

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Porter offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 133-242 and insert:

5 Section 3. Subsections (1), (2), (3), (4), (7), (8), and
6 (9) of section 61.08, Florida Statutes, are amended to read:

7 61.08 Alimony.—

8 (1) In a proceeding for dissolution of marriage, the court
9 may grant alimony to either party, which alimony may be bridge-
10 the-gap, rehabilitative, durational, or long-term ~~permanent~~ in
11 nature or any combination of these forms of alimony. In any
12 award of alimony, the court may order periodic payments or
13 payments in lump sum or both. The court may consider the
14 adultery of either spouse and the circumstances thereof in
15 determining the amount of alimony, if any, to be awarded. In all
16 dissolution actions, the court shall include findings of fact

471359

Approved For Filing: 3/6/2012 8:48:50 AM

Amendment No.

17 relative to the factors enumerated in subsection (2) supporting
18 an award or denial of alimony. The court shall make written
19 findings regarding the basis for awarding combinations of
20 alimony, including the basis for the types and lengths of each
21 award.

22 (2) In determining whether to award alimony or
23 maintenance, the court shall first make, in writing, a specific
24 factual determination as to whether either party has an actual
25 need for alimony or maintenance and whether either party has the
26 ability to pay alimony or maintenance. If the court finds that a
27 party has a need for alimony or maintenance and that the other
28 party has the ability to pay alimony or maintenance, then in
29 determining the proper type and amount of alimony or maintenance
30 under subsections (5)-(8), the court shall consider and make
31 written findings regarding all relevant factors, including, but
32 not limited to:

33 (a) The standard of living established during the
34 marriage.

35 (b) The duration of the marriage.

36 (c) The age and the physical and emotional condition of
37 each party.

38 (d) The financial resources of each party, including the
39 nonmarital and the marital assets and liabilities distributed to
40 each.

41 (e) The earning capacities, educational levels, vocational
42 skills, and employability of the parties and, when applicable,
43 the time necessary for either party to acquire sufficient

471359

Approved For Filing: 3/6/2012 8:48:50 AM

Amendment No.

44 education or training to enable such party to find appropriate
45 employment.

46 (f) The contribution of each party to the marriage,
47 including, but not limited to, services rendered in homemaking,
48 child care, education, and career building of the other party.

49 (g) The responsibilities each party will have with regard
50 to any minor children they have in common.

51 (h) The tax treatment and consequences to both parties of
52 any alimony award, including the designation of all or a portion
53 of the payment as a nontaxable, nondeductible payment.

54 (i) All sources of income available to either party,
55 including income available to either party through investments
56 of any asset held by that party.

57 (j) The net income and standard of living available to
58 each party after the application of the alimony award. There
59 shall be a rebuttable presumption that both parties will
60 necessarily have a lower standard of living after the
61 dissolution of marriage as compared to the standard of living
62 they enjoyed during the marriage.

63 (k) Any other factor necessary to do equity and justice
64 between the parties, if that factor is specifically identified
65 in the award with findings of fact justifying the application of
66 the factor.

67 (3) To the extent necessary to protect an award of
68 alimony, the court may order any party who is ordered to pay
69 alimony to purchase or maintain a life insurance policy or a
70 bond, or to otherwise secure such alimony award with any other
71 assets which may be suitable for that purpose in an amount

471359

Approved For Filing: 3/6/2012 8:48:50 AM

Amendment No.

72 adequate to secure the alimony award. Any such security may only
73 be awarded upon a showing of special circumstances. If the court
74 finds special circumstances and awards such security, the court
75 must make specific evidentiary findings regarding the
76 availability, cost, and financial impact on the obligated party.
77 Any security may be modifiable in the event the underlying
78 alimony award is modified and may be reduced in an amount
79 commensurate with any reduction in the alimony award.

80 (4) For purposes of determining alimony, ~~there is a~~
81 ~~rebuttable presumption that~~ a short-term marriage is a marriage
82 having a duration equal to or ~~of~~ less than 7 years, a moderate-
83 term marriage is a marriage having a duration of greater than 7
84 years but less than 17 years, and long-term marriage is a
85 marriage having a duration of 17 years or greater. The length of
86 a marriage is the period of time from the date of marriage until
87 the date of filing of an action for dissolution of marriage. If
88 the parties have been married to each other more than once, the
89 court may, for purposes of determining alimony, add the years of
90 the marriages together to determine the duration of the
91 marriage.

