



581458

LEGISLATIVE ACTION

Senate

.

House

.

.

Floor: 1/AD/2R

.

03/30/2023 07:32 PM

.

.

Senator Berman moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

61.1255 Support for dependent adult children; legislative
intent; powers of court.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature
to:

(a) Codify and clarify existing common law and Florida case



581458

12 law recognizing that the parents of a dependent adult child have
13 an obligation to support that child.

14 (b) Provide procedures for establishing support for a
15 dependent adult child.

16 (c) Provide safeguards, when establishing court-ordered
17 support for a dependent adult child, to protect and preserve any
18 means-based government benefits the dependent adult child is
19 receiving or may be entitled to receive.

20 (2) POWERS OF COURT.—

21 (a) For purposes of this section, the term "dependent adult
22 child" means an unmarried adult who is incapable of self-support
23 as a result of a physical or mental incapacity that began before
24 the person reached the age of 18.

25 (b) A civil suit to establish support for a dependent adult
26 child may only be filed in circuit court in the county in which
27 the dependent adult child resides by one of the following:

28 1. The dependent adult child or his or her agent under a
29 durable power of attorney.

30 2. A parent or other person on behalf of the dependent
31 adult child.

32 3. The dependent adult child's guardian advocate appointed
33 under chapter 393 or guardian appointed under chapter 744, if
34 the dependent adult child's right to sue or defend lawsuits has
35 been removed by the court.

36 (c) A civil suit to establish support for a dependent adult
37 child may be filed at any time after he or she reaches the age
38 of 17 years and 6 months, unless such an order is already in
39 place having been established during the child's minority.

40 (d) If a court has jurisdiction over the parties because of



581458

41 an issue of child support, the parents may agree in writing to
42 provide for dependent adult child support in the existing case
43 if the agreement is submitted to the court for approval before
44 the dependent adult child reaches the age of 18. Otherwise, the
45 amount of support to be paid by one or both parents must be
46 established in a separate support proceeding in circuit court
47 pursuant to paragraph (b).

48 (e) Support ordered after the dependent adult child reaches
49 the age of 18 may be paid only to the dependent adult child or
50 his or her court-appointed guardian advocate, guardian, or agent
51 under a durable power of attorney. However, the court may
52 irrevocably assign the support to a special needs trust under 42
53 U.S.C. s. 1396p(d) (4) (A) or to a pooled trust under 42 U.S.C. s.
54 1396p(d) (4) (C) established for the benefit of the dependent
55 adult child by the dependent adult child, his or her agent under
56 a durable power of attorney, the court, a parent or grandparent,
57 a guardian, or a guardian advocate who has been delegated those
58 rights in order to maintain the dependent adult child's means-
59 based government benefits.

60 (f) The Department of Revenue may not file a petition to
61 establish, modify, or enforce a support order under this
62 section.

63 Section 2. Paragraph (a) of subsection (1) and paragraph
64 (b) of subsection (2) of section 61.13, Florida Statutes, are
65 amended to read:

66 61.13 Support of children; parenting and time-sharing;
67 powers of court.—

68 (1) (a) In a proceeding under this chapter, the court may at
69 any time order either or both parents who owe a duty of support



581458

70 to a child to pay support to the other parent or, ~~in the case of~~
71 ~~both parents,~~ to a third party who has custody in accordance
72 with the child support guidelines schedule in s. 61.30.

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

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

82 b. A schedule, based on the record existing at the time of
83 the order, stating the amount of the monthly child support
84 obligation for all the minor children at the time of the order
85 and the amount of child support that will be owed for any
86 remaining children after one or more of the children are no
87 longer entitled to receive child support; and

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

90 2. The court initially entering an order requiring one or
91 both parents to make child support payments has continuing
92 jurisdiction after the entry of the initial order to modify the
93 amount and terms and conditions of the child support payments if
94 the modification is found by the court to be in the best
95 interests of the child; ~~when~~ the child reaches majority; if
96 there is a substantial change in the circumstances of the
97 parties; the minor child, or the child who is dependent in fact
98 and between the ages of 18 and 19, is still in high school and



581458

99 is performing in good faith with a reasonable expectation of
100 graduation before he or she reaches the age of 19 ~~if s.~~
101 ~~743.07(2) applies; or the~~ when a child is emancipated, marries,
102 joins the armed services, or dies. The court initially entering
103 a child support order has continuing jurisdiction to require the
104 obligee to report to the court on terms prescribed by the court
105 regarding the disposition of the child support payments.

