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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/08/2023	.	
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The Committee on Children, Families, and Elder Affairs (Berman) recommended 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.—

(a) It is the intent of the Legislature to:



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11 1. Codify and clarify existing common law and Florida case  
12 law recognizing that the parents of a dependent adult child have  
13 an obligation to support that child;

14 2. Provide procedures for establishing support for a  
15 dependent adult child; and

16 3. 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) The right of a parent or other person to decide where  
26 the dependent adult child will live must be established in a  
27 guardianship proceeding brought under chapter 393 or chapter  
28 744. Nothing in this paragraph shall be construed to require a  
29 guardianship under chapter 744 or guardian advocacy under  
30 chapter 393 in order for a court to order support for a  
31 dependent adult child.

32 (c) A suit to establish support for a dependent adult child  
33 may only be filed by one of the following:

34 1. The dependent adult child or his or her agent under a  
35 durable power of attorney. Any such action must be brought in  
36 the circuit court in the county in which the dependent adult  
37 child resides.

38 2. A parent or other person on behalf of the dependent  
39 adult child. Any such action must be brought under chapter 393



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40 or chapter 744.

41 3. The dependent adult child's guardian advocate appointed  
42 under chapter 393 or guardian appointed under chapter 744, if  
43 the dependent adult child's right to sue or defend lawsuits has  
44 been removed by the court.

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

49 (f) If a court has jurisdiction over the parties because of  
50 an issue of child support, the parents may agree in writing to  
51 provide for dependent adult support in the existing case if the  
52 agreement is submitted to the court for approval before the  
53 dependent adult child reaches the age of 18. Otherwise, the  
54 amount of support to be paid by one or both parents must be  
55 established in a guardianship proceeding or in a separate  
56 support proceeding in circuit court pursuant to subparagraph  
57 (c)1. This section does not preclude a court from establishing  
58 support, ordering continued support, or enforcing or modifying  
59 support orders established under this chapter.

60 (g) Support ordered after the dependent adult child reaches  
61 the age of 18 may be paid only to the dependent adult child or  
62 his or her court-appointed guardian advocate, guardian, or agent  
63 under a durable power of attorney. However, the court may  
64 irrevocably assign the support to a special needs trust under 42  
65 U.S.C. s. 1396p(d) (4) or to a pooled trust under 42 U.S.C. s.  
66 1396p(d) (4) (C) established for the dependent adult child by the  
67 dependent adult child, his or her agent under a durable power of  
68 attorney, the court, a parent or grandparent, a guardian, or a



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69 guardian advocate who has been delegated those rights in order  
70 to maintain the dependent adult child's means-based government  
71 benefits.

72 (h) The Department of Revenue may not file a petition to  
73 establish, modify, or enforce a support order under this  
74 section.

75 Section 2. Paragraph (a) of subsection (1) and paragraph  
76 (b) of subsection (2) of section 61.13, Florida Statutes, are  
77 amended to read:

78 61.13 Support of children; parenting and time-sharing;  
79 powers of court.—

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

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

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

94 b. A schedule, based on the record existing at the time of  
95 the order, stating the amount of the monthly child support  
96 obligation for all the minor children at the time of the order  
97 and the amount of child support that will be owed for any



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98 remaining children after one or more of the children are no  
99 longer entitled to receive child support; and

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

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

118 (2)

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

121 1. Describe in adequate detail how the parents will share  
122 and be responsible for the daily tasks associated with the  
123 upbringing of the child;

124 2. Include the time-sharing schedule arrangements that  
125 specify the time that the minor child will spend with each  
126 parent;



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127 3. Designate who will be responsible for:

128 a. Any and all forms of health care. If the court orders  
129 shared parental responsibility over health care decisions, ~~the~~  
130 ~~parenting plan must provide that~~ either parent may consent to  
131 mental health treatment for the child unless stated otherwise in  
132 the parenting plan.

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

135 c. Other activities; and

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

138 Section 3. Section 61.29, Florida Statutes, is amended to  
139 read:

140 61.29 Child support guidelines; principles; application.—

141 (1) The following principles establish the public policy of  
142 the State of Florida in the creation of the child support  
143 guidelines:

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

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

150 (c) ~~(3)~~ The guidelines encourage fair and efficient  
151 settlement of support issues between parents and minimizes the  
152 need for litigation.

153 (2) The guidelines in this section do not apply to support  
154 for a dependent adult child as defined in s. 61.1255. The amount  
155 of support for a dependent adult child is determined by s.



