

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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WITHDRAWN	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

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee
 2 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; and

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) The right of a parent or other person to decide where
28 the dependent adult child will live must be established in a
29 guardianship proceeding brought under chapter 393 or chapter
30 744. This paragraph may not be construed to require guardian
31 advocacy under chapter 393 or a guardianship under chapter 744
32 or in order for a court to order support for a dependent adult
33 child.

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

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

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40 2. A parent or other person on behalf of the dependent
41 adult child. Any such action must be brought under chapter 393
42 or chapter 744.

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

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

51 (e) If a court has jurisdiction over the parties because
52 of an issue of child support, the parents may agree in writing
53 to provide for dependent adult child support in the existing
54 case if the agreement is submitted to the court for approval
55 before the dependent adult child reaches the age of 18.

56 Otherwise, the amount of support to be paid by one or both
57 parents must be established in a guardianship proceeding or in a
58 separate support proceeding in circuit court pursuant to
59 subparagraph (c)1. This section does not preclude a court from
60 establishing support, ordering continued support, or enforcing
61 or modifying support orders established under this chapter.

62 (f) Support ordered after the dependent adult child
63 reaches the age of 18 may be paid only to the dependent adult
64 child or his or her court-appointed guardian advocate, guardian,

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65 or agent under a durable power of attorney. However, the court
66 may irrevocably assign the support to a special needs trust
67 under 42 U.S.C. s. 1396p(d) (4) or to a pooled trust under 42
68 U.S.C. s. 1396p(d) (4) (C) established for the dependent adult
69 child by the dependent adult child, his or her agent under a
70 durable power of attorney, the court, a parent or grandparent, a
71 guardian, or a guardian advocate who has been delegated those
72 rights in order to maintain the dependent adult child's means-
73 based government benefits.

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

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

80 61.13 Support of children; parenting and time-sharing;
81 powers of court.—

82 (1) (a) In a proceeding under this chapter, the court may
83 at any time order either or both parents who owe a duty of
84 support to a child to pay support to the other parent or, ~~in the~~
85 ~~ease of both parents,~~ to a third party who has custody in
86 accordance with the child support guidelines schedule in s.
87 61.30.

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

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

97 b. A schedule, based on the record existing at the time of
98 the order, stating the amount of the monthly child support
99 obligation for all the minor children at the time of the order
100 and the amount of child support that will be owed for any
101 remaining children after one or more of the children are no
102 longer entitled to receive child support; and

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

105 2. The court initially entering an order requiring one or
106 both parents to make child support payments has continuing
107 jurisdiction after the entry of the initial order to modify the
108 amount and terms and conditions of the child support payments
109 if: the modification is found by the court to be in the best
110 interests of the child; ~~when~~ the child reaches majority; ~~if~~
111 there is a substantial change in the circumstances of the
112 parties; the minor child, or the child who is dependent in fact
113 and between the ages of 18 and 19, is still in high school and
114 is performing in good faith with a reasonable expectation of

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115 graduation before he or she reaches the age of 19 ~~if s.~~
116 ~~743.07(2) applies; or the~~ when a child is emancipated, marries,
117 joins the armed services, or dies. The court initially entering
118 a child support order has continuing jurisdiction to require the
119 obligee to report to the court on terms prescribed by the court
120 regarding the disposition of the child support payments.

121 (2)

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

124 1. Describe in adequate detail how the parents will share
125 and be responsible for the daily tasks associated with the
126 upbringing of the child;

127 2. Include the time-sharing schedule arrangements that
128 specify the time that the minor child will spend with each
129 parent;

130 3. Designate who will be responsible for:

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

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

138 c. Other activities; and

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139 4. Describe in adequate detail the methods and
140 technologies that the parents will use to communicate with the
141 child.

142 Section 3. Section 61.29, Florida Statutes, is amended to
143 read:

144 61.29 Child support guidelines; principles; application.—

145 (1) The following principles establish the public policy
146 of the State of Florida in the creation of the child support
147 guidelines:

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

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

154 (c)~~(3)~~ The guidelines encourage fair and efficient
155 settlement of support issues between parents and minimizes the
156 need for litigation.

157 (2) The guidelines in this section do not apply to support
158 for a dependent adult child as defined in s. 61.1255. The amount
159 of support for a dependent adult child is determined by s.
160 61.31.

161 Section 4. Paragraph (a) of subsection (1) of section
162 61.30, Florida Statutes, is amended to read:

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163 61.30 Child support guidelines; retroactive child
164 support.—

165 (1)(a) The child support guideline amount as determined by
166 this section presumptively establishes the amount the trier of
167 fact must ~~shall~~ order as child support for a minor child, or a
168 child who is dependent in fact and between the ages of 18 and 19
169 and who is still in high school and is performing in good faith
170 with a reasonable expectation of graduation before he or she
171 reaches the age of 19, in an initial proceeding for such support
172 or in a proceeding for modification of an existing order for
173 such support, whether the proceeding arises under this or
174 another chapter. The trier of fact may order payment of child
175 support which varies, plus or minus 5 percent, from the
176 guideline amount, after considering all relevant factors,
177 including the needs of the child or children, age, station in
178 life, standard of living, and the financial status and ability
179 of each parent. The trier of fact may order payment of child
180 support in an amount which varies more than 5 percent from such
181 guideline amount only upon a written finding explaining why
182 ordering payment of such guideline amount would be unjust or
183 inappropriate. Notwithstanding the variance limitations of this
184 section, the trier of fact must ~~shall~~ order payment of child
185 support which varies from the guideline amount as provided in
186 paragraph (11)(b) whenever any of the children are required by
187 court order or mediation agreement to spend a substantial amount

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188 of time with either parent. This requirement applies to any
189 living arrangement, whether temporary or permanent.

