Florida Senate - 2005

By the Committee on Judiciary; and Senator Siplin

590-1642-05

1	A bill to be entitled
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	An act relating to alimony; amending s. 61.14,
3	F.S.; authorizing a court to modify payment of
4	alimony if there is proof by a preponderance of
5	the evidence that the recipient former spouse
6	is in a de facto marriage with a person of the
7	opposite sex outside of the legal bond of
8	matrimony; prescribing factors to be considered
9	by the court; providing for application;
10	providing an effective date.
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12	Be It Enacted by the Legislature of the State of Florida:
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14	Section 1. Subsection (1) of section 61.14, Florida
15	Statutes, is amended to read:
16	61.14 Enforcement and modification of support,
17	maintenance, or alimony agreements or orders
18	(1)(a) When the parties enter into an agreement for
19	payments for, or instead of, support, maintenance, or alimony,
20	whether in connection with a proceeding for dissolution or
21	separate maintenance or with any voluntary property
22	settlement, or when a party is required by court order to make
23	any payments, and the circumstances or the financial ability
24	of either party changes or the child who is a beneficiary of
25	an agreement or court order as described herein reaches
26	majority after the execution of the agreement or the rendition
27	of the order, either party may apply to the circuit court of
28	the circuit in which the parties, or either of them, resided
29	at the date of the execution of the agreement or reside at the
30	date of the application, or in which the agreement was
31	executed or in which the order was rendered, for an order
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2or alimony, and the court has jurisdiction to make orders as3equity requires, with due regard to the changed circumstances4or the financial ability of the parties or the child,5decreasing, increasing, or confirming the amount of separate6support, maintenance, or alimony provided for in the agreement7or order. A finding that medical insurance is reasonably8available or the child support guidelines in s. 61.30 may9constitute changed circumstances. Except as otherwise provided10in s. 61.30(1)(c), the court may modify an order of support,11maintenance, or alimony by increasing or decreasing the2support, maintenance, or alimony retroactively to the date of13the filing of the action or supplemental action for14modification as equity requires, giving due regard to the15changed circumstances or the financial ability of the parties16or the child.17(b)1. The court may reduce or terminate an award of18alimony upon specific written findings by the court that since19the granting of a divorce and the award of alimony a de facto10marriage has existed between the obligee and a person of the12opposite sex. On the issue of whether alimony should be13the obligor to prove by a preponderance of the evidence that a14de facto marriage exists.152. In determining whether an existing award of alimony16should be reduced or terminated because of an alleged de facto17marriage be	1	decreasing or increasing the amount of support, maintenance,			
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1 in determining the relationship of an obligee to another 2 person: 3 a. The extent to which the obligee and the other 4 person have held themselves out as a married couple by 5 engaging in conduct such as using the same last name, using a б common mailing address, referring to each in terms such as "my 7 husband" or "my wife," or otherwise conducting themselves in a 8 manner that evidences a stable marriage-like relationship; 9 The period of time that the obligee has resided b. 10 with another person not related by consanguinity or affinity in a permanent place of abode; 11 12 The duration and circumstances under which the с. obligee has maintained a continuing conjugal relationship with 13 the other person; 14 d. The extent to which the obligee and the other 15 person have pooled their assets or income or otherwise 16 17 exhibited financial interdependence; 18 e. The extent to which the obligee or the other person has supported the other, in whole or in part; 19 f. The extent to which the obligee or the other person 20 21 has performed valuable services for the other; 22 The extent to which the obligee or the other person α. 23 has performed valuable services for the other's company or 2.4 employer; 25 h. Whether the obligee and the other person have worked together to create or enhance anything of value; 26 27 i. Whether the obligee and the other person have 2.8 jointly contributed to the purchase of any real or personal 29 <u>property;</u> 30 31

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1	j. Evidence in support of a claim that the obligee and
2	the other person have an express agreement regarding property
3	sharing or support; and
4	k. Evidence in support of a claim that the obligee and
5	the other person have an implied agreement regarding property
6	sharing or support.
7	3. This paragraph does not abrogate the requirement
8	that every marriage in this state be solemnized under a
9	license and does not recognize a common law marriage as valid.
10	4. This paragraph applies to any order of alimony
11	which is the result of a divorce that occurred in this state.
12	(c)(b) For each support order reviewed by the
13	department as required by s. 409.2564(12), if the amount of
14	the child support award under the order differs by at least 10
15	percent but not less than \$25 from the amount that would be
16	awarded under s. 61.30, the department shall seek to have the
17	order modified and any modification shall be made without a
18	requirement for proof or showing of a change in circumstances.
19	(d)(c) The department shall have authority to adopt
20	rules to implement this section.
21	Section 2. This act shall take effect upon becoming a
22	law.
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Florida Senate - 2005 590-1642-05

CS for SB 152

1		STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR
2 3		<u>Senate Bill 152</u>
4	This	Committee Substitute makes the following changes:
5	-	Bases the finding of the existence of a de facto marriage
б		on a variety of criteria rather than limiting a finding exclusively to whether the parties live as husband and
7		wife under color of validity, but defective in form, or whether cohabitation exists with a person of the opposite sex similar to a former common law marriage;
8	_	Authorizes, rather than requires, the court to terminate
9 10		alimony upon a preponderance-of-the-evidence showing of the existence of a de facto marriage;
11	-	Clarifies that marriages in this state require a license to be valid, such that a common law marriage is not recognized;
12	_	Clarifies that these changes apply only to alimony orders
13		resulting from divorces occurring in this state.
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