

By Senator Berman

26-00577A-23

2023226__

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 their dependent adult
6 child; requiring that certain rights of the parents of
7 a dependent adult child be established in a
8 guardianship proceeding; specifying individuals who
9 may file a suit to establish support for a dependent
10 adult child; specifying a timeframe during which such
11 suits may be filed; providing an exception; specifying
12 procedures for establishing support; specifying who
13 may receive such support before and after the
14 dependent adult child reaches the age of 18; providing
15 construction; authorizing the court to assign support
16 to certain trusts established for a dependent adult
17 child; prohibiting the Department of Revenue from
18 filing petitions to establish, modify, or enforce
19 certain support orders; amending s. 61.13, F.S.;
20 conforming a provision to changes made by the act;
21 specifying that a child support order does not
22 terminate on the child's 18th birthday in certain
23 circumstances; specifying that a court may modify a
24 child support order for adult children in certain
25 circumstances; authorizing either parent to consent to
26 mental health treatment for a child in certain
27 circumstances unless stated otherwise in the parenting
28 plan; amending s. 61.29, F.S.; providing that child
29 support guidelines do not apply to certain cases;

26-00577A-23

2023226__

30 amending s. 61.30, F.S.; conforming a provision to
31 changes made by the act; creating s. 61.31, F.S.;
32 providing factors a court must consider when
33 determining the amount of child support for a
34 dependent adult child; authorizing a court to assign
35 support to certain trusts established for a dependent
36 adult child for a specified purpose; requiring the
37 court to consider certain state and federal programs
38 and benefits when making its decisions; amending s.
39 393.12, F.S.; providing an additional circumstance
40 under which a guardian advocate must be represented by
41 an attorney in guardianship proceedings; specifying
42 that petitions to appoint a guardian advocate for a
43 person with disabilities may include certain requests
44 for support from the person's parents; amending ss.
45 742.031 and 742.06, F.S.; conforming provisions to
46 changes made by the act; creating s. 744.1013, F.S.;
47 assigning jurisdiction over petitions for support of
48 dependent adult children to the guardianship court;
49 specifying who may receive such support for dependent
50 adult children over the age of 18; authorizing a court
51 to assign support to certain trusts established for a
52 dependent adult child for a specified purpose;
53 specifying that such support orders supersede any
54 orders entered under certain other provisions;
55 amending s. 744.3021, F.S.; conforming provisions to
56 changes made by the act; creating s. 744.422, F.S.;
57 authorizing a guardian of a dependent adult child to
58 petition the court for certain support payments from

26-00577A-23

2023226__

59 the dependent adult child's parents in certain
60 circumstances; specifying that the amount of such
61 support is determined pursuant to certain provisions;
62 providing an effective date.

63
64 Be It Enacted by the Legislature of the State of Florida:

65
66 Section 1. Section 61.1255, Florida Statutes, is created to
67 read:

68 61.1255 Support for dependent adult children; powers of
69 court.-

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

74 (2) The parents of a dependent adult child are responsible
75 for supporting that child.

76 (3) The right of a parent or other person to decide where
77 the dependent adult child will live must be established in a
78 guardianship proceeding brought under chapter 393 or chapter
79 744.

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

82 (a) The dependent adult child or his or her agent under a
83 durable power of attorney, if the dependent adult child's right
84 to sue or defend lawsuits has not been removed by the court. Any
85 such action must be brought in the circuit court in the county
86 in which the child resides.

87 (b) A parent or other person on behalf of the dependent

26-00577A-23

2023226__

88 adult child. Any such action must be brought under chapter 393
89 or chapter 744.

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

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

96 (6) If a court has jurisdiction over the parties because of
97 an issue of child support, the parents may agree in writing to
98 extend support in the existing case if the agreement is
99 submitted to the court for approval before the dependent adult
100 child reaches the age of 18. Otherwise, the amount of support to
101 be paid by one parent to the other must be established in a
102 guardianship proceeding or in a separate support proceeding in
103 circuit court pursuant to paragraph (4) (a). This section does
104 not preclude a court from establishing support, ordering
105 continued support, or enforcing or modifying support orders
106 established under this chapter absent an agreement by the
107 parents.

108 (7) Support ordered after the dependent adult child reaches
109 the age of 18 may be paid only to the dependent adult child or
110 his or her court-appointed guardian advocate, guardian, or
111 attorney in fact. However, the court may irrevocably assign the
112 support to a special needs trust under 42 U.S.C. s. 1396p(d) (4)
113 or to a pooled trust under 42 U.S.C. s. 1396p(d) (4) (C)
114 established for the dependent adult child by the dependent adult
115 child, his or her agent under a durable power of attorney, the
116 court, a parent or grandparent, a guardian, or a guardian

26-00577A-23

2023226__

117 advocate who has been delegated those rights in order to
118 maintain the dependent adult child's means-based government
119 benefits.

