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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/07/2023	.	
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The Committee on Judiciary (Berman) recommended the following:

Senate Amendment

Delete lines 111 - 368
and insert:
agent under a durable power of attorney. However, the court may irrevocably assign the support to a special needs trust under 42 U.S.C. s. 1396p(d) (4) or to a pooled trust under 42 U.S.C. s. 1396p(d) (4) (C) established for the dependent adult child by the dependent adult child, his or her agent under a durable power of attorney, the court, a parent or grandparent, a guardian, or a guardian advocate who has been delegated those



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12 rights in order to maintain the dependent adult child's means-
13 based government benefits.

14 (8) The Department of Revenue may not file a petition to
15 establish, modify, or enforce a support order under this
16 section.

17 Section 2. Paragraph (a) of subsection (1) and paragraph
18 (b) of subsection (2) of section 61.13, Florida Statutes, are
19 amended to read:

20 61.13 Support of children; parenting and time-sharing;
21 powers of court.—

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

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

29 a. For child support to terminate on a child's 18th
30 birthday unless the court finds or previously found that the
31 minor child, or the child who is dependent in fact and between
32 the ages of 18 and 19, is still in high school and is performing
33 in good faith with a reasonable expectation of graduation before
34 he or she reaches the age of 19 ~~s. 743.07(2) applies~~, or the
35 continued support is otherwise agreed to by the parties;

36 b. A schedule, based on the record existing at the time of
37 the order, stating the amount of the monthly child support
38 obligation for all the minor children at the time of the order
39 and the amount of child support that will be owed for any
40 remaining children after one or more of the children are no



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41 longer entitled to receive child support; and

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

44 2. The court initially entering an order requiring one or
45 both parents to make child support payments has continuing
46 jurisdiction after the entry of the initial order to modify the
47 amount and terms and conditions of the child support payments
48 if: the modification is found by the court to be in the best
49 interests of the child; ~~when~~ the child reaches majority; ~~if~~
50 there is a substantial change in the circumstances of the
51 parties; the minor child, or the child who is dependent in fact
52 and between the ages of 18 and 19, is still in high school and
53 is performing in good faith with a reasonable expectation of
54 graduation before he or she reaches the age of 19 if s.
55 ~~743.07(2) applies; or the when~~ a child is emancipated, marries,
56 joins the armed services, or dies. The court initially entering
57 a child support order has continuing jurisdiction to require the
58 obligee to report to the court on terms prescribed by the court
59 regarding the disposition of the child support payments.

60 (2)

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

63 1. Describe in adequate detail how the parents will share
64 and be responsible for the daily tasks associated with the
65 upbringing of the child;

66 2. Include the time-sharing schedule arrangements that
67 specify the time that the minor child will spend with each
68 parent;

69 3. Designate who will be responsible for:



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70 a. Any and all forms of health care. If the court orders
71 shared parental responsibility over health care decisions, ~~the~~
72 ~~parenting plan must provide that~~ either parent may consent to
73 mental health treatment for the child unless stated otherwise in
74 the parenting plan.

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

77 c. Other activities; and

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

80 Section 3. Section 61.29, Florida Statutes, is amended to
81 read:

82 61.29 Child support guidelines; principles; application.—

83 (1) The following principles establish the public policy of
84 the State of Florida in the creation of the child support
85 guidelines:

86 (a)~~(1)~~ Each parent has a fundamental obligation to support
87 his or her minor or legally dependent child.

88 (b)~~(2)~~ The guidelines schedule is based on the parent's
89 combined net income estimated to have been allocated to the
90 child as if the parents and children were living in an intact
91 household.

92 (c)~~(3)~~ The guidelines encourage fair and efficient
93 settlement of support issues between parents and minimizes the
94 need for litigation.

95 (2) The guidelines in this section do not apply to support
96 for a dependent adult child as defined in s. 61.1255. The amount
97 of support for a dependent adult child is determined by s.
98 61.31.



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99 Section 4. Paragraph (a) of subsection (1) of section
100 61.30, Florida Statutes, is amended to read:

101 61.30 Child support guidelines; retroactive child support.—

102 (1) (a) The child support guideline amount as determined by
103 this section presumptively establishes the amount the trier of
104 fact must ~~shall~~ order as child support for a minor child, or a
105 child who is dependent in fact and between the ages of 18 and 19
106 and who is still in high school and is performing in good faith
107 with a reasonable expectation of graduation before he or she
108 reaches the age of 19, in an initial proceeding for such support
109 or in a proceeding for modification of an existing order for
110 such support, whether the proceeding arises under this or
111 another chapter. The trier of fact may order payment of child
112 support which varies, plus or minus 5 percent, from the
113 guideline amount, after considering all relevant factors,
114 including the needs of the child or children, age, station in
115 life, standard of living, and the financial status and ability
116 of each parent. The trier of fact may order payment of child
117 support in an amount which varies more than 5 percent from such
118 guideline amount only upon a written finding explaining why
119 ordering payment of such guideline amount would be unjust or
120 inappropriate. Notwithstanding the variance limitations of this
121 section, the trier of fact must ~~shall~~ order payment of child
122 support which varies from the guideline amount as provided in
123 paragraph (11) (b) whenever any of the children are required by
124 court order or mediation agreement to spend a substantial amount
125 of time with either parent. This requirement applies to any
126 living arrangement, whether temporary or permanent.

127 Section 5. Section 61.31, Florida Statutes, is created to



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128 read:

129 61.31 Amount of support for a dependent adult child.—

130 (1) In determining the amount of support to be paid after a
131 dependent adult child as defined in s. 61.1255 reaches the age
132 of 18, the specific terms and conditions of such support, and
133 the rights and duties of both parents with respect to the
134 support, the court shall determine and give consideration to all
135 of the following:

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

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

141 (c) Whether a parent pays for or will pay for the care or
142 supervision of the dependent adult child or provides or will
143 provide substantial care or personal supervision to the
144 dependent adult child himself or herself.

