

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Children, Families &
 2 Seniors Subcommittee
 3 Representative Tant offered the following:

Amendment (with title amendment)

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

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16 (b) Provide procedures for establishing support for a
17 dependent adult child.

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

22 (2) POWERS OF COURT.-

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

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

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

32 2. A parent or other person on behalf of the dependent
33 adult child.

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

38 (c) A civil suit to establish support for a dependent
39 adult child may be filed at any time after he or she reaches the

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40 age of 17 years and 6 months, unless such an order is already in
41 place having been established during the child's minority.

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

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

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

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

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

69 (1)(a) In a proceeding under this chapter, the court may
70 at any time order either or both parents who owe a duty of
71 support to a child to pay support to the other parent or, ~~in the~~
72 ~~ease of both parents,~~ to a third party who has custody in
73 accordance with the child support guidelines schedule in s.
74 61.30.

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

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

84 b. A schedule, based on the record existing at the time of
85 the order, stating the amount of the monthly child support
86 obligation for all the minor children at the time of the order
87 and the amount of child support that will be owed for any

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

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

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

108 (2)

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

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

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

117 3. Designate who will be responsible for:

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

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

125 c. Other activities; and

126 4. Describe in adequate detail the methods and
127 technologies that the parents will use to communicate with the
128 child.

129 Section 3. Section 61.29, Florida Statutes, is amended to
130 read:

131 61.29 Child support guidelines; principles;
132 applicability.—

133 (1) The following principles establish the public policy
134 of the State of Florida in the creation of the child support
135 guidelines:

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

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

142 ~~(c)(3)~~ The guidelines encourage fair and efficient
143 settlement of support issues between parents and minimizes the
144 need for litigation.

145 (2) The guidelines in this section do not apply to support
146 for a dependent adult child as defined in s. 61.1255(2) (a). The
147 amount of support for a dependent adult child is determined by
148 s. 61.31.

149 Section 4. Paragraph (a) of subsection (1) of section
150 61.30, Florida Statutes, is amended to read:

151 61.30 Child support guidelines; retroactive child
152 support.—

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

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

178 Section 5. Section 61.31, Florida Statutes, is created to
179 read:

180 61.31 Amount of support for a dependent adult child.-

181 (1) In determining the amount of support to be paid after
182 a dependent adult child as defined in s. 61.1255(2) (a) reaches
183 the age of 18, the specific terms and conditions of such
184 support, and the rights and duties of both parents with respect

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185 to the support, the court shall determine and consider all of
186 the following:

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

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

192 (c) Whether a parent or other person pays for or will pay
193 for the care or supervision of the dependent adult child or
194 provides or will provide substantial care or personal
195 supervision to the dependent adult child himself or herself.

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

198 (e) Any other financial resources or other resources or
199 programs available for the support, care, and supervision of the
200 dependent adult child.

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

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

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

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

217 (4) The court may not order support that will cause
218 ineligibility for programs in which the dependent adult child
219 currently participates, or programs and services for which the
220 dependent adult child is reasonably expected to become eligible
221 upon reaching the age of majority.

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

224 393.12 Capacity; appointment of guardian advocate.—

225 (2) APPOINTMENT OF A GUARDIAN ADVOCATE.—

226 (b) A person who is being considered for appointment or is
227 appointed as a guardian advocate is not required to need not be
228 represented by an attorney unless required by the court or if
229 the guardian advocate is delegated any rights regarding property
230 other than the right to be the representative payee for
231 government benefits or the right of a parent to receive periodic
232 payments for the support, care, maintenance, education, or other
233 needs of the person with a developmental disability. This
234 paragraph applies only to proceedings relating to the

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235 appointment of a guardian advocate and the court's supervision
236 of a guardian advocate and is not an exercise of the
237 Legislature's authority under ~~pursuant to~~ s. 2(a), Art. V of the
238 State Constitution.

239 (3) PETITION.—

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

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

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

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

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

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

258 6.(f) State the name of the proposed guardian advocate,
259 the relationship of that person to the person with a

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260 developmental disability; the relationship that the proposed
261 guardian advocate had or has with a provider of health care
262 services, residential services, or other services to the person
263 with a developmental disability; and the reason why this person
264 should be appointed. The petition must also state if a willing
265 and qualified guardian advocate cannot be located, ~~the petition~~
266 ~~shall so state.~~

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

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

277 742.031 Hearings; court orders for support, hospital
278 expenses, and attorney fees ~~attorney's fee.~~-

279 (1) Hearings for the purpose of establishing or refuting
280 the allegations of the complaint and answer must ~~shall~~ be held
281 in the chambers and may be restricted to persons, in addition to
282 the parties involved and their counsel, as the judge in his or
283 her discretion may direct. The court shall determine the issues
284 of paternity of the child and the ability of the parents to