190 Section 5. Section 61.31, Florida Statutes, is created to
191 read:

192 61.31 Amount of support for a dependent adult child.-

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

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

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

204 (c) Whether a parent or other person pays for or will pay
205 for the care or supervision of the dependent adult child or
206 provides or will provide substantial care or personal
207 supervision to the dependent adult child himself or herself.

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

210 (e) Any other financial resources or other resources or
211 programs available for the support, care, and supervision of the
212 dependent adult child.

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213 (2) The court may irrevocably assign the support to a
214 special needs trust under 42 U.S.C. s. 1396p(d) (4) or to a
215 pooled trust under 42 U.S.C. s. 1396p(d) (4) (C) established for
216 the dependent adult child by the dependent adult child, his or
217 her agent under a durable power of attorney, the court, a parent
218 or grandparent, a guardian, or a guardian advocate who has been
219 delegated those rights in order to maintain the dependent adult
220 child's means-based government benefits.

221 (3) In making its decisions, the court shall take into
222 consideration:

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

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

229 (4) The court may not order support that will cause
230 ineligibility for programs in which the dependent adult child
231 currently participates, or programs and services for which the
232 dependent adult child is reasonably expected to become eligible
233 upon reaching the age of majority.

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

236 393.12 Capacity; appointment of guardian advocate.—

237 (2) APPOINTMENT OF A GUARDIAN ADVOCATE.—

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238 (b) A person who is being considered for appointment or is
239 appointed as a guardian advocate is not required to ~~need not~~ be
240 represented by an attorney unless required by the court or if
241 the guardian advocate is delegated any rights regarding property
242 other than the right to be the representative payee for
243 government benefits or the right of a parent to receive periodic
244 payments for the support, care, maintenance, education, or other
245 needs of the person with a developmental disability. This
246 paragraph applies only to proceedings relating to the
247 appointment of a guardian advocate and the court's supervision
248 of a guardian advocate and is not an exercise of the
249 Legislature's authority under ~~pursuant to~~ s. 2(a), Art. V of the
250 State Constitution.

251 (3) PETITION.—

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

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

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

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261 ~~3.(e)~~ Allege that the petitioner believes that the person
262 needs a guardian advocate and specify the factual information on
263 which such belief is based;

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

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

270 ~~6.(f)~~ State the name of the proposed guardian advocate,
271 the relationship of that person to the person with a
272 developmental disability; the relationship that the proposed
273 guardian advocate had or has with a provider of health care
274 services, residential services, or other services to the person
275 with a developmental disability; and the reason why this person
276 should be appointed. The petition must also state if a willing
277 and qualified guardian advocate cannot be located, ~~the petition~~
278 ~~shall so state.~~

279 (b) A petition to appoint a guardian advocate may include
280 a request for periodic payments from either or both parents of
281 the person with a developmental disability for the support,
282 care, maintenance, education, or other needs of that person
283 pursuant to s. 61.1255. This section may not be construed to
284 confer any obligation or duty for a guardian advocate to pursue
285 support for the person with a developmental disability.

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

288 742.031 Hearings; court orders for support, hospital
289 expenses, and attorney ~~attorney's~~ fee.—

290 (1) Hearings for the purpose of establishing or refuting
291 the allegations of the complaint and answer must ~~shall~~ be held
292 in the chambers and may be restricted to persons, in addition to
293 the parties involved and their counsel, as the judge in his or
294 her discretion may direct. The court shall determine the issues
295 of paternity of the child and the ability of the parents to
296 support the child. Each party's social security number must
297 ~~shall~~ be recorded in the file containing the adjudication of
298 paternity. If the court finds that the alleged father is the
299 father of the child, it must ~~shall~~ so order. If appropriate, the
300 court may ~~shall~~ order the father to pay the complainant, her
301 guardian, or any other person assuming responsibility for the
302 child moneys sufficient to pay reasonable attorney ~~attorney's~~
303 fees, hospital or medical expenses, cost of confinement, and any
304 other expenses incident to the birth of the child and to pay all
305 costs of the proceeding. Bills for pregnancy, childbirth, and
306 scientific testing are admissible as evidence without requiring
307 third-party foundation testimony, and ~~shall~~ constitute prima
308 facie evidence of amounts incurred for such services or for
309 testing on behalf of the child. The court shall order either or
310 both parents owing a duty of support to the child to pay support

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311 under chapter 61 pursuant to s. 61.30. The court must shall
312 issue, upon motion by a party, a temporary order requiring child
313 support for a minor child under ~~pursuant to~~ s. 61.30 pending an
314 administrative or judicial determination of parentage, if there
315 is clear and convincing evidence of paternity on the basis of
316 genetic tests or other evidence. The court may also make a
317 determination of an appropriate parenting plan, including a
318 time-sharing schedule, in accordance with chapter 61.

