

By the Committees on Rules; and Judiciary; and Senators Stargel, Grimsley, Richter, Thrasher, Soto, and Altman

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1 A bill to be entitled
2 An act relating to family law; amending s. 61.071,
3 F.S.; requiring that alimony pendente lite be
4 calculated in accordance with s. 61.08, F.S.; amending
5 s. 61.075, F.S.; redefining the term "marital assets
6 and liabilities" for purposes of equitable
7 distribution in dissolution of marriage actions;
8 providing that the term includes the paydown of
9 principal of notes and mortgages secured by nonmarital
10 real property and certain passive appreciation in such
11 property under certain circumstances; providing
12 formulas and guidelines for determining the amount of
13 such passive appreciation; requiring security and
14 interest relating to the installment payment of such
15 assets; providing exceptions; permitting the court to
16 provide written findings regarding any installment
17 payments; amending s. 61.08, F.S.; defining terms;
18 providing for the priority of bridge-the-gap alimony,
19 followed by rehabilitative alimony, over any other
20 form; requiring a court to make written findings
21 regarding the basis for awarding a combination of
22 forms of alimony, including the type of alimony and
23 length of time for which it is awarded; providing that
24 the party seeking alimony has the burden of proof of
25 demonstrating a need for alimony and that the other
26 party has the ability to pay alimony; requiring the
27 court to consider specified relevant factors when
28 determining the proper type and amount of alimony;
29 revising provisions relating to the protection of

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30 awards of alimony; revising provisions for an award of
31 durational alimony; specifying criteria related to the
32 rebuttable presumption to award or not to award
33 alimony; deleting a provision authorizing permanent
34 alimony; providing for retirement of a party against
35 whom alimony is sought; providing for imputation of
36 income to the obligor or obligee in certain
37 circumstances; amending s. 61.09, F.S.; providing for
38 the calculation of alimony; amending s. 61.13, F.S.;
39 establishing a presumption that it is in the best
40 interest of the child for the court to order equal
41 time-sharing for each minor child; providing
42 exceptions; providing prospective applicability of the
43 presumption; amending s. 61.14, F.S.; authorizing a
44 party to apply for an order to terminate the amount of
45 support, maintenance, or alimony; requiring that an
46 alimony order be modified upward upon a showing by
47 clear and convincing evidence of an increased ability
48 to pay alimony by the other party; prohibiting an
49 increase in an obligor's income from being considered
50 permanent in nature until it has been maintained for a
51 specified period without interruption; providing an
52 exemption from the reduction or termination of an
53 alimony award in certain circumstances; providing that
54 there is a rebuttable presumption that any
55 modification or termination of an alimony award is
56 retroactive to the date of the filing of the petition;
57 providing for an award of attorney fees and costs if
58 it is determined that an obligee unnecessarily or

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59 unreasonably litigates a petition for modification or
60 termination of an alimony award; prohibiting an
61 alimony award from being modified providing that if
62 the court orders alimony concurrent with a child
63 support order, the alimony award may not be modified
64 because of the later modification or termination of
65 child support payments; providing that an obligor's
66 subsequent remarriage or cohabitation is not a basis
67 for modification of alimony; providing that income and
68 assets of obligor's subsequent spouse or person with
69 whom the obligor is residing are generally not
70 relevant to modification; providing that the attaining
71 of retirement age is a substantial change in
72 circumstances; requiring the court to consider certain
73 factors in determining whether the obligor's
74 retirement is reasonable; requiring a court to
75 terminate or reduce an alimony award based on certain
76 factors; amending s. 61.19, F.S.; authorizing separate
77 adjudication of issues in a dissolution of marriage
78 case in certain circumstances; providing for temporary
79 orders necessary to protect the parties and their
80 children; providing for retroactive application of the
81 act to alimony awards entered before July 1, 2013;
82 providing an exception; providing allowable dates for
83 the modification of such awards; providing an
84 effective date.

