

By Senator Baxley

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1                                   A bill to be entitled  
2       An act relating to support for dependent adult  
3       children; creating s. 61.1255, F.S.; defining the term  
4       "dependent adult child"; specifying that parents are  
5       responsible for supporting a dependent adult child;  
6       requiring certain rights of the parents of a dependent  
7       adult child to be established in a guardianship  
8       proceeding; prohibiting any person who is not  
9       appointed by the court from managing assets for or  
10      making certain decisions for a dependent adult child;  
11      specifying individuals who may file a suit to  
12      establish support for a dependent adult child;  
13      specifying a timeframe in which such suits may be  
14      filed; providing an exception; specifying procedures  
15      for establishing support; specifying who may receive  
16      such support before and after the dependent adult  
17      child's 18th birthday; providing for court  
18      jurisdiction; providing construction; specifying to  
19      whom support payments may be made; authorizing a court  
20      to assign support to certain trusts established for a  
21      dependent adult child for a specified purpose;  
22      prohibiting the Department of Revenue from filing  
23      petitions to establish, modify, or enforce certain  
24      support orders; amending s. 61.13, F.S.; specifying  
25      that a child support order need not terminate on the  
26      child's 18th birthday in certain circumstances;  
27      specifying that a court may modify a child support  
28      order for adult children in certain circumstances;  
29      providing that either parent may consent to mental

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30 health treatment for a child in certain circumstances  
31 unless stated otherwise in the parenting plan;  
32 amending s. 61.29, F.S.; providing that the child  
33 support guidelines do not apply to certain cases;  
34 amending s. 61.30, F.S.; specifying to whom a court  
35 may order child support; creating s. 61.31, F.S.;  
36 providing factors a court must consider when  
37 determining child support for a dependent adult child;  
38 authorizing a court to assign support to certain  
39 trusts established for a dependent adult child for a  
40 specified purpose; amending s. 393.12, F.S.; providing  
41 an additional circumstance under which a guardian  
42 advocate must be represented by an attorney in  
43 guardianship proceedings; specifying that petitions to  
44 appoint a guardian advocate for an individual with  
45 disabilities may include certain requests for support  
46 from the individual's parents; amending ss. 742.031  
47 and 742.06, F.S.; conforming provisions to changes  
48 made by the act; creating s. 744.1013, F.S.; providing  
49 guardianship courts with jurisdiction over petitions  
50 for support of dependent adult children; specifying  
51 who may receive such support for dependent adult  
52 children over the age of 18; authorizing a court to  
53 assign support to certain trusts established for a  
54 dependent adult child for a specified purpose;  
55 specifying that such support orders supersede any  
56 orders entered under certain other provisions;  
57 amending s. 744.3021, F.S.; conforming provisions to  
58 changes made by the act; creating s. 744.422, F.S.;

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59 authorizing guardians of dependent adults to petition  
60 the court for certain support payments from the  
61 dependent adult's parents in certain circumstances;  
62 specifying that the amount of such support is  
63 determined by certain provisions; providing an  
64 effective date.

65

66 Be It Enacted by the Legislature of the State of Florida:

67

68 Section 1. Section 61.1255, Florida Statutes, is created to  
69 read:

70 61.1255 Support for dependent adult children; powers of  
71 court.-

72 (1) For purposes of this section, the term "dependent adult  
73 child" means an unmarried adult who is incapable of self-support  
74 as a result of a physical or mental incapacity that began before  
75 the person attained the age of 18.

76 (2) The parent or parents of a dependent adult child are  
77 responsible for supporting that child. The right of a parent or  
78 other person to receive and manage support for or manage the  
79 property of a dependent adult child or to make decisions to meet  
80 essential requirements for the health or safety of the dependent  
81 adult child must be established in a guardianship proceeding  
82 under chapter 393 or chapter 744. A parent or other person does  
83 not have the power to manage support for, manage the property  
84 of, or make decisions regarding needs that are essential to the  
85 health and safety of a dependent adult child unless he or she is  
86 appointed as the dependent adult child's guardian advocate under  
87 chapter 393 or guardian under chapter 744.

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88       (3) The right of a parent or other person to decide where  
89 the dependent adult child will live must be established in a  
90 guardianship proceeding brought under chapter 393 or chapter  
91 744.

92       (4) A suit to establish support for a dependent adult child  
93 may be filed only by one of the following:

94       (a) The dependent adult child, if his or her right to sue  
95 or defend lawsuits has not been removed by the court.

96       (b) A parent or other person on behalf of the dependent  
97 adult child if he or she has not been appointed a guardian  
98 advocate under chapter 393 or a guardian under chapter 744.

99       (c) The dependent adult child's guardian advocate appointed  
100 under chapter 393 or guardian appointed under chapter 744.