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61.31.  
Section 4. Paragraph (a) of subsection (1) of section  
61.30, Florida Statutes, is amended to read:  
61.30 Child support guidelines; retroactive child support.-  
(1) (a) The child support guideline amount as determined by  
this section presumptively establishes the amount the trier of  
fact must ~~shall~~ order as child support for a minor child, or a  
child who is dependent in fact and between the ages of 18 and 19  
and who is still in high school and is performing in good faith  
with a reasonable expectation of graduation before he or she  
reaches the age of 19, in an initial proceeding for such support  
or in a proceeding for modification of an existing order for  
such support, whether the proceeding arises under this or  
another chapter. The trier of fact may order payment of child  
support which varies, plus or minus 5 percent, from the  
guideline amount, after considering all relevant factors,  
including the needs of the child or children, age, station in  
life, standard of living, and the financial status and ability  
of each parent. The trier of fact may order payment of child  
support in an amount which varies more than 5 percent from such  
guideline amount only upon a written finding explaining why  
ordering payment of such guideline amount would be unjust or  
inappropriate. Notwithstanding the variance limitations of this  
section, the trier of fact must ~~shall~~ order payment of child  
support which varies from the guideline amount as provided in  
paragraph (11) (b) whenever any of the children are required by  
court order or mediation agreement to spend a substantial amount  
of time with either parent. This requirement applies to any  
living arrangement, whether temporary or permanent.



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185 Section 5. Section 61.31, Florida Statutes, is created to  
186 read:

187 61.31 Amount of support for a dependent adult child.—

188 (1) In determining the amount of support to be paid after a  
189 dependent adult child as defined in s. 61.1255 reaches the age  
190 of 18, the specific terms and conditions of such support, and  
191 the rights and duties of both parents with respect to the  
192 support, the court shall determine and give consideration to all  
193 of the following:

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

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

199 (c) Whether a parent or other person pays for or will pay  
200 for the care or supervision of the dependent adult child or  
201 provides or will provide substantial care or personal  
202 supervision to the dependent adult child himself or herself.

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

205 (e) Any other financial resources or other resources or  
206 programs available for the support, care, and supervision of the  
207 dependent adult child.

208 (2) The court may irrevocably assign the support to a  
209 special needs trust under 42 U.S.C. s. 1396p(d) (4) or to a  
210 pooled trust under 42 U.S.C. s. 1396p(d) (4) (C) established for  
211 the dependent adult child by the dependent adult child, his or  
212 her agent under a durable power of attorney, the court, a parent  
213 or grandparent, a guardian, or a guardian advocate who has been





214 delegated those rights in order to maintain the dependent adult  
215 child's means-based government benefits.

216 (3) In making its decisions, the court shall take into  
217 consideration:

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

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

224 (4) The court must not order support that will cause  
225 ineligibility for programs in which the dependent adult child  
226 currently participates, or programs and services they are  
227 reasonably expected to become eligible for due to their reaching  
228 the age of majority.

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

231 393.12 Capacity; appointment of guardian advocate.—

232 (2) APPOINTMENT OF A GUARDIAN ADVOCATE.—

233 (b) A person who is being considered for appointment or is  
234 appointed as a guardian advocate is not required to ~~need not~~ be  
235 represented by an attorney unless required by the court or if  
236 the guardian advocate is delegated any rights regarding property  
237 other than the right to be the representative payee for  
238 government benefits or the right of a parent to receive periodic  
239 payments for the support, care, maintenance, education, or other  
240 needs of the person with a developmental disability. This  
241 paragraph applies only to proceedings relating to the  
242 appointment of a guardian advocate and the court's supervision



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243 of a guardian advocate and is not an exercise of the  
244 Legislature's authority under ~~pursuant to~~ s. 2(a), Art. V of the  
245 State Constitution.

246 (3) PETITION.—

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

251 1.~~(a)~~ State the name, age, and present address of the  
252 petitioner and his or her relationship to the person with a  
253 developmental disability;

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

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

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

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

265 6.~~(f)~~ State the name of the proposed guardian advocate, the  
266 relationship of that person to the person with a developmental  
267 disability; the relationship that the proposed guardian advocate  
268 had or has with a provider of health care services, residential  
269 services, or other services to the person with a developmental  
270 disability; and the reason why this person should be appointed.  
271 The petition must also state if a willing and qualified guardian



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272 advocate cannot be located, ~~the petition shall so state.~~

273 (b) A petition to appoint a guardian advocate may include a  
274 request for periodic payments from either or both parents of the  
275 person with a developmental disability for the support, care,  
276 maintenance, education, or other needs of that person pursuant  
277 to chapter 61.1255. Nothing in this section shall be construed  
278 to confer any obligation or duty for a guardian advocate to  
279 pursue support for the person with a developmental disability.

