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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.; providing
4 legislative intent; defining the term "dependent adult
5 child"; providing that civil suits to establish
6 support for dependent adult children may be filed only
7 in a certain court by specified individuals;
8 specifying a timeframe during which such suits may be
9 filed; providing an exception; specifying procedures
10 for establishing such support; requiring such support
11 to be paid to the dependent adult child or other
12 specified persons; authorizing the court to
13 irrevocably assign such support to certain trusts
14 established for the benefit of the dependent adult
15 child for a specified purpose; prohibiting the
16 Department of Revenue from filing petitions to
17 establish, modify, or enforce certain support orders;
18 amending s. 61.13, F.S.; conforming a provision to
19 changes made by the act; specifying that a child
20 support order does not terminate on the child's 18th
21 birthday in certain circumstances; specifying that a
22 court may modify a child support order for a minor
23 child or child who is dependent in fact under certain
24 circumstances; authorizing either parent to consent to
25 mental health treatment for a child unless stated
26 otherwise in the parenting plan; amending s. 61.29,
27 F.S.; providing applicability; amending s. 61.30,
28 F.S.; conforming a provision to changes made by the
29 act; creating s. 61.31, F.S.; requiring the court to

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30 consider certain factors when determining the amount
31 of support for a dependent adult child; authorizing
32 the court to assign support to certain trusts
33 established for the benefit of the dependent adult
34 child for a specified purpose; requiring the court to
35 consider certain state and federal programs and
36 benefits in making its decisions; prohibiting the
37 court from ordering support that will cause
38 ineligibility for certain programs; 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 a developmental disability may request
44 authority to bring a civil suit to establish periodic
45 payments from the person's parent or parents;
46 providing construction; amending s. 742.031, F.S.;
47 authorizing, rather than requiring, the court to order
48 a father to pay attorney fees and certain costs and
49 expenses to specified persons; making a technical
50 change; amending s. 742.06, F.S.; conforming a
51 provision to changes made by the act; creating s.
52 744.422, F.S.; authorizing a guardian of a dependent
53 adult child to petition the court for authority to
54 bring a civil suit to establish certain support
55 payments from the dependent adult child's parent or
56 parents in certain circumstances; specifying that the
57 amount of such support is determined pursuant to
58 certain provisions of law; providing construction;

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59 providing an effective date.

60
61 Be It Enacted by the Legislature of the State of Florida:

62
63 Section 1. Section 61.1255, Florida Statutes, is created to
64 read:

65 61.1255 Support for dependent adult children; legislative
66 intent; powers of court.-

67 (1) LEGISLATIVE INTENT.-It is the intent of the Legislature
68 to:

69 (a) Codify and clarify existing common law and Florida case
70 law recognizing that the parents of a dependent adult child have
71 an obligation to support that child.

72 (b) Provide procedures for establishing support for a
73 dependent adult child.

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

78 (2) POWERS OF COURT.-

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

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

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

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88 2. A parent or other person on behalf of the dependent
89 adult child.

90 3. The dependent adult child's guardian advocate appointed
91 under chapter 393 or guardian appointed under chapter 744, if
92 the dependent adult child's right to sue or defend lawsuits has
93 been removed by the court.

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

98 (d) If a court has jurisdiction over the parties because of
99 an issue of child support, the parents may agree in writing to
100 provide for dependent adult child support in the existing case
101 if the agreement is submitted to the court for approval before
102 the dependent adult child reaches the age of 18. Otherwise, the
103 amount of support to be paid by one or both parents must be
104 established in a separate support proceeding in circuit court
105 pursuant to paragraph (b).

106 (e) Support ordered after the dependent adult child reaches
107 the age of 18 may be paid only to the dependent adult child or
108 his or her court-appointed guardian advocate, guardian, or agent
109 under a durable power of attorney. However, the court may
110 irrevocably assign the support to a special needs trust under 42
111 U.S.C. s. 1396p(d) (4) (A) or to a pooled trust under 42 U.S.C. s.
112 1396p(d) (4) (C) established for the benefit of the dependent
113 adult child by the dependent adult child, his or her agent under
114 a durable power of attorney, the court, a parent or grandparent,
115 a guardian, or a guardian advocate who has been delegated those
116 rights in order to maintain the dependent adult child's means-

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117 based government benefits.

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

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

124 61.13 Support of children; parenting and time-sharing;
125 powers of court.—

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

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

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

140 b. A schedule, based on the record existing at the time of
141 the order, stating the amount of the monthly child support
142 obligation for all the minor children at the time of the order
143 and the amount of child support that will be owed for any
144 remaining children after one or more of the children are no
145 longer entitled to receive child support; and

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

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

164 (2)

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

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

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

173 3. Designate who will be responsible for:

174 a. Any and all forms of health care. If the court orders

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175 shared parental responsibility over health care decisions, ~~the~~
176 ~~parenting plan must provide that~~ either parent may consent to
177 mental health treatment for the child unless stated otherwise in
178 the parenting plan.

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

181 c. Other activities; and

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

184 Section 3. Section 61.29, Florida Statutes, is amended to
185 read:

186 61.29 Child support guidelines; principles; applicability.—

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

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

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

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

199 (2) The guidelines in this section do not apply to support
200 for a dependent adult child as defined in s. 61.1255(2) (a). The
201 amount of support for a dependent adult child is determined by
202 s. 61.31.