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285 support the child. Each party's social security number must
286 ~~shall~~ be recorded in the file containing the adjudication of
287 paternity. If the court finds that the alleged father is the
288 father of the child, it must ~~shall~~ so order. If appropriate, the
289 court may ~~shall~~ order the father to pay the complainant, her
290 guardian, or any other person assuming responsibility for the
291 child moneys sufficient to pay reasonable attorney ~~attorney's~~
292 fees, hospital or medical expenses, cost of confinement, and any
293 other expenses incident to the birth of the child and to pay all
294 costs of the proceeding. Bills for pregnancy, childbirth, and
295 scientific testing are admissible as evidence without requiring
296 third-party foundation testimony, and ~~shall~~ constitute prima
297 facie evidence of amounts incurred for such services or for
298 testing on behalf of the child. The court shall order either or
299 both parents owing a duty of support to the child to pay support
300 under chapter 61 pursuant to s. 61.30. The court must ~~shall~~
301 issue, upon motion by a party, a temporary order requiring child
302 support for a minor child under ~~pursuant to~~ s. 61.30 pending an
303 administrative or judicial determination of parentage, if there
304 is clear and convincing evidence of paternity on the basis of
305 genetic tests or other evidence. The court may also make a
306 determination of an appropriate parenting plan, including a
307 time-sharing schedule, in accordance with chapter 61.

308 Section 8. Section 742.06, Florida Statutes, is amended to
309 read:

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310 742.06 Jurisdiction retained for future orders.—The court
311 shall retain jurisdiction of the cause for the purpose of
312 entering such other and further orders as changing circumstances
313 of the parties may in justice and equity require. Modifications
314 and enforcement of child support, time-sharing, and support for
315 a dependent adult child are determined under chapter 61.

316 Section 9. Section 744.422, Florida Statutes, is created
317 to read:

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

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

329
330 -----

331 **T I T L E A M E N D M E N T**

332 Remove everything before the enacting clause and insert:

333
334 A bill to be entitled

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335 An act relating to support for dependent adult
336 children; creating s. 61.1255, F.S.; providing
337 legislative intent; defining the term "dependent adult
338 child"; requiring civil suits to establish support for
339 dependent adult children to be filed in a certain
340 court by specified individuals; specifying a timeframe
341 during which such suits may be filed; providing an
342 exception; specifying procedures for establishing such
343 support; requiring such support to be paid to the
344 dependent adult child after he or she reaches the age
345 of 18; authorizing the court to assign such support to
346 certain trusts established for the benefit of the
347 dependent adult child; prohibiting the Department of
348 Revenue from filing petitions to establish, modify, or
349 enforce certain support orders; amending s. 61.13,
350 F.S.; conforming a provision to changes made by the
351 act; specifying that a child support order does not
352 terminate on the child's 18th birthday in certain
353 circumstances; specifying that a court may modify a
354 child support order for a minor child or child who is
355 dependent in fact under certain circumstances;
356 authorizing either parent to consent to mental health
357 treatment for a child unless stated otherwise in the
358 parenting plan; amending s. 61.29, F.S.; providing
359 applicability; amending s. 61.30, F.S.; conforming a

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360 provision to changes made by the act; creating s.
361 61.31, F.S.; requiring the court to consider certain
362 factors when determining the amount of support for a
363 dependent adult child; authorizing the court to assign
364 support to certain trusts established for the benefit
365 of the dependent adult child; requiring the court to
366 consider certain state and federal programs and
367 benefits when making its decisions; prohibiting the
368 court from ordering support that will cause
369 ineligibility for certain programs; amending s.
370 393.12, F.S.; providing an additional circumstance
371 under which a guardian advocate must be represented by
372 an attorney in guardianship proceedings; specifying
373 that petitions to appoint a guardian advocate for a
374 person with a developmental disability may request
375 authority to bring a civil suit to establish periodic
376 payments from the person's parent or parents;
377 providing construction; amending s. 742.031, F.S.;
378 authorizing, rather than requiring, the court to order
379 a father to pay attorney fees and certain costs and
380 expenses to specified persons; amending s. 742.06,
381 F.S.; conforming a provision to changes made by the
382 act; creating s. 744.422, F.S.; authorizing a guardian
383 of a dependent adult child to petition the court for
384 authority to bring a civil suit to establish certain

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 813 (2023)

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385 support payments from the dependent adult child's
386 parent or parents in certain circumstances; specifying
387 that the amount of such support is determined pursuant
388 to certain provisions of law; providing construction;
389 providing an effective date.