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

282 742.031 Hearings; court orders for support, hospital  
283 expenses, and attorney ~~attorney's~~ fee.—

284 (1) Hearings for the purpose of establishing or refuting  
285 the allegations of the complaint and answer must ~~shall~~ be held  
286 in the chambers and may be restricted to persons, in addition to  
287 the parties involved and their counsel, as the judge in his or  
288 her discretion may direct. The court shall determine the issues  
289 of paternity of the child and the ability of the parents to  
290 support the child. Each party's social security number must  
291 ~~shall~~ be recorded in the file containing the adjudication of  
292 paternity. If the court finds that the alleged father is the  
293 father of the child, it must ~~shall~~ so order. If appropriate, the  
294 court may ~~shall~~ order the father to pay the complainant, her  
295 guardian, or any other person assuming responsibility for the  
296 child moneys sufficient to pay reasonable attorney ~~attorney's~~  
297 fees, hospital or medical expenses, cost of confinement, and any  
298 other expenses incident to the birth of the child and to pay all  
299 costs of the proceeding. Bills for pregnancy, childbirth, and  
300 scientific testing are admissible as evidence without requiring



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301 third-party foundation testimony~~7~~ and ~~shall~~ constitute prima  
302 facie evidence of amounts incurred for such services or for  
303 testing on behalf of the child. The court shall order either or  
304 both parents owing a duty of support to the child to pay support  
305 under chapter 61 pursuant to s. 61.30. The court must ~~shall~~  
306 issue, upon motion by a party, a temporary order requiring child  
307 support for a minor child under ~~pursuant to s. 61.30~~ pending an  
308 administrative or judicial determination of parentage~~7~~ if there  
309 is clear and convincing evidence of paternity on the basis of  
310 genetic tests or other evidence. The court may also make a  
311 determination of an appropriate parenting plan, including a  
312 time-sharing schedule, in accordance with chapter 61.

313 Section 8. Section 742.06, Florida Statutes, is amended to  
314 read:

315 742.06 Jurisdiction retained for future orders.—The court  
316 shall retain jurisdiction of the cause for the purpose of  
317 entering such other and further orders as changing circumstances  
318 of the parties may in justice and equity require. Modifications  
319 of child support and time-sharing are determined under chapter  
320 61.

321 Section 9. Section 744.1013, Florida Statutes, is created  
322 to read:

323 744.1013 Jurisdiction for support claims.—The court has  
324 jurisdiction over claims for support of a dependent adult child  
325 as defined in s. 61.1255 and shall adjudicate the financial  
326 obligation, including health insurance, of the dependent adult  
327 child's parents and enforce the financial obligation as provided  
328 in chapter 61. All support required to be paid in relation to a  
329 dependent adult child over the age of 18 must be paid to the



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330 dependent adult child or his or her court-appointed guardian  
331 advocate, guardian, or agent under a durable power of attorney.  
332 However, the court may irrevocably assign the support to a  
333 special needs trust under 42 U.S.C. s. 1396p(d)(4) or to a  
334 pooled trust under 42 U.S.C. s. 1396p(d)(4)(C) established for  
335 the dependent adult child by the dependent adult child, his or  
336 her agent under a durable power of attorney, the court, a parent  
337 or grandparent, a guardian, or a guardian advocate who has been  
338 delegated those rights in order to maintain the dependent adult  
339 child's means-based government benefits. Any order for support  
340 entered in a proceeding under this chapter or chapter 393  
341 supersedes any support order entered under chapter 61.

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

344 744.3021 Guardians of minors.—

345 (4) If a petition is filed under ~~pursuant to~~ this section  
346 requesting appointment of a guardian for a minor who is the  
347 subject of any proceeding under chapter 39 or chapter 61 and who  
348 is aged 17 years and 6 months or older, the court division with  
349 jurisdiction over guardianship matters has jurisdiction over the  
350 proceedings under s. 744.331. The alleged incapacitated minor  
351 under this subsection must ~~shall~~ be provided all the due process  
352 rights conferred upon an alleged incapacitated adult under  
353 ~~pursuant to~~ this chapter and applicable court rules. The order  
354 of adjudication under s. 744.331 and the letters of limited or  
355 plenary guardianship may issue upon the minor's 18th birthday or  
356 as soon thereafter as possible. Any proceeding under ~~pursuant to~~  
357 this subsection must ~~shall~~ be conducted separately from any  
358 other proceeding.