101       (5) A suit to establish support for a dependent adult child  
102 may be filed at any time after he or she reaches the age of 17  
103 years and 6 months unless such an order is already in place  
104 which was established during the child's minority.

105       (6) If a court has jurisdiction over the parties because of  
106 an issue of child support, the parents may agree in writing to  
107 extend support in the existing case if the agreement is  
108 submitted to the court for approval before the dependent adult  
109 child reaches the age of 18. Otherwise, the amount of support to  
110 be paid by one parent to the other must be established in a  
111 guardianship proceeding or in a separate support proceeding.  
112 This section does not preclude a court from establishing  
113 support, ordering continued support, or enforcing or modifying  
114 support orders established under chapter 61 absent an agreement  
115 by the parents.

116       (7) Support ordered after the dependent adult child reaches

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117 the age of 18 may be paid only to the dependent adult child or  
118 his or her court-appointed guardian advocate, guardian, or  
119 attorney in fact. However, the court may irrevocably assign the  
120 support to a special needs trust under 42 U.S.C. s. 1396p(d)(4)  
121 or to a pooled trust under 42 U.S.C. s. 1396p(d)(4)(C)  
122 established for the dependent adult child by the dependent adult  
123 child, his or her agent under a durable power of attorney, the  
124 court, a parent or grandparent, or a guardian in order to  
125 maintain the dependent adult child's means-based government  
126 benefits. The Department of Revenue may not file a petition to  
127 establish, modify, or enforce a support order under this  
128 chapter.

129 Section 2. Paragraph (a) of subsection (1) and paragraph  
130 (b) of subsection (2) of section 61.13, Florida Statutes, are  
131 amended to read:

132 61.13 Support of children; parenting and time-sharing;  
133 powers of court.-

134 (1) (a) In a proceeding under this chapter, the court may at  
135 any time order either or both parents who owe a duty of support  
136 to a child to pay support to the other parent or, ~~in the case of~~  
137 ~~both parents,~~ to a third party who has custody in accordance  
138 with the child support guidelines schedule in s. 61.30.

139 1. All child support orders and income deduction orders  
140 entered on or after October 1, 2010, must provide:

141 a. For child support to terminate on a child's 18th  
142 birthday unless the court finds or previously found that the  
143 minor child, or the child who is dependent in fact and 18 years  
144 of age, is still in high school and is performing in good faith  
145 with a reasonable expectation of graduation before he or she

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146 reaches the age of 19 ~~s. 743.07(2) applies~~, or is otherwise  
147 agreed to by the parties;

148 b. A schedule, based on the record existing at the time of  
149 the order, stating the amount of the monthly child support  
150 obligation for all the minor children at the time of the order  
151 and the amount of child support that will be owed for any  
152 remaining children after one or more of the children are no  
153 longer entitled to receive child support; and

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

156 2. The court initially entering an order requiring one or  
157 both parents to make child support payments has continuing  
158 jurisdiction after the entry of the initial order to modify the  
159 amount and terms and conditions of the child support payments if  
160 the modification is found by the court to be in the best  
161 interests of the child and; ~~when the child reaches majority; if~~  
162 there is a substantial change in the circumstances of the  
163 parties; if the minor child, or the child who is dependent in  
164 fact and between the ages of 18 and 19, is still in high school  
165 and is performing in good faith with a reasonable expectation of  
166 graduation before he or she reaches the age of 19 ~~s. 743.07(2)~~  
167 ~~applies~~; or when a child is emancipated, marries, joins the  
168 armed services, or dies. The court initially entering a child  
169 support order has continuing jurisdiction to require the obligee  
170 to report to the court on terms prescribed by the court  
171 regarding the disposition of the child support payments.

172 (2)

173 (b) A parenting plan approved by the court must, at a  
174 minimum:

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175 1. Describe in adequate detail how the parents will share  
176 and be responsible for the daily tasks associated with the  
177 upbringing of the child;

178 2. Include the time-sharing schedule arrangements that  
179 specify the time that the minor child will spend with each  
180 parent;

181 3. Designate who will be responsible for:

182 a. Any and all forms of health care. If the court orders  
183 shared parental responsibility over health care decisions, ~~the~~  
184 ~~parenting plan must provide that~~ either parent may consent to  
185 mental health treatment for the child unless stated otherwise in  
186 the parenting plan.

187 b. School-related matters, including the address to be used  
188 for school-boundary determination and registration.

189 c. Other activities; and

190 4. Describe in adequate detail the methods and technologies  
191 that the parents will use to communicate with the child.

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

194 61.29 Child support guidelines; principles.—The following  
195 principles establish the public policy of the State of Florida  
196 in the creation of the child support guidelines:

197 (4) The guidelines do not apply to support for a dependent  
198 adult child as defined in s. 61.1255. The amount of support for  
199 a dependent adult child is determined by s. 61.31.