106 (2)

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

109 1. Describe in adequate detail how the parents will share
110 and be responsible for the daily tasks associated with the
111 upbringing of the child;

112 2. Include the time-sharing schedule arrangements that
113 specify the time that the minor child will spend with each
114 parent;

115 3. Designate who will be responsible for:

116 a. Any and all forms of health care. If the court orders
117 shared parental responsibility over health care decisions, ~~the~~
118 ~~parenting plan must provide that~~ either parent may consent to
119 mental health treatment for the child unless stated otherwise in
120 the parenting plan.

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

123 c. Other activities; and

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

126 Section 3. Section 61.29, Florida Statutes, is amended to
127 read:



581458

128 61.29 Child support guidelines; principles; applicability.—

129 (1) The following principles establish the public policy of
130 the State of Florida in the creation of the child support
131 guidelines:

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

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

138 (c)~~(3)~~ The guidelines encourage fair and efficient
139 settlement of support issues between parents and minimizes the
140 need for litigation.

141 (2) The guidelines in this section do not apply to support
142 for a dependent adult child as defined in s. 61.1255(2) (a). The
143 amount of support for a dependent adult child is determined by
144 s. 61.31.

145 Section 4. Paragraph (a) of subsection (1) of section
146 61.30, Florida Statutes, is amended to read:

147 61.30 Child support guidelines; retroactive child support.—

148 (1) (a) The child support guideline amount as determined by
149 this section presumptively establishes the amount the trier of
150 fact must ~~shall~~ order as child support for a minor child, or a
151 child who is dependent in fact and between the ages of 18 and 19
152 and who is still in high school and is performing in good faith
153 with a reasonable expectation of graduation before he or she
154 reaches the age of 19, in an initial proceeding for such support
155 or in a proceeding for modification of an existing order for
156 such support, whether the proceeding arises under this or



581458

157 another chapter. The trier of fact may order payment of child
158 support which varies, plus or minus 5 percent, from the
159 guideline amount, after considering all relevant factors,
160 including the needs of the child or children, age, station in
161 life, standard of living, and the financial status and ability
162 of each parent. The trier of fact may order payment of child
163 support in an amount which varies more than 5 percent from such
164 guideline amount only upon a written finding explaining why
165 ordering payment of such guideline amount would be unjust or
166 inappropriate. Notwithstanding the variance limitations of this
167 section, the trier of fact must ~~shall~~ order payment of child
168 support which varies from the guideline amount as provided in
169 paragraph (11)(b) whenever any of the children are required by
170 court order or mediation agreement to spend a substantial amount
171 of time with either parent. This requirement applies to any
172 living arrangement, whether temporary or permanent.

173 Section 5. Section 61.31, Florida Statutes, is created to
174 read:

175 61.31 Amount of support for a dependent adult child.-

176 (1) In determining the amount of support to be paid after a
177 dependent adult child as defined in s. 61.1255(2)(a) reaches the
178 age of 18, the specific terms and conditions of such support,
179 and the rights and duties of both parents with respect to the
180 support, the court shall determine and consider all of the
181 following:

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

183 (b) Any existing and future needs of the dependent adult
184 child which are directly related to his or her mental or
185 physical incapacity and the substantial care and personal



581458

186 supervision directly required by or related to that incapacity.

187 (c) Whether a parent or other person pays for or will pay
188 for the care or supervision of the dependent adult child or
189 provides or will provide substantial care or personal
190 supervision to the dependent adult child himself or herself.

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

193 (e) Any other financial resources or other resources or
194 programs available for the support, care, and supervision of the
195 dependent adult child.

