florida  
 128 in the creation of the child support guidelines:

129           (4) The guidelines do not apply to support for an  
 130 incapacitated adult child as defined in s. 61.1255. The amount  
 131 of support for an incapacitated adult child is determined by s.  
 132 61.31.

133           Section 4. Paragraph (a) of subsection (1) of section  
 134 61.30, Florida Statutes, is amended to read:

135           61.30 Child support guidelines; retroactive child  
 136 support.—

137           (1) (a) The child support guideline amount as determined by  
 138 this section presumptively establishes the amount the trier of  
 139 fact shall order as child support for a minor child or child who  
 140 is dependent in fact, between 18 and 19 years of age, and still  
 141 in high school and is performing in good faith with a reasonable  
 142 expectation of graduation before he or she reaches the age of 19  
 143 in an initial proceeding for such support or in a proceeding for  
 144 modification of an existing order for such support, whether the  
 145 proceeding arises under this or another chapter. The trier of  
 146 fact may order payment of child support which varies, plus or  
 147 minus 5 percent, from the guideline amount, after considering  
 148 all relevant factors, including the needs of the child or  
 149 children, age, station in life, standard of living, and the  
 150 financial status and ability of each parent. The trier of fact

151 may order payment of child support in an amount which varies  
152 more than 5 percent from such guideline amount only upon a  
153 written finding explaining why ordering payment of such  
154 guideline amount would be unjust or inappropriate.  
155 Notwithstanding the variance limitations of this section, the  
156 trier of fact shall order payment of child support which varies  
157 from the guideline amount as provided in paragraph (11) (b)  
158 whenever any of the children are required by court order or  
159 mediation agreement to spend a substantial amount of time with  
160 either parent. This requirement applies to any living  
161 arrangement, whether temporary or permanent.

162 Section 5. Section 61.31, Florida Statutes, is created to  
163 read:

164 61.31 Amount of support for an incapacitated adult child.—

165 (1) In determining the amount of support to be paid after  
166 an incapacitated adult child, as defined in s. 61.1255, reaches  
167 18 years of age, the specific terms and conditions of that  
168 support, and the rights and duties of both parents with respect  
169 to the support, the court shall determine and give special  
170 consideration to all of the following:

171 (a) The incapacitated adult child's income and assets.

172 (b) Any existing or future needs of the incapacitated  
173 adult child directly related to his or her mental or physical  
174 incapacity and the substantial care and personal supervision  
175 directly required by or related to that incapacity.

176 (c) Whether a parent pays for or will pay for the care or  
177 supervision of the incapacitated adult child or provides or will  
178 provide substantial care or personal supervision to the  
179 incapacitated adult child.

180 (d) The financial resources available to both parents for  
181 the support, care, and supervision of the incapacitated adult  
182 child.

183 (e) Any other financial resources or other resources or  
184 programs available for the support, care, and supervision of the  
185 incapacitated adult child.

186 (2) The court may not order support in an amount that will  
187 negatively impact the incapacitated adult child's eligibility  
188 for any state or federal programs and benefits.

189 Section 6. Paragraph (b) of subsection (2) and subsection  
190 (3) of section 393.12, Florida Statutes, are amended to read:

191 393.12 Capacity; appointment of guardian advocate.—

192 (2) APPOINTMENT OF A GUARDIAN ADVOCATE.—

193 (b) A person who is being considered for appointment or is  
194 appointed as a guardian advocate does not need to ~~not~~ be  
195 represented by an attorney unless required by the court or if  
196 the guardian advocate is delegated any rights regarding property  
197 other than the right to be the representative payee for  
198 government benefits or the right of a parent to receive periodic  
199 payments from the other parent for the support, care,  
200 maintenance, education, or other needs of the person with



201 developmental disabilities. This paragraph applies only to  
202 proceedings relating to the appointment of a guardian advocate  
203 and the court's supervision of a guardian advocate and is not an  
204 exercise of the Legislature's authority under ~~pursuant to~~ s.  
205 2(a), Art. V of the State Constitution.

206 (3) PETITION.—

207 (a) A petition to appoint a guardian advocate for a person  
208 with a developmental disability may be executed by an adult  
209 person who is a resident of this state. The petition must be  
210 verified and must:

211 1.(a) State the name, age, and present address of the  
212 petitioner and his or her relationship to the person with a  
213 developmental disability;

214 2.(b) State the name, age, county of residence, and  
215 present address of the person with a developmental disability;

216 3.(c) Allege that the petitioner believes that the person  
217 needs a guardian advocate and specify the factual information on  
218 which such belief is based;

219 4.(d) Specify the exact areas in which the person lacks  
220 the decisionmaking ability to make informed decisions about his  
221 or her care and treatment services or to meet the essential  
222 requirements for his or her physical health or safety;

223 5.(e) Specify the legal disabilities to which the person  
224 is subject; and

225 6.(f) State the name of the proposed guardian advocate,

226 the relationship of that person to the person with a  
227 developmental disability; the relationship that the proposed  
228 guardian advocate had or has with a provider of health care  
229 services, residential services, or other services to the person  
230 with a developmental disability; and the reason why this person  
231 should be appointed. If a willing and qualified guardian  
232 advocate cannot be located, the petition shall so state.