85
86 Be It Enacted by the Legislature of the State of Florida:
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88 Section 1. Section 61.071, Florida Statutes, is amended to
89 read:

90 61.071 Alimony pendente lite; suit money.—In every
91 proceeding for dissolution of the marriage, a party may claim
92 alimony and suit money in the petition or by motion, and if the
93 petition is well founded, the court shall allow alimony
94 calculated in accordance with s. 61.08 and a reasonable sum of
95 suit money ~~therefor~~. If a party in any proceeding for
96 dissolution of marriage claims alimony or suit money in his or
97 her answer or by motion, ~~and the answer or motion is well~~
98 founded, the court shall allow alimony calculated in accordance
99 with s. 61.08 and a reasonable sum of suit money ~~therefor~~.

100 Section 2. Paragraph (a) of subsection (6) and subsection
101 (10) of section 61.075, Florida Statutes, are amended to read:

102 61.075 Equitable distribution of marital assets and
103 liabilities.—

104 (6) As used in this section:

105 (a)1. "Marital assets and liabilities" include:

106 a. Assets acquired and liabilities incurred during the
107 marriage, individually by either spouse or jointly by them.

108 b. The enhancement in value and appreciation of nonmarital
109 assets resulting ~~either~~ from the efforts of either party during
110 the marriage or from the contribution to or expenditure thereon
111 of marital funds or other forms of marital assets, or both.

112 c. The paydown of principal of a note and mortgage secured
113 by nonmarital real property and a portion of any passive
114 appreciation in the property, if the note and mortgage secured
115 by the property are paid down from marital funds during the
116 marriage. The portion of passive appreciation in the property

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117 characterized as marital and subject to equitable distribution
118 shall be determined by multiplying a coverture fraction by the
119 passive appreciation in the property during the marriage.

120 (I) The passive appreciation shall be determined by
121 subtracting the gross value of the property on the date of the
122 marriage or the date of acquisition of the property, whichever
123 is later, from the value of the property on the valuation date
124 in the dissolution action, less any active appreciation of the
125 property during the marriage, pursuant to sub-subparagraph b.,
126 and less any additional encumbrances secured by the property
127 during the marriage in excess of the first note and mortgage on
128 which principal is paid from marital funds.

129 (II) The coverture fraction shall consist of a numerator,
130 defined as the total paydown of principal from marital funds of
131 all notes and mortgages secured by the property during the
132 marriage, and a denominator, defined as the value of the subject
133 real property on the date of the marriage, the date of
134 acquisition of the property, or the date the property was
135 encumbered by the first note and mortgage on which principal was
136 paid from marital funds, whichever is later.

137 (III) The passive appreciation shall be multiplied by the
138 coverture fraction to determine the marital portion of the
139 passive appreciation in the property.

140 (IV) The total marital portion of the property shall
141 consist of the marital portion of the passive appreciation,
142 pursuant to subparagraph 3., the mortgage principal paid during
143 the marriage from marital funds, and any active appreciation of
144 the property, pursuant to sub-subparagraph b., not to exceed the
145 total net equity in the property at the date of valuation.

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146 (V) The court shall apply this formula unless a party shows
147 circumstances sufficient to establish that application of the
148 formula would be inequitable under the facts presented.

149 ~~d.e.~~ Interspousal gifts during the marriage.

150 ~~e.d.~~ All vested and nonvested benefits, rights, and funds
151 accrued during the marriage in retirement, pension, profit-
152 sharing, annuity, deferred compensation, and insurance plans and
153 programs.

154 2. All real property held by the parties as tenants by the
155 entirety, whether acquired prior to or during the marriage,
156 shall be presumed to be a marital asset. If, in any case, a
157 party makes a claim to the contrary, the burden of proof shall
158 be on the party asserting the claim that the subject property,
159 or some portion thereof, is nonmarital.

160 3. All personal property titled jointly by the parties as
161 tenants by the entirety, whether acquired prior to or during
162 the marriage, shall be presumed to be a marital asset. In the
163 event a party makes a claim to the contrary, the burden of proof
164 shall be on the party asserting the claim that the subject
165 property, or some portion thereof, is nonmarital.

166 4. The burden of proof to overcome the gift presumption
167 shall be by clear and convincing evidence.