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

147 (e) Any other financial resources or other resources or
148 programs available for the support, care, and supervision of the
149 dependent adult child.

150 (2) The court may irrevocably assign the support to a
151 special needs trust under 42 U.S.C. s. 1396p(d) (4) or to a
152 pooled trust under 42 U.S.C. s. 1396p(d) (4) (C) established for
153 the dependent adult child by the dependent adult child, his or
154 her agent under a durable power of attorney, the court, a parent
155 or grandparent, a guardian, or a guardian advocate who has been
156 delegated those rights in order to maintain the dependent adult



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157 child's means-based government benefits.

158 (3) In making its decisions, the court shall take into
159 consideration any state or federal programs and benefits that
160 the dependent adult child is receiving and the effect that the
161 court-ordered support would have on the dependent adult child's
162 continued eligibility for such programs and benefits.

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

165 393.12 Capacity; appointment of guardian advocate.—

166 (2) APPOINTMENT OF A GUARDIAN ADVOCATE.—

167 (b) A person who is being considered for appointment or is
168 appointed as a guardian advocate is not required to need not be
169 represented by an attorney unless required by the court or if
170 the guardian advocate is delegated any rights regarding property
171 other than the right to be the representative payee for
172 government benefits or the right of a parent to receive periodic
173 payments for the support, care, maintenance, education, or other
174 needs of the person with a developmental disability. This
175 paragraph applies only to proceedings relating to the
176 appointment of a guardian advocate and the court's supervision
177 of a guardian advocate and is not an exercise of the
178 Legislature's authority under ~~pursuant to~~ s. 2(a), Art. V of the
179 State Constitution.

180 (3) PETITION.—

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

185 1.(a) State the name, age, and present address of the



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186 petitioner and his or her relationship to the person with a
187 developmental disability;

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

190 3.~~(c)~~ Allege that the petitioner believes that the person
191 needs a guardian advocate and specify the factual information on
192 which such belief is based;

193 4.~~(d)~~ Specify the exact areas in which the person lacks the
194 decisionmaking ability to make informed decisions about his or
195 her care and treatment services or to meet the essential
196 requirements for his or her physical health or safety;

197 5.~~(e)~~ Specify the legal disabilities to which the person is
198 subject; and

199 6.~~(f)~~ State the name of the proposed guardian advocate, the
200 relationship of that person to the person with a developmental
201 disability; the relationship that the proposed guardian advocate
202 had or has with a provider of health care services, residential
203 services, or other services to the person with a developmental
204 disability; and the reason why this person should be appointed.
205 The petition must also state if a willing and qualified guardian
206 advocate cannot be located, ~~the petition shall so state.~~

207 (b) A petition to appoint a guardian advocate may include a
208 request for periodic payments from either or both parents of the
209 person with a developmental disability for the support, care,
210 maintenance, education, or other needs of that person.

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

213 742.031 Hearings; court orders for support, hospital
214 expenses, and attorney ~~attorney's~~ fee.-



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215 (1) Hearings for the purpose of establishing or refuting
216 the allegations of the complaint and answer must ~~shall~~ be held
217 in the chambers and may be restricted to persons, in addition to
218 the parties involved and their counsel, as the judge in his or
219 her discretion may direct. The court shall determine the issues
220 of paternity of the child and the ability of the parents to
221 support the child. Each party's social security number must
222 ~~shall~~ be recorded in the file containing the adjudication of
223 paternity. If the court finds that the alleged father is the
224 father of the child, it must ~~shall~~ so order. If appropriate, the
225 court may ~~shall~~ order the father to pay the complainant, her
226 guardian, or any other person assuming responsibility for the
227 child moneys sufficient to pay reasonable attorney ~~attorney's~~
228 fees, hospital or medical expenses, cost of confinement, and any
229 other expenses incident to the birth of the child and to pay all
230 costs of the proceeding. Bills for pregnancy, childbirth, and
231 scientific testing are admissible as evidence without requiring
232 third-party foundation testimony, and ~~shall~~ constitute prima
233 facie evidence of amounts incurred for such services or for
234 testing on behalf of the child. The court shall order either or
235 both parents owing a duty of support to the child to pay support
236 under chapter 61 pursuant to s. 61.30. The court must ~~shall~~
237 issue, upon motion by a party, a temporary order requiring child
238 support for a minor child under pursuant to s. 61.30 pending an
239 administrative or judicial determination of parentage, if there
240 is clear and convincing evidence of paternity on the basis of
241 genetic tests or other evidence. The court may also make a
242 determination of an appropriate parenting plan, including a
243 time-sharing schedule, in accordance with chapter 61.



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244 Section 8. Section 742.06, Florida Statutes, is amended to
245 read:

246 742.06 Jurisdiction retained for future orders.—The court
247 shall retain jurisdiction of the cause for the purpose of
248 entering such other and further orders as changing circumstances
249 of the parties may in justice and equity require. Modifications
250 of child support and time-sharing are determined under chapter
251 61.

252 Section 9. Section 744.1013, Florida Statutes, is created
253 to read:

254 744.1013 Jurisdiction for support claims.—The court has
255 jurisdiction over claims for support of a dependent adult child
256 as defined in s. 61.1255 and shall adjudicate the financial
257 obligation, including health insurance, of the dependent adult
258 child's parents and enforce the financial obligation as provided
259 in chapter 61. All support required to be paid in relation to a
260 dependent adult child over the age of 18 must be paid to the
261 dependent adult child or his or her court-appointed guardian
262 advocate, guardian, or agent under a durable power of attorney.
263 However, the court may