233 (b) A petition to appoint a guardian advocate may include  
234 a request for periodic payments from the parent or parents of a  
235 person with a developmental disability for his or her support,  
236 care, maintenance, education, or other needs of the person with  
237 a developmental disability.

238 Section 7. Section 744.1013, Florida Statutes, is created  
239 to read:

240 744.1013 Jurisdiction.—The court shall exercise  
241 jurisdiction over all claims for support of an incapacitated  
242 adult child, as defined in s. 61.1255, adjudicate the financial  
243 obligation, including health insurance, of the incapacitated  
244 adult child's parents or guardian, and enforce the financial  
245 obligation as provided in chapter 61. All support required to be  
246 paid in relation to an incapacitated adult child over the age of  
247 18 must be paid to his or her court appointed guardian. The  
248 Department of Revenue shall enforce all support orders  
249 determined under this chapter or chapter 393 in the same manner  
250 as child support orders under chapter 61. Any order for support

251 entered in a proceeding under this chapter or chapter 393 takes  
252 precedence over any support order entered under chapter 61.

253 Section 8. Subsection (1) of section 742.031, Florida  
254 Statutes, is amended to read:

255 742.031 Hearings; court orders for support, hospital  
256 expenses, and attorney's fee.—

257 (1) Hearings for the purpose of establishing or refuting  
258 the allegations of the complaint and answer shall be held in the  
259 chambers and may be restricted to persons, in addition to the  
260 parties involved and their counsel, as the judge in his or her  
261 discretion may direct. The court shall determine the issues of  
262 paternity of the child and the ability of the parents to support  
263 the child. Each party's social security number shall be recorded  
264 in the file containing the adjudication of paternity. If the  
265 court finds that the alleged father is the father of the child,  
266 it shall so order. If appropriate, the court shall order the  
267 father to pay the complainant, her guardian, or any other person  
268 assuming responsibility for the child moneys sufficient to pay  
269 reasonable attorney ~~attorney's~~ fees, hospital or medical  
270 expenses, cost of confinement, and any other expenses incident  
271 to the birth of the child and to pay all costs of the  
272 proceeding. Bills for pregnancy, childbirth, and scientific  
273 testing are admissible as evidence without requiring third-party  
274 foundation testimony, and shall constitute prima facie evidence  
275 of amounts incurred for such services or for testing on behalf

276 of the child. The court shall order either or both parents owing  
277 a duty of support to the child to pay support under chapter 61  
278 ~~pursuant to s. 61.30~~. The court shall issue, upon motion by a  
279 party, a temporary order requiring child support for a minor  
280 child under ~~pursuant to~~ s. 61.30 pending an administrative or  
281 judicial determination of parentage, if there is clear and  
282 convincing evidence of paternity on the basis of genetic tests  
283 or other evidence. The court may also make a determination of an  
284 appropriate parenting plan, including a time-sharing schedule,  
285 in accordance with chapter 61.

286 Section 9. Section 742.06, Florida Statutes, is amended to  
287 read:

288 742.06 Jurisdiction retained for future orders.—The court  
289 shall retain jurisdiction of the cause for the purpose of  
290 entering such other and further orders as changing circumstances  
291 of the parties may in justice and equity require. Modifications  
292 of child support and timesharing are determined under chapter  
293 61.

294 Section 10. Subsection (4) of section 744.3021, Florida  
295 Statutes, is amended to read:

296 744.3021 Guardians of minors.—

297 (4) If a petition is filed under ~~pursuant to~~ this section  
298 requesting appointment of a guardian for a minor who is the  
299 subject of any proceeding under chapter 39 or chapter 61 and who  
300 is aged 17 years and 6 months or older, the court division with

301 jurisdiction over guardianship matters has jurisdiction over the  
 302 proceedings under s. 744.331. The alleged incapacitated minor  
 303 under this subsection shall be provided all the due process  
 304 rights conferred upon an alleged incapacitated adult under  
 305 ~~pursuant to~~ this chapter and applicable court rules. The order  
 306 of adjudication under s. 744.331 and the letters of limited or  
 307 plenary guardianship may issue upon the minor's 18th birthday or  
 308 as soon thereafter as possible. Any proceeding under ~~pursuant to~~  
 309 this subsection shall be conducted separately from any other  
 310 proceeding.

311 Section 11. Subsection (3) of section 744.3201, Florida  
 312 Statutes, is renumbered as subsection (4), and a new subsection  
 313 (3) is added to that section, to read:

314 744.3201 Petition to determine incapacity.—

315 (3) A petition to determine capacity may include a request  
 316 for payment of support, care, maintenance, education, or any  
 317 other needs of the alleged incapacitated person under s.  
 318 61.1255.

319 Section 12. Section 744.422, Florida Statutes, is created  
 320 to read:

321 744.422 Petition for child support.—A guardian may  
 322 petition the court for an order requiring a parent or parents to  
 323 pay periodic amounts for the support, care, maintenance,  
 324 education, and any other needs of an incapacitated adult child  
 325 if not otherwise provided for in the guardianship plan. The

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326 | amount of support is determined by s. 61.31.

327 | Section 13. This act shall take effect July 1, 2020.