196 (2) The court may irrevocably assign the support to a
197 special needs trust under 42 U.S.C. s. 1396p(d) (4) (A) or to a
198 pooled trust under 42 U.S.C. s. 1396p(d) (4) (C) established for
199 the benefit of the dependent adult child by the dependent adult
200 child, his or her agent under a durable power of attorney, the
201 court, a parent or grandparent, a guardian, or a guardian
202 advocate who has been delegated those rights in order to
203 maintain the dependent adult child's means-based government
204 benefits.

205 (3) In making its decisions, the court shall consider:

206 (a) Any state or federal programs and benefits that the
207 dependent adult child is receiving or may receive due to
208 reaching the age of majority; and

209 (b) The effect that the court-ordered support would have on
210 the dependent adult child's eligibility for such programs and
211 benefits.

212 (4) The court may not order support that will cause
213 ineligibility for programs in which the dependent adult child
214 currently participates, or programs and services for which the



581458

215 dependent adult child is reasonably expected to become eligible
216 upon reaching the age of majority.

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

219 393.12 Capacity; appointment of guardian advocate.—

220 (2) APPOINTMENT OF A GUARDIAN ADVOCATE.—

221 (b) A person who is being considered for appointment or is
222 appointed as a guardian advocate is not required to ~~need not~~ be
223 represented by an attorney unless required by the court or if
224 the guardian advocate is delegated any rights regarding property
225 other than the right to be the representative payee for
226 government benefits or to receive periodic payments for the
227 support, care, maintenance, education, or other needs of the
228 person with a developmental disability pursuant to s. 61.1255.

229 This paragraph applies only to proceedings relating to the
230 appointment of a guardian advocate and the court's supervision
231 of a guardian advocate and is not an exercise of the
232 Legislature's authority under ~~pursuant to~~ s. 2(a), Art. V of the
233 State Constitution.

234 (3) PETITION.—

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

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

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



581458

244 3.(e) Allege that the petitioner believes that the person
245 needs a guardian advocate and specify the factual information on
246 which such belief is based;

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

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

253 6.(f) State the name of the proposed guardian advocate, the
254 relationship of that person to the person with a developmental
255 disability; the relationship that the proposed guardian advocate
256 had or has with a provider of health care services, residential
257 services, or other services to the person with a developmental
258 disability; and the reason why this person should be appointed.
259 The petition must also state if a willing and qualified guardian
260 advocate cannot be located, ~~the petition shall so state.~~

261 (b) A petition to appoint a guardian advocate may include a
262 request for the authority to bring a civil action in circuit
263 court to establish periodic payments from either or both parents
264 of the person with a developmental disability for the support,
265 care, maintenance, education, or other needs of that person
266 pursuant to s. 61.1255. This section may not be construed to
267 confer any obligation or duty for a guardian advocate to pursue
268 support for the person with a developmental disability.

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

271 742.031 Hearings; court orders for support, hospital
272 expenses, and attorney fees ~~attorney's fee.~~-



581458

273 (1) Hearings for the purpose of establishing or refuting
274 the allegations of the complaint and answer must ~~shall~~ be held
275 in the chambers and may be restricted to persons, in addition to
276 the parties involved and their counsel, as the judge in his or
277 her discretion may direct. The court shall determine the issues
278 of paternity of the child and the ability of the parents to
279 support the child. Each party's social security number must
280 ~~shall~~ be recorded in the file containing the adjudication of
281 paternity. If the court finds that the alleged father is the
282 father of the child, it must ~~shall~~ so order. If appropriate, the
283 court may ~~shall~~ order the father to pay the complainant, her
284 guardian, or any other person assuming responsibility for the
285 child moneys sufficient to pay reasonable attorney ~~attorney's~~
286 fees, hospital or medical expenses, cost of confinement, and any
287 other expenses incident to the birth of the child and to pay all
288 costs of the proceeding. Bills for pregnancy, childbirth, and
289 scientific testing are admissible as evidence without requiring
290 third-party foundation testimony, and ~~shall~~ constitute prima
291 facie evidence of amounts incurred for such services or for
292 testing on behalf of the child. The court shall order either or
293 both parents owing a duty of support to the child to pay support
294 under chapter 61 ~~pursuant to s. 61.30~~. The court must ~~shall~~
295 issue, upon motion by a party, a temporary order requiring child
296 support for a minor child under ~~pursuant to s. 61.30~~ pending an
297 administrative or judicial determination of parentage, if there
298 is clear and convincing evidence of paternity on the basis of
299 genetic tests or other evidence. The court may also make a
300 determination of an appropriate parenting plan, including a
301 time-sharing schedule, in accordance with chapter 61.