92 (7) Durational alimony may be awarded when long-term
93 ~~permanent~~ periodic alimony is inappropriate. The purpose of
94 durational alimony is to provide a party with economic
95 assistance for a set period of time following a marriage of
96 short or moderate duration or following a marriage of long
97 duration if there is no ongoing need for support on a long-term
98 ~~permanent~~ basis. An award of durational alimony terminates upon
99 the death of either party or upon the remarriage of the party

471359

Approved For Filing: 3/6/2012 8:48:50 AM

Amendment No.

100 receiving alimony. The amount of an award of durational alimony
101 may be modified or terminated based upon a substantial change in
102 circumstances in accordance with s. 61.14. ~~However,~~ The length
103 of an award of durational alimony may not ~~be modified except~~
104 ~~under exceptional circumstances and may not~~ exceed the length of
105 the marriage. If the court awards durational alimony for a
106 length of time greater than 50 percent of the length of the
107 marriage, the court must make written findings stating the
108 circumstances warranting the length of the award.

109 (8) Long-term ~~Permanent~~ alimony may be awarded to provide
110 for the needs and necessities of life as they were established
111 during the marriage of the parties for a party who lacks the
112 financial ability to meet his or her needs and necessities of
113 life following a dissolution of marriage. Long-term ~~Permanent~~
114 alimony may be awarded following a marriage of long duration if
115 such an award is appropriate upon consideration of the factors
116 set forth in subsection (2), following a marriage of moderate
117 duration if such an award is appropriate based upon clear and
118 convincing evidence after consideration of the factors set forth
119 in subsection (2), or following a marriage of short duration if
120 there are written findings of exceptional circumstances. In
121 awarding long-term ~~permanent~~ alimony, the court shall include a
122 finding that no other form of alimony is fair and reasonable
123 under the circumstances of the parties. An award of long-term
124 ~~permanent~~ alimony terminates upon the death of either party or
125 upon the remarriage of the party receiving alimony. An award may
126 be modified or terminated based upon a substantial change in

471359

Approved For Filing: 3/6/2012 8:48:50 AM

Amendment No.

127 | circumstances or upon the existence of a supportive relationship
128 | in accordance with s. 61.14.

129 | (9) Notwithstanding any other law to the contrary, an ~~The~~
130 | award of alimony may not leave the payor with ~~significantly~~ less
131 | net income than the ~~net income of the~~ recipient unless there are
132 | written findings of exceptional circumstances. The court shall
133 | make written findings regarding the relative incomes of the
134 | parties.

135 | Section 4. Paragraph (b) of subsection (1) of section
136 | 61.14, Florida Statutes, is amended, and subsections (12) and
137 | (13) are added to that section, to read:

138 | 61.14 Enforcement and modification of support,
139 | maintenance, or alimony agreements or orders.—

140 | (1)

141 | (b)1. The court may reduce or terminate an award of
142 | alimony upon specific written findings by the court that since
143 | the granting of a divorce and the award of alimony a supportive
144 | relationship has existed between the obligee and a person with
145 | whom the obligee resides. On the issue of whether alimony should
146 | be reduced or terminated under this paragraph, the burden is on
147 | the obligor to prove by a preponderance of the evidence that a
148 | supportive relationship exists.

149 | 2. In determining whether an existing award of alimony
150 | should be reduced or terminated because of an alleged supportive
151 | relationship between an obligee and a person who is not related
152 | by consanguinity or affinity and with whom the obligee resides,
153 | the court shall elicit the nature and extent of the relationship
154 | in question. The court shall give consideration, without

471359

Approved For Filing: 3/6/2012 8:48:50 AM

Amendment No.

155 limitation, to circumstances, including, but not limited to, the
156 following, in determining the relationship of an obligee to
157 another person:

158 a. The extent to which the obligee and the other person
159 have held themselves out as a married couple by engaging in
160 conduct such as using the same last name, using a common mailing
161 address, referring to each other in terms such as "my husband"
162 or "my wife," or otherwise conducting themselves in a manner
163 that evidences a permanent supportive relationship.

164 b. The period of time that the obligee has resided with
165 the other person in a permanent place of abode.

166 c. The extent to which the obligee and the other person
167 have pooled their assets or income or otherwise exhibited
168 financial interdependence.

169 d. The extent to which the obligee or the other person has
170 supported the other, in whole or in part.