168 (10) (a) To do equity between the parties, the court may, in
169 lieu of or to supplement, facilitate, or effectuate the
170 equitable division of marital assets and liabilities, order a
171 monetary payment in a lump sum or in installments paid over a
172 fixed period of time.

173 (b) If installment payments are ordered, the court may
174 require security and a reasonable rate of interest, or otherwise

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175 recognize the time value of money in determining the amount of
176 the installments. If security or interest is required, the court
177 shall make written findings relating to any deferred payments,
178 the amount of any security required, and the interest. This
179 subsection does not preclude the application of chapter 55 to
180 any subsequent default.

181 Section 3. Section 61.08, Florida Statutes, is amended to
182 read:

183 61.08 Alimony.—

184 (1) As used in this section, the term:

185 (a) "Alimony" means a court-ordered payment of support by
186 an obligor spouse to an obligee spouse.

187 (b) "Long-term marriage" means a marriage having a duration
188 of 20 years or more, as measured from the date of the marriage
189 to the date of filing the petition for dissolution.

190 (c) "Mid-term marriage" means a marriage having a duration
191 of more than 12 years but less than 20 years, as measured from
192 the date of the marriage to the date of filing the petition for
193 dissolution.

194 (d) "Net income" means net income as determined in
195 accordance with s. 61.30.

196 (e) "Short-term marriage" means a marriage having a
197 duration equal to or less than 12 years, as measured from the
198 date of the marriage to the date of filing the petition for
199 dissolution.

200 (2) (a) ~~(1)~~ In a proceeding for dissolution of marriage, the
201 court may grant alimony to either party in the form of, ~~which~~
202 ~~alimony may be~~ bridge-the-gap, rehabilitative, or durational
203 alimony, ~~or a permanent in nature or any~~ combination of these

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204 forms of alimony, but shall prioritize an award of bridge-the-
205 gap alimony, followed by rehabilitative alimony, over any other
206 form of alimony. In an ~~any~~ award of alimony, the court may order
207 periodic payments, ~~or~~ payments in lump sum, or both.

208 (b) The court shall make written findings regarding the
209 basis for awarding a combination of forms of alimony, including
210 the type of alimony and the length of time for which it is
211 awarded. The court may award only a combination of forms of
212 alimony to provide greater economic assistance in order to allow
213 the recipient to achieve rehabilitation.

214 (c) The court may consider the adultery of either party
215 spouse and the circumstances thereof in determining the amount
216 of alimony, if any, to be awarded.

217 (d) In all dissolution actions, the court shall include
218 written findings of fact relative to the factors enumerated in
219 subsection (3) ~~(2)~~ supporting an award or denial of alimony.

220 (3) ~~(2)~~ The party seeking alimony has the burden of proof of
221 demonstrating a need for alimony in accordance with subsection
222 (8) and that the other party has the ability to pay alimony. In
223 determining whether to award alimony ~~or maintenance,~~ the court
224 shall ~~first~~ make, in writing, a specific factual determination
225 as to whether the other either party has an actual need for
226 alimony ~~or maintenance~~ and whether either party has the ability
227 to pay alimony ~~or maintenance.~~ If the court finds that the a
228 party seeking alimony has met its burden of proof in
229 demonstrating a need for alimony ~~or maintenance~~ and that the
230 other party has the ability to pay alimony ~~or maintenance,~~ then
231 in determining the proper type and amount of alimony ~~or~~
232 maintenance under subsections (5)-(9) ~~(5)-(8),~~ the court shall

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233 consider all relevant factors, including, ~~but not limited to:~~

234 ~~(a) The standard of living established during the marriage.~~

235 (a) ~~(b)~~ The duration of the marriage.

236 (b) ~~(e)~~ The age and the physical and emotional condition of
237 each party.

238 (c) ~~(d)~~ The financial resources of each party, including the
239 portion of nonmarital assets that were relied upon by the
240 parties during the marriage and the marital assets and
241 liabilities distributed to each.

242 (d) ~~(e)~~ The earning capacities, educational levels,
243 vocational skills, and employability of the parties and, when
244 applicable, the time necessary for either party to acquire
245 sufficient education or training to enable such party to find
246 appropriate employment.