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359 Section 11. Section 744.422, Florida Statutes, is created  
360 to read:

361 744.422 Petition for child support for a dependent adult  
362 child.—Pursuant to s. 61.1255, a guardian may petition the court  
363 for an order requiring either or both parents to pay periodic  
364 amounts for the support, care, maintenance, education, and any  
365 other needs of a dependent adult child if not otherwise provided  
366 for in the guardianship plan. The amount of support is  
367 determined pursuant to s. 61.31. Nothing in this section shall  
368 be construed to confer any obligation or duty for a guardian to  
369 pursue support on behalf of a ward.

370 Section 12. This act shall take effect July 1, 2023.

371  
372 ===== T I T L E A M E N D M E N T =====

373 And the title is amended as follows:

374 Delete everything before the enacting clause  
375 and insert:

376 A bill to be entitled  
377 An act relating to support for dependent adult  
378 children; creating s. 61.1255, F.S.; providing  
379 legislative intent; defining the term "dependent adult  
380 child"; requiring that certain rights of the parents  
381 of a dependent adult child be established in a  
382 guardianship proceeding; specifying that a  
383 guardianship is not necessary for certain actions of  
384 the court; specifying individuals who may file a suit  
385 to establish support for a dependent adult child;  
386 specifying a timeframe during which such suits may be  
387 filed; providing an exception; specifying procedures



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388 for establishing support; specifying who may receive  
389 such support before and after the dependent adult  
390 child reaches the age of 18; providing construction;  
391 authorizing the court to assign support to certain  
392 trusts established for a dependent adult child;  
393 prohibiting the Department of Revenue from filing  
394 petitions to establish, modify, or enforce certain  
395 support orders; amending s. 61.13, F.S.; conforming a  
396 provision to changes made by the act; specifying that  
397 a child support order does not terminate on the  
398 child's 18th birthday in certain circumstances;  
399 specifying that a court may modify a child support  
400 order for adult children in certain circumstances;  
401 authorizing either parent to consent to mental health  
402 treatment for a child in certain circumstances unless  
403 stated otherwise in the parenting plan; amending s.  
404 61.29, F.S.; providing that child support guidelines  
405 do not apply to certain cases; amending s. 61.30,  
406 F.S.; conforming a provision to changes made by the  
407 act; creating s. 61.31, F.S.; providing factors a  
408 court must consider when determining the amount of  
409 child support for a dependent adult child; authorizing  
410 a court to assign support to certain trusts  
411 established for a dependent adult child for a  
412 specified purpose; requiring the court to consider  
413 certain state and federal programs and benefits when  
414 making its decisions; prohibiting the court from  
415 ordering support which will cause ineligibility for  
416 certain programs; specifying that no obligations or



417 duties are conferred on guardian advocates to provide  
418 support; amending s. 393.12, F.S.; providing an  
419 additional circumstance under which a guardian  
420 advocate must be represented by an attorney in  
421 guardianship proceedings; specifying that petitions to  
422 appoint a guardian advocate for a person with  
423 disabilities may include certain requests for support  
424 from the person's parents; amending ss. 742.031 and  
425 742.06, F.S.; conforming provisions to changes made by  
426 the act; creating s. 744.1013, F.S.; assigning  
427 jurisdiction over petitions for support of dependent  
428 adult children to the guardianship court; specifying  
429 who may receive such support for dependent adult  
430 children over the age of 18; authorizing a court to  
431 assign support to certain trusts established for a  
432 dependent adult child for a specified purpose;  
433 specifying that such support orders supersede any  
434 orders entered under certain other provisions;  
435 amending s. 744.3021, F.S.; conforming provisions to  
436 changes made by the act; creating s. 744.422, F.S.;  
437 authorizing a guardian of a dependent adult child to  
438 petition the court for certain support payments from  
439 the dependent adult child's parents in certain  
440 circumstances; specifying that the amount of such  
441 support is determined pursuant to certain provisions;  
442 specifying that no obligations or duties are conferred  
443 on guardians to provide support; providing an  
444 effective date.