171 e. The extent to which the obligee or the other person has
172 performed valuable services for the other.

173 f. The extent to which the obligee or the other person has
174 performed valuable services for the other's company or employer.

175 g. Whether the obligee and the other person have worked
176 together to create or enhance anything of value.

177 h. Whether the obligee and the other person have jointly
178 contributed to the purchase of any real or personal property.

179 i. Evidence in support of a claim that the obligee and the
180 other person have an express agreement regarding property
181 sharing or support.

471359

Approved For Filing: 3/6/2012 8:48:50 AM

Amendment No.

182 j. Evidence in support of a claim that the obligee and the
183 other person have an implied agreement regarding property
184 sharing or support.

185 k. Whether the obligee and the other person have provided
186 support to the children of one another, regardless of any legal
187 duty to do so.

188 3. This paragraph does not abrogate the requirement that
189 every marriage in this state be solemnized under a license, does
190 not recognize a common law marriage as valid, and does not
191 recognize a de facto marriage. This paragraph recognizes only
192 that relationships do exist that provide economic support
193 equivalent to a marriage and that alimony terminable on
194 remarriage may be reduced or terminated upon the establishment
195 of equivalent equitable circumstances as described in this
196 paragraph. The existence of a conjugal relationship, though it
197 may be relevant to the nature and extent of the relationship, is
198 not necessary for the application of the provisions of this
199 paragraph.

200 4. In any action for modification or termination of
201 alimony, the court may retroactively modify or terminate the
202 alimony award to the date of the filing of the petition. In an
203 action under this section, if it is determined that a party
204 unnecessarily or unreasonably litigated the underlying petition
205 for modification or termination, the court shall award the other
206 party his or her reasonable attorney fees and costs.

207 5. A court terminating an alimony award based on the
208 existence of a supportive relationship may not reserve
209 jurisdiction to later reinstate alimony.

471359

Approved For Filing: 3/6/2012 8:48:50 AM

Amendment No.

210 (12) The fact that an obligor has reached a reasonable
 211 retirement age for his or her profession, has retired, and has
 212 no intent to return to work shall be considered a substantial
 213 change in circumstances as a matter of law. In determining
 214 whether the obligor's retirement age is reasonable, the court
 215 shall consider the obligor's age, health, motivation for
 216 retirement, type of work, and the normal retirement age for that
 217 type of work.

218 (13) Except in cases of long-term marriages, in any
 219 alimony award, the court shall impute income to the obligee
 220 based on the analysis and factors set forth in s. 61.30(2)(b).

221 Section 5. Subsection (1) of section 61.18, Florida
 222 Statutes, is amended to read:

223 61.18 Alimony and child support; default in undertaking of
 224 bond posted to ensure payment.—

225 (1) ~~If~~ ~~When~~ there is a breach of the condition of any bond
 226 posted to ensure the payment of alimony or child support ~~to,~~
 227 ~~either temporary or permanent, for~~ a party or for minor children
 228 of the parties, the court in which the order was issued may
 229 order payment to the party entitled thereto of the principal of
 230 the bond or the part thereof necessary to cure the existing
 231 default without further notice from time to time where the
 232 amount is liquidated.

233
 234 -----

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

236 Remove lines 21-30 and insert:

Amendment No.

237 durational alimony; changing the term "permanent
238 alimony" to "long-term alimony"; requiring written
239 findings regarding the incomes of the parties after
240 dissolution of marriage; crating a rebuttable
241 presumption concerning the standard of living after
242 dissolution of marriage; revising provisions relating
243 to security of alimony awards; providing for
244 calculation of duration of marriages of parties
245 married to each other more than once; requiring
246 written findings for certain awards of durational
247 alimony; amending s. 61.14, F.S.; revising provisions
248 relating to the effect of a supportive relationship on
249 an award of alimony; authorizing a court to award an
250 obligor attorney fees and costs under certain
251 circumstances; providing that the fact that an obligor
252 has reached a reasonable retirement age for his or her
253 profession, has retired, and has no intent to return
254 to work is a substantial change in circumstances as a
255 matter of law; requiring a court to impute income to
256 the obligee based on the analysis and factors set
257 forth in specified provisions; amending s. 61.18,
258 F.S.; conforming provisions to changes made by act;
259 amending s. 61.19, F.S.;

471359

Approved For Filing: 3/6/2012 8:48:50 AM