247 (e) ~~(f)~~ The contribution of each party to the marriage,
248 including, but not limited to, services rendered in homemaking,
249 child care, education, and career building of the other party.

250 (f) ~~(g)~~ The responsibilities each party will have with
251 regard to any minor children that the parties ~~they~~ have in
252 common.

253 (g) ~~(h)~~ The tax treatment and consequences to both parties
254 of an any alimony award, which must be consistent with
255 applicable state and federal tax laws and may include ~~including~~
256 the designation of all or a portion of the payment as a
257 nontaxable, nondeductible payment.

258 (h) ~~(i)~~ All sources of income available to either party,
259 including income available to either party through investments
260 of any asset held by that party which was acquired during the
261 marriage or acquired outside the marriage and relied upon during

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262 the marriage.

263 (i) The needs and necessities of life after dissolution of
264 marriage, taking into account the lifestyle of the parties
265 during the marriage but subject to the presumption in paragraph
266 (j).

267 (j) The net income and standard of living available to each
268 party after the application of the alimony award. There is a
269 rebuttable presumption that both parties will have a lower
270 standard of living after the dissolution of marriage than the
271 standard of living they enjoyed during the marriage. This
272 presumption may be overcome by a preponderance of the evidence.

273 (k) ~~(j)~~ Any other factor necessary to do equity and justice
274 between the parties, if that factor is specifically identified
275 in the award with findings of fact justifying the application of
276 the factor.

277 (4) ~~(3)~~ To the extent necessary to protect an award of
278 alimony, the court may order any party who is ordered to pay
279 alimony to purchase or maintain a life insurance policy that may
280 be decreasing or another form of term life insurance at the
281 option of the obligor or a bond, or to otherwise secure such
282 alimony award with any other assets that ~~which~~ may be suitable
283 for that purpose, in an amount adequate to secure the alimony
284 award. Any such security may be awarded only upon a showing of
285 special circumstances. If the court finds special circumstances
286 and awards such security, the court must make specific
287 evidentiary findings regarding the availability, cost, and
288 financial impact on the obligated party. Any security may be
289 modifiable in the event that the underlying alimony award is
290 modified and shall be reduced in an amount commensurate with any

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291 reduction in the alimony award.

292 ~~(4) For purposes of determining alimony, there is a~~
293 ~~rebuttable presumption that a short-term marriage is a marriage~~
294 ~~having a duration of less than 7 years, a moderate-term marriage~~
295 ~~is a marriage having a duration of greater than 7 years but less~~
296 ~~than 17 years, and long-term marriage is a marriage having a~~
297 ~~duration of 17 years or greater. The length of a marriage is the~~
298 ~~period of time from the date of marriage until the date of~~
299 ~~filing of an action for dissolution of marriage.~~

300 (5) Bridge-the-gap alimony may be awarded to assist a party
301 by providing support to allow the party to make a transition
302 from being married to being single. Bridge-the-gap alimony is
303 designed to assist a party with legitimate identifiable short-
304 term needs, and the length of an award may not exceed 2 years.
305 An award of bridge-the-gap alimony terminates upon the death of
306 either party or upon the remarriage of the party receiving
307 alimony. An award of bridge-the-gap alimony is ~~shall~~ not be
308 modifiable in amount or duration.

309 (6) (a) Rehabilitative alimony may be awarded to assist a
310 party in establishing the capacity for self-support through
311 either:

- 312 1. The redevelopment of previous skills or credentials; or
313 2. The acquisition of education, training, or work
314 experience necessary to develop appropriate employment skills or
315 credentials.

316 (b) In order to award rehabilitative alimony, there must be
317 a specific and defined rehabilitative plan which shall be
318 included as a part of any order awarding rehabilitative alimony.

319 (c) An award of rehabilitative alimony may be modified or

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320 terminated only during the rehabilitative period in accordance
321 with s. 61.14 based upon a substantial change in circumstances,
322 upon noncompliance with the rehabilitative plan, or upon
323 completion of the rehabilitative plan.

