

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

26 applicability; amending s. 61.30, F.S.; conforming a  
27 provision to changes made by the act; creating s.  
28 61.31, F.S.; requiring the court to consider certain  
29 factors when determining the amount of support for a  
30 dependent adult child; authorizing the court to assign  
31 support to certain trusts established for the benefit  
32 of the dependent adult child; requiring the court to  
33 consider certain state and federal programs and  
34 benefits when making its decisions; prohibiting the  
35 court from ordering support that will cause  
36 ineligibility for certain programs; amending s.  
37 393.12, F.S.; providing an additional circumstance  
38 under which a guardian advocate must be represented by  
39 an attorney in guardianship proceedings; specifying  
40 that petitions to appoint a guardian advocate for a  
41 person with a developmental disability may request  
42 authority to bring a civil suit to establish periodic  
43 payments from the person's parent or parents;  
44 providing construction; amending s. 742.031, F.S.;;  
45 authorizing, rather than requiring, the court to order  
46 a father to pay attorney fees and certain costs and  
47 expenses to specified persons; amending s. 742.06,  
48 F.S.; conforming a provision to changes made by the  
49 act; creating s. 744.422, F.S.; authorizing a guardian  
50 of a dependent adult child to petition the court for

51 authority to bring a civil suit to establish certain  
 52 support payments from the dependent adult child's  
 53 parent or parents in certain circumstances; specifying  
 54 that the amount of such support is determined pursuant  
 55 to certain provisions of law; providing construction;  
 56 providing an effective date.

57

58 Be It Enacted by the Legislature of the State of Florida:

59

60 Section 1. Section 61.1255, Florida Statutes, is created  
 61 to read:

62 61.1255 Support for dependent adult children; legislative  
 63 intent; powers of court.—

64 (1) LEGISLATIVE INTENT.—It is the intent of the  
 65 Legislature to:

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

69 (b) Provide procedures for establishing support for a  
 70 dependent adult child.

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

75 (2) POWERS OF COURT.—

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

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

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

85            2. A parent or other person on behalf of the dependent  
 86 adult child.

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

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

95        (d) If a court has jurisdiction over the parties because  
 96 of an issue of child support, the parents may agree in writing  
 97 to provide for dependent adult child support in the existing  
 98 case if the agreement is submitted to the court for approval  
 99 before the dependent adult child reaches the age of 18.

100 Otherwise, the amount of support to be paid by one or both

101 parents must be established in a separate support proceeding in  
 102 circuit court pursuant to paragraph (b).

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

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

117 Section 2. Paragraph (a) of subsection (1) and paragraph  
 118 (b) of subsection (2) of section 61.13, Florida Statutes, are  
 119 amended to read:

120 61.13 Support of children; parenting and time-sharing;  
 121 powers of court.—

122 (1)(a) In a proceeding under this chapter, the court may  
 123 at any time order either or both parents who owe a duty of  
 124 support to a child to pay support to the other parent or, ~~in the~~  
 125 ~~ease of both parents,~~ to a third party who has custody in

126 accordance with the child support guidelines schedule in s.  
 127 61.30.

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

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

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

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

145 2. The court initially entering an order requiring one or  
 146 both parents to make child support payments has continuing  
 147 jurisdiction after the entry of the initial order to modify the  
 148 amount and terms and conditions of the child support payments  
 149 if: the modification is found by the court to be in the best  
 150 interests of the child; ~~when~~ the child reaches majority; ~~if~~

151 | there is a substantial change in the circumstances of the  
 152 | parties; the minor child, or the child who is dependent in fact  
 153 | and between the ages of 18 and 19, is still in high school and  
 154 | is performing in good faith with a reasonable expectation of  
 155 | graduation before he or she reaches the age of 19 if s.  
 156 | ~~743.07(2) applies;~~ or the when a child is emancipated, marries,  
 157 | joins the armed services, or dies. The court initially entering  
 158 | a child support order has continuing jurisdiction to require the  
 159 | obligee to report to the court on terms prescribed by the court  
 160 | regarding the disposition of the child support payments.