200 Section 4. Paragraph (a) of subsection (1) of section  
201 61.30, Florida Statutes, is amended to read:

202 61.30 Child support guidelines; retroactive child support.—

203 (1) (a) The child support guideline amount as determined by

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204 this section presumptively establishes the amount the trier of  
205 fact shall order as child support for a minor child, or a child  
206 who is dependent in fact and between the ages of 18 and 19 and  
207 who is still in high school and is performing in good faith with  
208 a reasonable expectation of graduation before he or she reaches  
209 the age of 19, in an initial proceeding for such support or in a  
210 proceeding for modification of an existing order for such  
211 support, whether the proceeding arises under this or another  
212 chapter. The trier of fact may order payment of child support  
213 which varies, plus or minus 5 percent, from the guideline  
214 amount, after considering all relevant factors, including the  
215 needs of the child or children, age, station in life, standard  
216 of living, and the financial status and ability of each parent.  
217 The trier of fact may order payment of child support in an  
218 amount which varies more than 5 percent from such guideline  
219 amount only upon a written finding explaining why ordering  
220 payment of such guideline amount would be unjust or  
221 inappropriate. Notwithstanding the variance limitations of this  
222 section, the trier of fact shall order payment of child support  
223 which varies from the guideline amount as provided in paragraph  
224 (11)(b) whenever any of the children are required by court order  
225 or mediation agreement to spend a substantial amount of time  
226 with either parent. This requirement applies to any living  
227 arrangement, whether temporary or permanent.

228 Section 5. Section 61.31, Florida Statutes, is created to  
229 read:

230 61.31 Amount of support for a dependent adult child.-

231 (1) In determining the amount of support to be paid after a  
232 dependent adult child as defined in s. 61.1255 reaches 18 years



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233 of age, the specific terms and conditions of such support, and  
234 the rights and duties of both parents with respect to the  
235 support, the court shall determine and give special  
236 consideration to all of the following:

237 (a) The dependent adult child's income and assets.

238 (b) Any existing and future needs of the dependent adult  
239 child which are directly related to his or her mental or  
240 physical incapacity and the substantial care and personal  
241 supervision directly required by or related to that incapacity.

242 (c) Whether a parent pays for or will pay for the care or  
243 supervision of the dependent adult child or provides or will  
244 provide substantial care or personal supervision to the  
245 dependent adult child himself or herself.

246 (d) The financial resources available to each parent for  
247 the support, care, and supervision of the dependent adult child.

248 (e) Any other financial resources or other resources or  
249 programs available for the support, care, and supervision of the  
250 dependent adult child.

251 (2) The court may irrevocably assign the support to a  
252 special needs trust under 42 U.S.C. s. 1396p(d) (4) or to a  
253 pooled trust under 42 U.S.C. s. 1396p(d) (4) (C) established for  
254 the dependent adult child by the dependent adult child, his or  
255 her agent under a durable power of attorney, the court, a parent  
256 or grandparent, or a guardian in order to maintain the dependent  
257 adult child's means-based government benefits.

258 (3) In making its decisions, the court must take into  
259 consideration any state or federal programs and benefits that  
260 the dependent adult child is receiving and the effect ordered  
261 support would have on the dependent adult child's continued

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262 eligibility for such programs and benefits.

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

265 393.12 Capacity; appointment of guardian advocate.—

266 (2) APPOINTMENT OF A GUARDIAN ADVOCATE.—

267 (b) A person who is being considered for appointment or is  
268 appointed as a guardian advocate does not need to ~~not~~ be  
269 represented by an attorney unless required by the court or if  
270 the guardian advocate is delegated any rights regarding property  
271 other than the right to be the representative payee for  
272 government benefits or the right of a parent to receive periodic  
273 payments for the support, care, maintenance, education, or other  
274 needs of the person with a developmental disability. This  
275 paragraph applies only to proceedings relating to the  
276 appointment of a guardian advocate and the court's supervision  
277 of a guardian advocate and is not an exercise of the  
278 Legislature's authority under ~~pursuant to~~ s. 2(a), Art. V of the  
279 State Constitution.

280 (3) PETITION.—

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

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

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

290 3.(c) Allege that the petitioner believes that the person

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291 needs a guardian advocate and specify the factual information on  
292 which such belief is based;

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

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

299 6.(f) State the name of the proposed guardian advocate, the  
300 relationship of that person to the person with a developmental  
301 disability; the relationship that the proposed guardian advocate  
302 had or has with a provider of health care services, residential  
303 services, or other services to the person with a developmental  
304 disability; and the reason why this person should be appointed.  
305 If a willing and qualified guardian advocate cannot be located,  
306 the petition shall so state.

307 (b) A petition to appoint a guardian advocate may include a  
308 request for periodic payments from either or both parents of the  
309 person with a developmental disability for the support, care,  
310 maintenance, education, or other needs of the person with a  
311 developmental disability.