203 Section 4. Paragraph (a) of subsection (1) of section

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204 61.30, Florida Statutes, is amended to read:

205 61.30 Child support guidelines; retroactive child support.-

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

231 Section 5. Section 61.31, Florida Statutes, is created to
232 read:

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233 61.31 Amount of support for a dependent adult child.-

234 (1) In determining the amount of support to be paid after a
235 dependent adult child as defined in s. 61.1255(2) (a) reaches the
236 age of 18, the specific terms and conditions of such support,
237 and the rights and duties of both parents with respect to the
238 support, the court shall determine and consider all of the
239 following:

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

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

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

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

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

254 (2) The court may irrevocably assign the support to a
255 special needs trust under 42 U.S.C. s. 1396p(d) (4) (A) or to a
256 pooled trust under 42 U.S.C. s. 1396p(d) (4) (C) established for
257 the benefit of the dependent adult child by the dependent adult
258 child, his or her agent under a durable power of attorney, the
259 court, a parent or grandparent, a guardian, or a guardian
260 advocate who has been delegated those rights in order to
261 maintain the dependent adult child's means-based government

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262 benefits.

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

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

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

270 (4) The court may not order support that will cause
271 ineligibility for programs in which the dependent adult child
272 currently participates, or programs and services for which the
273 dependent adult child is reasonably expected to become eligible
274 upon reaching the age of majority.

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

277 393.12 Capacity; appointment of guardian advocate.—

278 (2) APPOINTMENT OF A GUARDIAN ADVOCATE.—

279 (b) A person who is being considered for appointment or is
280 appointed as a guardian advocate is not required to ~~need not~~ be
281 represented by an attorney unless required by the court or if
282 the guardian advocate is delegated any rights regarding property
283 other than the right to be the representative payee for
284 government benefits or to receive periodic payments for the
285 support, care, maintenance, education, or other needs of the
286 person with a developmental disability pursuant to s. 61.1255.

287 This paragraph applies only to proceedings relating to the
288 appointment of a guardian advocate and the court's supervision
289 of a guardian advocate and is not an exercise of the
290 Legislature's authority under ~~pursuant to~~ s. 2(a), Art. V of the

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291 State Constitution.

292 (3) PETITION.—

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

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

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

302 3.(c) Allege that the petitioner believes that the person
303 needs a guardian advocate and specify the factual information on
304 which such belief is based;

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

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

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

319 (b) A petition to appoint a guardian advocate may include a

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320 request for the authority to bring a civil action in circuit
321 court to establish periodic payments from either or both parents
322 of the person with a developmental disability for the support,
323 care, maintenance, education, or other needs of that person
324 pursuant to s. 61.1255. This section may not be construed to
325 confer any obligation or duty for a guardian advocate to pursue
326 support for the person with a developmental disability.

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

329 742.031 Hearings; court orders for support, hospital
330 expenses, and attorney fees ~~attorney's fee~~.-

331 (1) Hearings for the purpose of establishing or refuting
332 the allegations of the complaint and answer must ~~shall~~ be held
333 in the chambers and may be restricted to persons, in addition to
334 the parties involved and their counsel, as the judge in his or
335 her discretion may direct. The court shall determine the issues
336 of paternity of the child and the ability of the parents to
337 support the child. Each party's social security number must
338 ~~shall~~ be recorded in the file containing the adjudication of
339 paternity. If the court finds that the alleged father is the
340 father of the child, it must ~~shall~~ so order. If appropriate, the
341 court may ~~shall~~ order the father to pay the complainant, her
342 guardian, or any other person assuming responsibility for the
343 child moneys sufficient to pay reasonable attorney ~~attorney's~~
344 fees, hospital or medical expenses, cost of confinement, and any
345 other expenses incident to the birth of the child and to pay all
346 costs of the proceeding. Bills for pregnancy, childbirth, and
347 scientific testing are admissible as evidence without requiring
348 third-party foundation testimony, and ~~shall~~ constitute prima

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349 facie evidence of amounts incurred for such services or for
350 testing on behalf of the child. The court shall order either or
351 both parents owing a duty of support to the child to pay support
352 under chapter 61 pursuant to s. 61.30. The court must ~~shall~~
353 issue, upon motion by a party, a temporary order requiring child
354 support for a minor child under ~~pursuant to~~ s. 61.30 pending an
355 administrative or judicial determination of parentage, if there
356 is clear and convincing evidence of paternity on the basis of
357 genetic tests or other evidence. The court may also make a
358 determination of an appropriate parenting plan, including a
359 time-sharing schedule, in accordance with chapter 61.

360 Section 8. Section 742.06, Florida Statutes, is amended to
361 read:

362 742.06 Jurisdiction retained for future orders.—The court
363 shall retain jurisdiction of the cause for the purpose of
364 entering such other and further orders as changing circumstances
365 of the parties may in justice and equity require. Modifications
366 and enforcement of child support, time-sharing, and support for
367 a dependent adult child are determined under chapter 61.

368 Section 9. Section 744.422, Florida Statutes, is created to
369 read:

370 744.422 Petition for support for a dependent adult child.—
371 Pursuant to s. 61.1255, a guardian may petition the court for
372 the authority to bring a civil suit in circuit court to
373 establish periodic payments from either or both parents of the
374 dependent adult child for the support, care, maintenance,
375 education, and any other needs of a dependent adult child if not
376 otherwise provided for in the guardianship plan. The amount of
377 support is determined pursuant to s. 61.31. This section may not

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378 be construed to confer any obligation or duty for a guardian to
379 pursue support on behalf of a dependent adult child.

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