302 Section 8. Section 742.06, Florida Statutes, is amended to
303 read:

304 742.06 Jurisdiction retained for future orders.—The court
305 shall retain jurisdiction of the cause for the purpose of
306 entering such other and further orders as changing circumstances
307 of the parties may in justice and equity require. Modifications
308 and enforcement of child support, time-sharing, and support for
309 a dependent adult child are determined under chapter 61.

310 Section 9. Section 744.422, Florida Statutes, is created to
311 read:

312 744.422 Petition for support for a dependent adult child.—
313 Pursuant to s. 61.1255, a guardian may petition the court for
314 the authority to bring a civil suit in circuit court to
315 establish periodic payments from either or both parents of the
316 dependent adult child for the support, care, maintenance,
317 education, and any other needs of a dependent adult child if not
318 otherwise provided for in the guardianship plan. The amount of
319 support is determined pursuant to s. 61.31. This section may not
320 be construed to confer any obligation or duty for a guardian to
321 pursue support on behalf of a dependent adult child.

322 Section 10. This act shall take effect July 1, 2023.

323
324 ===== T I T L E A M E N D M E N T =====

325 And the title is amended as follows:

326 Delete everything before the enacting clause
327 and insert:

328 A bill to be entitled
329 An act relating to support for dependent adult
330 children; creating s. 61.1255, F.S.; providing



331 legislative intent; defining the term "dependent adult
332 child"; providing that civil suits to establish
333 support for dependent adult children may be filed only
334 in a certain court by specified individuals;
335 specifying a timeframe during which such suits may be
336 filed; providing an exception; specifying procedures
337 for establishing such support; requiring such support
338 to be paid to the dependent adult child or other
339 specified persons; authorizing the court to
340 irrevocably assign such support to certain trusts
341 established for the benefit of the dependent adult
342 child for a specified purpose; prohibiting the
343 Department of Revenue from filing petitions to
344 establish, modify, or enforce certain support orders;
345 amending s. 61.13, F.S.; conforming a provision to
346 changes made by the act; specifying that a child
347 support order does not terminate on the child's 18th
348 birthday in certain circumstances; specifying that a
349 court may modify a child support order for a minor
350 child or child who is dependent in fact under certain
351 circumstances; authorizing either parent to consent to
352 mental health treatment for a child unless stated
353 otherwise in the parenting plan; amending s. 61.29,
354 F.S.; providing applicability; amending s. 61.30,
355 F.S.; conforming a provision to changes made by the
356 act; creating s. 61.31, F.S.; requiring the court to
357 consider certain factors when determining the amount
358 of support for a dependent adult child; authorizing
359 the court to assign support to certain trusts



581458

360 established for the benefit of the dependent adult
361 child for a specified purpose; requiring the court to
362 consider certain state and federal programs and
363 benefits in making its decisions; prohibiting the
364 court from ordering support that will cause
365 ineligibility for certain programs; amending s.
366 393.12, F.S.; providing an additional circumstance
367 under which a guardian advocate must be represented by
368 an attorney in guardianship proceedings; specifying
369 that petitions to appoint a guardian advocate for a
370 person with a developmental disability may request
371 authority to bring a civil suit to establish periodic
372 payments from the person's parent or parents;
373 providing construction; amending s. 742.031, F.S.;
374 authorizing, rather than requiring, the court to order
375 a father to pay attorney fees and certain costs and
376 expenses to specified persons; making a technical
377 change; amending s. 742.06, F.S.; conforming a
378 provision to changes made by the act; creating s.
379 744.422, F.S.; authorizing a guardian of a dependent
380 adult child to petition the court for authority to
381 bring a civil suit to establish certain support
382 payments from the dependent adult child's parent or
383 parents in certain circumstances; specifying that the
384 amount of such support is determined pursuant to
385 certain provisions of law; providing construction;
386 providing an effective date.