324 (7) Durational alimony may be awarded ~~when permanent~~
325 ~~periodic alimony is inappropriate. The purpose of durational~~
326 ~~alimony is to provide a party with economic assistance for a set~~
327 ~~period of time following a short-term, mid-term, or long-term~~
328 ~~marriage of short or moderate duration or following a marriage~~
329 ~~of long duration if there is no ongoing need for support on a~~
330 ~~permanent basis. When awarding durational alimony, the court~~
331 ~~must make written findings that an award of another form of~~
332 ~~alimony or a combination of the other forms of alimony is not~~
333 ~~appropriate.~~ An award of durational alimony terminates upon the
334 death of either party or upon the remarriage of the party
335 receiving alimony. The amount of an award of durational alimony
336 shall ~~may~~ be modified or terminated based upon a substantial
337 change in circumstances or upon the existence of a supportive
338 relationship in accordance with s. 61.14. ~~However,~~ The length of
339 an award of durational alimony may not ~~be modified except under~~
340 ~~exceptional circumstances and may not~~ exceed 50 percent of the
341 length of the marriage, unless the party seeking alimony proves
342 by a preponderance of the evidence the circumstances justifying
343 the need for a longer award of alimony, which circumstances must
344 be set out in writing by the court ~~the length of the marriage.~~

345 (8) (a) There is a rebuttable presumption against awarding
346 alimony for a short-term marriage. A party seeking bridge-the-
347 gap or rehabilitative alimony may overcome this presumption by
348 demonstrating by a preponderance of the evidence a need for

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349 alimony. A party seeking durational alimony may overcome this
350 presumption by demonstrating by clear and convincing evidence a
351 need for alimony. If the court finds that the party has met its
352 burden in demonstrating a need for alimony and that the other
353 party has the ability to pay alimony, the court shall determine
354 a monthly award of alimony that may not exceed 20 percent of the
355 obligor's monthly income.

356 (b) There is no presumption in favor of either party to an
357 award of alimony for a mid-term marriage. A party seeking such
358 alimony must prove by a preponderance of the evidence a need for
359 alimony. If the court finds that the party has met its burden in
360 demonstrating a need for alimony and that the other party has
361 the ability to pay alimony, the court shall determine a monthly
362 alimony obligation that may not exceed 30 percent of the
363 obligor's monthly income.

364 (c) There is a rebuttable presumption in favor of awarding
365 alimony for a long-term marriage. A party against whom alimony
366 is sought may overcome this presumption by demonstrating by
367 clear and convincing evidence that there is no need for alimony.
368 If the court finds that the party against whom alimony is sought
369 fails to meet its burden to demonstrate that there is no need
370 for alimony and that the party has the ability to pay alimony,
371 the court shall determine a monthly alimony obligation that may
372 not exceed 33 percent of the obligor's monthly income.

373 (9) The court may order alimony exceeding the monthly
374 income limits established in subsection (8) if the court
375 determines, in accordance with the factors in subsection (3),
376 that there is a need for additional alimony, which determination
377 must be set out in writing ~~Permanent alimony may be awarded to~~

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378 ~~provide for the needs and necessities of life as they were~~
379 ~~established during the marriage of the parties for a party who~~
380 ~~lacks the financial ability to meet his or her needs and~~
381 ~~necessities of life following a dissolution of marriage.~~
382 ~~Permanent alimony may be awarded following a marriage of long~~
383 ~~duration if such an award is appropriate upon consideration of~~
384 ~~the factors set forth in subsection (2), following a marriage of~~
385 ~~moderate duration if such an award is appropriate based upon~~
386 ~~clear and convincing evidence after consideration of the factors~~
387 ~~set forth in subsection (2), or following a marriage of short~~
388 ~~duration if there are written findings of exceptional~~
389 ~~circumstances. In awarding permanent alimony, the court shall~~
390 ~~include a finding that no other form of alimony is fair and~~
391 ~~reasonable under the circumstances of the parties. An award of~~
392 ~~permanent alimony terminates upon the death of either party or~~
393 ~~upon the remarriage of the party receiving alimony. An award may~~
394 ~~be modified or terminated based upon a substantial change in~~
395 ~~circumstances or upon the existence of a supportive relationship~~
396 ~~in accordance with s. 61.14.~~

397 (10) A party against whom alimony is sought who has met the
398 requirements for retirement in accordance with s. 61.14(12)
399 before the filing of the petition for dissolution is not
400 required to pay alimony unless the party seeking alimony proves
401 by clear and convincing evidence the other party has the ability
402 to pay alimony, in addition to all other requirements of this
403 section.