312 Section 7. Subsection (1) of section 742.031, Florida  
313 Statutes, is amended to read:

314 742.031 Hearings; court orders for support, hospital  
315 expenses, and attorney's fee.—

316 (1) Hearings for the purpose of establishing or refuting  
317 the allegations of the complaint and answer shall be held in the  
318 chambers and may be restricted to persons, in addition to the  
319 parties involved and their counsel, as the judge in his or her

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320 discretion may direct. The court shall determine the issues of  
321 paternity of the child and the ability of the parents to support  
322 the child. Each party's social security number shall be recorded  
323 in the file containing the adjudication of paternity. If the  
324 court finds that the alleged father is the father of the child,  
325 it shall so order. If appropriate, the court shall order the  
326 father to pay the complainant, her guardian, or any other person  
327 assuming responsibility for the child moneys sufficient to pay  
328 reasonable attorney ~~attorney's~~ fees, hospital or medical  
329 expenses, cost of confinement, and any other expenses incident  
330 to the birth of the child and to pay all costs of the  
331 proceeding. Bills for pregnancy, childbirth, and scientific  
332 testing are admissible as evidence without requiring third-party  
333 foundation testimony, and shall constitute prima facie evidence  
334 of amounts incurred for such services or for testing on behalf  
335 of the child. The court shall order either or both parents owing  
336 a duty of support to the child to pay support under chapter 61  
337 ~~pursuant to s. 61.30~~. The court shall issue, upon motion by a  
338 party, a temporary order requiring child support for a minor  
339 child under ~~pursuant to s. 61.30~~ pending an administrative or  
340 judicial determination of parentage, if there is clear and  
341 convincing evidence of paternity on the basis of genetic tests  
342 or other evidence. The court may also make a determination of an  
343 appropriate parenting plan, including a time-sharing schedule,  
344 in accordance with chapter 61.

345 Section 8. Section 742.06, Florida Statutes, is amended to  
346 read:

347 742.06 Jurisdiction retained for future orders.—The court  
348 shall retain jurisdiction of the cause for the purpose of

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349 entering such other and further orders as changing circumstances  
350 of the parties may in justice and equity require. Modifications  
351 of child support and time-sharing are determined under chapter  
352 61.

353 Section 9. Section 744.1013, Florida Statutes, is created  
354 to read:

355 744.1013 Jurisdiction.—The court has jurisdiction over all  
356 claims for support of a dependent adult child as defined in s.  
357 61.1255 and shall adjudicate the financial obligation, including  
358 health insurance, of the dependent adult child's parents or  
359 guardian and enforce the financial obligation as provided in  
360 chapter 61. All support required to be paid in relation to a  
361 dependent adult child over the age of 18 must be paid to the  
362 dependent adult child or his or her court-appointed guardian  
363 advocate, guardian, or attorney in fact. However, the court may  
364 irrevocably assign the support to a special needs trust under 42  
365 U.S.C. s. 1396p(d) (4) or to a pooled trust under 42 U.S.C. s.  
366 1396p(d) (4) (C) established for the dependent adult child by the  
367 dependent adult child, his or her agent under a durable power of  
368 attorney, the court, a parent or grandparent, or a guardian in  
369 order to maintain the dependent adult child's means-based  
370 government benefits. Any order for support entered in a  
371 proceeding under this chapter or chapter 393 takes precedence  
372 over any support order entered under chapter 61.

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

375 744.3021 Guardians of minors.—

376 (4) If a petition is filed under ~~pursuant to~~ this section  
377 requesting appointment of a guardian for a minor who is the

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378 subject of any proceeding under chapter 39 or chapter 61 and who  
379 is aged 17 years and 6 months or older, the court division with  
380 jurisdiction over guardianship matters has jurisdiction over the  
381 proceedings under s. 744.331. The alleged incapacitated minor  
382 under this subsection shall be provided all the due process  
383 rights conferred upon an alleged incapacitated adult under  
384 ~~pursuant to~~ this chapter and applicable court rules. The order  
385 of adjudication under s. 744.331 and the letters of limited or  
386 plenary guardianship may issue upon the minor's 18th birthday or  
387 as soon thereafter as possible. Any proceeding under ~~pursuant to~~  
388 this subsection shall be conducted separately from any other  
389 proceeding.

390 Section 11. Section 744.422, Florida Statutes, is created  
391 to read:

392 744.422 Petition for child support for a dependent adult  
393 child.—Pursuant to s. 61.1255, a guardian may petition the court  
394 for an order requiring either or both parents to pay periodic  
395 amounts for the support, care, maintenance, education, and any  
396 other needs of a dependent adult child if not otherwise provided  
397 for in the guardianship plan. The amount of support is  
398 determined by s. 61.31.

399 Section 12. This act shall take effect July 1, 2021.