319 Section 8. Section 742.06, Florida Statutes, is amended to
320 read:

321 742.06 Jurisdiction retained for future orders.—The court
322 shall retain jurisdiction of the cause for the purpose of
323 entering such other and further orders as changing circumstances
324 of the parties may in justice and equity require. Modifications
325 of child support and time-sharing are determined under chapter
326 61.

327 Section 9. Section 744.1013, Florida Statutes, is created
328 to read:

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

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

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

350 744.3021 Guardians of minors.—

351 (4) If a petition is filed under ~~pursuant to~~ this section
352 requesting appointment of a guardian for a minor who is the
353 subject of any proceeding under chapter 39 or chapter 61 and who
354 is aged 17 years and 6 months or older, the court division with
355 jurisdiction over guardianship matters has jurisdiction over the
356 proceedings under s. 744.331. The alleged incapacitated minor
357 under this subsection must ~~shall~~ be provided all the due process
358 rights conferred upon an alleged incapacitated adult under
359 ~~pursuant to~~ this chapter and applicable court rules. The order
360 of adjudication under s. 744.331 and the letters of limited or

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361 plenary guardianship may issue upon the minor's 18th birthday or
362 as soon thereafter as possible. Any proceeding under ~~pursuant to~~
363 this subsection must ~~shall~~ be conducted separately from any
364 other proceeding.

365 Section 11. Section 744.422, Florida Statutes, is created
366 to read:

367 744.422 Petition for child support for a dependent adult
368 child.—Pursuant to s. 61.1255, a guardian may petition the court
369 for an order requiring either or both parents to pay periodic
370 amounts for the support, care, maintenance, education, and any
371 other needs of a dependent adult child if not otherwise provided
372 for in the guardianship plan. The amount of support is
373 determined pursuant to s. 61.31. This section may not be
374 construed to confer any obligation or duty for a guardian to
375 pursue support on behalf of a ward.

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

377
378 -----

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

380 Remove everything before the enacting clause and insert:
381 An act relating to support for dependent adult children;
382 creating s. 61.1255, F.S.; providing legislative intent;
383 defining the term "dependent adult child"; requiring that
384 certain rights of the parents of a dependent adult child be
385 established in a guardianship proceeding; providing

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386 construction; specifying individuals who may file a suit to
387 establish support for a dependent adult child; specifying a
388 timeframe during which such suits may be filed; providing an
389 exception; specifying procedures for establishing support;
390 specifying who may receive such support before and after the
391 dependent adult child reaches the age of 18; providing
392 construction; authorizing the court to assign support to certain
393 trusts established for a dependent adult child; prohibiting the
394 Department of Revenue from filing petitions to establish,
395 modify, or enforce certain support orders; amending s. 61.13,
396 F.S.; conforming a provision to changes made by the act;
397 specifying that a child support order does not terminate on the
398 child's 18th birthday in certain circumstances; specifying that
399 a court may modify a child support order for adult children in
400 certain circumstances; authorizing either parent to consent to
401 mental health treatment for a child in certain circumstances
402 unless stated otherwise in the parenting plan; amending s.
403 61.29, F.S.; providing that child support guidelines do not
404 apply to certain cases; amending s. 61.30, F.S.; conforming a
405 provision to changes made by the act; creating s. 61.31, F.S.;
406 providing factors a court must consider when determining the
407 amount of child support for a dependent adult child; authorizing
408 a court to assign support to certain trusts established for a
409 dependent adult child for a specified purpose; requiring the
410 court to consider certain state and federal programs and

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411 benefits when making its decisions; prohibiting the court from
412 ordering support that will cause ineligibility for certain
413 programs; amending s. 393.12, F.S.; providing an additional
414 circumstance under which a guardian advocate must be represented
415 by an attorney in guardianship proceedings; specifying that
416 petitions to appoint a guardian advocate for a person with
417 disabilities may include certain requests for support from the
418 person's parents; providing construction; amending ss. 742.031
419 and 742.06, F.S.; conforming provisions to changes made by the
420 act; creating s. 744.1013, F.S.; assigning jurisdiction over
421 petitions for support of dependent adult children to the
422 guardianship court; specifying who may receive such support for
423 dependent adult children over the age of 18; authorizing a court
424 to assign support to certain trusts established for a dependent
425 adult child for a specified purpose; specifying that such
426 support orders supersede any orders entered under certain other
427 provisions; amending s. 744.3021, F.S.; conforming provisions to
428 changes made by the act; creating s. 744.422, F.S.; authorizing
429 a guardian of a dependent adult child to petition the court for
430 certain support payments from the dependent adult child's
431 parents in certain circumstances; specifying that the amount of
432 such support is determined pursuant to certain provisions;
433 providing construction; providing an effective date.