404 (11) ~~(9)~~ Notwithstanding any other provision of law, alimony
405 may not be awarded to a party who has a monthly net income that
406 is equal to or more than the other party. Except in the case of

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407 a long-term marriage, in awarding alimony, the court shall
408 impute income to the obligor and obligee as follows:

409 (a) In the case of the obligor, social security retirement
410 benefits may not be imputed to the obligor, as demonstrated by a
411 social security retirement benefits entitlement letter.

412 (b) In the case of the obligee, if the obligee:

413 1. Is unemployed at the time the petition is filed and has
414 been unemployed for less than 1 year before the time of the
415 filing of the petition, the obligee's monthly net income shall
416 be imputed at 90 percent of the obligee's prior monthly net
417 income.

418 2. Is unemployed at the time the petition is filed and has
419 been unemployed for at least 1 year but less than 2 years before
420 the time of the filing of the petition, the obligee's monthly
421 net income shall be imputed at 80 percent of the obligee's prior
422 monthly net income.

423 3. Is unemployed at the time the petition is filed and has
424 been unemployed for at least 2 years but less than 3 years
425 before the time of the filing of the petition, the obligee's
426 monthly net income shall be imputed at 70 percent of the
427 obligee's prior monthly net income.

428 4. Is unemployed at the time the petition is filed and has
429 been unemployed for at least 3 years but less than 4 years
430 before the time of the filing of the petition, the obligee's
431 monthly net income shall be imputed at 60 percent of the
432 obligee's prior monthly net income.

433 5. Is unemployed at the time the petition is filed and has
434 been unemployed for at least 4 years but less than 5 years
435 before the time of the filing of the petition, the obligee's

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436 monthly net income shall be imputed at 50 percent of the
437 obligee's prior monthly net income.

438 6. Is unemployed at the time the petition is filed and has
439 been unemployed for at least 5 years before the time of the
440 filing of the petition, the obligee's monthly net income shall
441 be imputed at 40 percent of the obligee's prior monthly net
442 income, or the monthly net income of a minimum wage earner at
443 the time of the filing of the petition, whichever is greater.

444 7. Proves by a preponderance of the evidence that he or she
445 does not have the ability to earn the imputed income through
446 reasonable means, the court shall reduce the imputation of
447 income specified in this paragraph. If the obligee alleges that
448 a physical disability has impaired his or her ability to earn
449 the imputed income, such disability must meet the definition of
450 disability as determined by the Social Security Administration.
451 ~~The award of alimony may not leave the payor with significantly~~
452 ~~less net income than the net income of the recipient unless~~
453 ~~there are written findings of exceptional circumstances.~~

454 (12) (a) ~~(10) (a)~~ With respect to any order requiring the
455 payment of alimony entered on or after January 1, 1985, unless
456 ~~the provisions of paragraph (c) or paragraph (d) applies apply,~~
457 the court shall direct in the order that the payments of alimony
458 be made through the appropriate depository as provided in s.
459 61.181.

460 (b) With respect to any order requiring the payment of
461 alimony entered before January 1, 1985, upon the subsequent
462 appearance, on or after that date, of one or both parties before
463 the court having jurisdiction for the purpose of modifying or
464 enforcing the order or in any other proceeding related to the

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465 order, or upon the application of either party, unless ~~the~~
466 ~~provisions of~~ paragraph (c) or paragraph (d) applies apply, the
467 court shall modify the terms of the order as necessary to direct
468 that payments of alimony be made through the appropriate
469 depository as provided in s. 61.181.

470 (c) If there is no minor child, alimony payments need not
471 be directed through the depository.

472 (d)1. If there is a minor child of the parties and both
473 parties so request, the court may order that alimony payments
474 need not be directed through the depository. In this case, the
475 order of support must ~~shall~~ provide, or be deemed to provide,
476 that either party may subsequently apply to the depository to
477 require that payments be made through the depository. The court
478 shall provide a copy of the order to the depository.