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

123 Section 2. Paragraph (a) of subsection (1) and paragraph
124 (b) of subsection (2) of section 61.13, Florida Statutes, are
125 amended to read:

126 61.13 Support of children; parenting and time-sharing;
127 powers of court.—

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

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

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

142 b. A schedule, based on the record existing at the time of
143 the order, stating the amount of the monthly child support
144 obligation for all the minor children at the time of the order
145 and the amount of child support that will be owed for any

26-00577A-23

2023226__

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

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

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

166 (2)

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

169 1. Describe in adequate detail how the parents will share
170 and be responsible for the daily tasks associated with the
171 upbringing of the child;

172 2. Include the time-sharing schedule arrangements that
173 specify the time that the minor child will spend with each
174 parent;

26-00577A-23

2023226__

175 3. Designate who will be responsible for:

176 a. Any and all forms of health care. If the court orders
177 shared parental responsibility over health care decisions, ~~the~~
178 ~~parenting plan must provide that~~ either parent may consent to
179 mental health treatment for the child unless stated otherwise in
180 the parenting plan.

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

183 c. Other activities; and

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

186 Section 3. Section 61.29, Florida Statutes, is amended to
187 read:

188 61.29 Child support guidelines; principles; application.-

189 (1) The following principles establish the public policy of
190 the State of Florida in the creation of the child support
191 guidelines:

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

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

198 (c)~~(3)~~ The guidelines encourage fair and efficient
199 settlement of support issues between parents and minimizes the
200 need for litigation.

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

26-00577A-23

2023226__

204 61.31.

205 Section 4. Paragraph (a) of subsection (1) of section
206 61.30, Florida Statutes, is amended to read:

207 61.30 Child support guidelines; retroactive child support.-

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

26-00577A-23

2023226__

233 Section 5. Section 61.31, Florida Statutes, is created to
234 read:

235 61.31 Amount of support for a dependent adult child.-

236 (1) In determining the amount of support to be paid after a
237 dependent adult child as defined in s. 61.1255 reaches the age
238 of 18, the specific terms and conditions of such support, and
239 the rights and duties of both parents with respect to the
240 support, the court shall determine and give consideration to all
241 of the following:

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

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

247 (c) Whether a parent pays for or will pay for the care or
248 supervision of the dependent adult child or provides or will
249 provide substantial care or personal supervision to the
250 dependent adult child himself or herself.

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

253 (e) Any other financial resources or other resources or
254 programs available for the support, care, and supervision of the
255 dependent adult child.

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

26-00577A-23

2023226__

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

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

269 Section 6. Paragraph (b) of subsection (2) and subsection
270 (3) of section 393.12, Florida Statutes, are amended to read:
271 393.12 Capacity; appointment of guardian advocate.—

272 (2) APPOINTMENT OF A GUARDIAN ADVOCATE.—

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

286 (3) PETITION.—

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

26-00577A-23

2023226__

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

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

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

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

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

305 6.~~(f)~~ State the name of the proposed guardian advocate, the
306 relationship of that person to the person with a developmental
307 disability; the relationship that the proposed guardian advocate
308 had or has with a provider of health care services, residential
309 services, or other services to the person with a developmental
310 disability; and the reason why this person should be appointed.
311 The petition must also state if a willing and qualified guardian
312 advocate cannot be located, ~~the petition shall so state.~~

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

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

319 742.031 Hearings; court orders for support, hospital

26-00577A-23

2023226__

320 expenses, and attorney ~~attorney's~~ fee.-

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

26-00577A-23

2023226__

349 time-sharing schedule, in accordance with chapter 61.

350 Section 8. Section 742.06, Florida Statutes, is amended to
351 read:

352 742.06 Jurisdiction retained for future orders.—The court
353 shall retain jurisdiction of the cause for the purpose of
354 entering such other and further orders as changing circumstances
355 of the parties may in justice and equity require. Modifications
356 of child support and time-sharing are determined under chapter
357 61.

358 Section 9. Section 744.1013, Florida Statutes, is created
359 to read:

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

26-00577A-23

2023226__

378 under chapter 61.

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

381 744.3021 Guardians of minors.—

382 (4) If a petition is filed under ~~pursuant to~~ this section
383 requesting appointment of a guardian for a minor who is the
384 subject of any proceeding under chapter 39 or chapter 61 and who
385 is aged 17 years and 6 months or older, the court division with
386 jurisdiction over guardianship matters has jurisdiction over the
387 proceedings under s. 744.331. The alleged incapacitated minor
388 under this subsection must ~~shall~~ be provided all the due process
389 rights conferred upon an alleged incapacitated adult under
390 ~~pursuant to~~ this chapter and applicable court rules. The order
391 of adjudication under s. 744.331 and the letters of limited or
392 plenary guardianship may issue upon the minor's 18th birthday or
393 as soon thereafter as possible. Any proceeding under ~~pursuant to~~
394 this subsection must ~~shall~~ be conducted separately from any
395 other proceeding.

396 Section 11. Section 744.422, Florida Statutes, is created
397 to read:

398 744.422 Petition for child support for a dependent adult
399 child.—Pursuant to s. 61.1255, a guardian may petition the court
400 for an order requiring either or both parents to pay periodic
401 amounts for the support, care, maintenance, education, and any
402 other needs of a dependent adult child if not otherwise provided
403 for in the guardianship plan. The amount of support is
404 determined pursuant to s. 61.31.

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