161 | (2)

162 | (b) A parenting plan approved by the court must, at a  
 163 | minimum:

164 | 1. Describe in adequate detail how the parents will share  
 165 | and be responsible for the daily tasks associated with the  
 166 | upbringing of the child;

167 | 2. Include the time-sharing schedule arrangements that  
 168 | specify the time that the minor child will spend with each  
 169 | parent;

170 | 3. Designate who will be responsible for:

171 | a. Any and all forms of health care. If the court orders  
 172 | shared parental responsibility over health care decisions, ~~the~~  
 173 | ~~parenting plan must provide that~~ either parent may consent to  
 174 | mental health treatment for the child unless stated otherwise in  
 175 | the parenting plan.

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

178 c. Other activities; and

179 4. Describe in adequate detail the methods and  
 180 technologies that the parents will use to communicate with the  
 181 child.

182 Section 3. Section 61.29, Florida Statutes, is amended to  
 183 read:

184 61.29 Child support guidelines; principles;  
 185 applicability.—

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

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

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

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

198 (2) The guidelines in this section do not apply to support  
 199 for a dependent adult child as defined in s. 61.1255(2) (a). The



200 amount of support for a dependent adult child is determined by  
 201 s. 61.31.

202 Section 4. Paragraph (a) of subsection (1) of section  
 203 61.30, Florida Statutes, is amended to read:

204 61.30 Child support guidelines; retroactive child  
 205 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  
 210 19, 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:

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

234 (1) In determining the amount of support to be paid after  
 235 a dependent adult child as defined in s. 61.1255(2) (a) reaches  
 236 the age of 18, the specific terms and conditions of such  
 237 support, and the rights and duties of both parents with respect  
 238 to the support, the court shall determine and consider all of  
 239 the 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  
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  
268 on 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 the right of a parent to receive periodic  
 285 payments for the support, care, maintenance, education, or other  
 286 needs of the person with a developmental disability. This  
 287 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  
 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  
 301 present address of the person with a developmental disability;

302        3.(e) 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  
 306 the decisionmaking ability to make informed decisions about his  
 307 or 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  
 310 is subject; and

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

320        (b) A petition to appoint a guardian advocate may include  
 321 a request for the authority to bring a civil action in circuit

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

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

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

332 (1) Hearings for the purpose of establishing or refuting  
333 the allegations of the complaint and answer must ~~shall~~ be held  
334 in the chambers and may be restricted to persons, in addition to  
335 the parties involved and their counsel, as the judge in his or  
336 her discretion may direct. The court shall determine the issues  
337 of paternity of the child and the ability of the parents to  
338 support the child. Each party's social security number must  
339 ~~shall~~ be recorded in the file containing the adjudication of  
340 paternity. If the court finds that the alleged father is the  
341 father of the child, it must ~~shall~~ so order. If appropriate, the  
342 court may ~~shall~~ order the father to pay the complainant, her  
343 guardian, or any other person assuming responsibility for the  
344 child moneys sufficient to pay reasonable attorney ~~attorney's~~  
345 fees, hospital or medical expenses, cost of confinement, and any  
346 other expenses incident to the birth of the child and to pay all

347 costs of the proceeding. Bills for pregnancy, childbirth, and  
 348 scientific testing are admissible as evidence without requiring  
 349 third-party foundation testimony, ~~and shall~~ constitute prima  
 350 facie evidence of amounts incurred for such services or for  
 351 testing on behalf of the child. The court shall order either or  
 352 both parents owing a duty of support to the child to pay support  
 353 under chapter 61 pursuant to s. 61.30. The court ~~must~~ shall  
 354 issue, upon motion by a party, a temporary order requiring child  
 355 support for a minor child under ~~pursuant to s. 61.30~~ pending an  
 356 administrative or judicial determination of parentage, ~~if there~~  
 357 is clear and convincing evidence of paternity on the basis of  
 358 genetic tests or other evidence. The court may also make a  
 359 determination of an appropriate parenting plan, including a  
 360 time-sharing schedule, in accordance with chapter 61.

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

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

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

371 744.422 Petition for support for a dependent adult child.—

CS/CS/HB 813

2023

372 Pursuant to s. 61.1255, a guardian may petition the court for  
373 the authority to bring a civil suit in circuit court to  
374 establish periodic payments from either or both parents of the  
375 dependent adult child for the support, care, maintenance,  
376 education, and any other needs of a dependent adult child if not  
377 otherwise provided for in the guardianship plan. The amount of  
378 support is determined pursuant to s. 61.31. This section may not  
379 be construed to confer any obligation or duty for a guardian to  
380 pursue support on behalf of a dependent adult child.

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