479 2. If ~~the provisions of~~ subparagraph 1. applies apply,
480 either party may subsequently file with the depository an
481 affidavit alleging default or arrearages in payment and stating
482 that the party wishes to initiate participation in the
483 depository program. The party shall provide copies of the
484 affidavit to the court and the other party or parties. Fifteen
485 days after receipt of the affidavit, the depository shall notify
486 all parties that future payments shall be directed to the
487 depository.

488 3. In IV-D cases, the IV-D agency has ~~shall have~~ the same
489 rights as the obligee in requesting that payments be made
490 through the depository.

491 Section 4. Section 61.09, Florida Statutes, is amended to
492 read:

493 61.09 Alimony and child support unconnected with

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494 dissolution.—If a person having the ability to contribute to the
495 maintenance of his or her spouse and support of his or her minor
496 child fails to do so, the spouse who is not receiving support
497 may apply to the court for alimony and for support for the child
498 without seeking dissolution of marriage, and the court shall
499 enter an order as it deems just and proper. Alimony awarded
500 under this section shall be calculated in accordance with s.
501 61.08.

502 Section 5. Paragraph (c) of subsection (2) of section
503 61.13, Florida Statutes, is amended to read:

504 61.13 Support of children; parenting and time-sharing;
505 powers of court.—

506 (2)

507 (c) The court shall determine all matters relating to
508 parenting and time-sharing of each minor child of the parties in
509 accordance with the best interests of the child and in
510 accordance with the Uniform Child Custody Jurisdiction and
511 Enforcement Act, except that modification of a parenting plan
512 and time-sharing schedule requires a showing of a substantial,
513 material, and unanticipated change of circumstances.

514 1. It is the public policy of this state that each minor
515 child has frequent and continuing contact with both parents
516 after the parents separate or the marriage of the parties is
517 dissolved and to encourage parents to share the rights and
518 responsibilities, and joys, of childrearing. There is no
519 presumption for or against the father or mother of the child or
520 for or against any specific time-sharing schedule when creating
521 or modifying the parenting plan of the child. Equal time-sharing
522 with a minor child by both parents is in the best interest of

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523 the child unless the court finds that:

524 a. The safety, well-being, and physical, mental, and
525 emotional health of the child would be endangered by equal time-
526 sharing, that visitation would be presumed detrimental
527 consistent with s. 39.0139(3), or that supervised visitation is
528 appropriate, if any is appropriate;

529 b. Clear and convincing evidence of extenuating
530 circumstances justify a departure from equal time-sharing and
531 the court makes written findings justifying the departure from
532 equal time-sharing;

533 c. A parent is incarcerated;

534 d. The distance between parental residences makes equal
535 time-sharing impracticable;

536 e. A parent does not request at least 50-percent time-
537 sharing;

538 f. A permanent injunction has been entered or is warranted
539 against a parent or household member relating to contact between
540 the subject of the injunction and the parent or household
541 member; or

542 g. Domestic violence, as defined in s. 741.28, has
543 occurred.

544 2. The court shall order that the parental responsibility
545 for a minor child be shared by both parents unless the court
546 finds that shared parental responsibility would be detrimental
547 to the child. Evidence that a parent has been convicted of a
548 misdemeanor of the first degree or higher involving domestic
549 violence, as defined in s. 741.28 and chapter 775, or meets the
550 criteria of s. 39.806(1)(d), creates a rebuttable presumption of
551 detriment to the child. If the presumption is not rebutted after

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552 the convicted parent is advised by the court that the
553 presumption exists, shared parental responsibility, including
554 time-sharing with the child, and decisions made regarding the
555 child, may not be granted to the convicted parent. However, the
556 convicted parent is not relieved of any obligation to provide
557 financial support. If the court determines that shared parental
558 responsibility would be detrimental to the child, it may order
559 sole parental responsibility and make such arrangements for
560 time-sharing as specified in the parenting plan as will best
561 protect the child or abused spouse from further harm. Whether or
562 not there is a conviction of any offense of domestic violence or
563 child abuse or the existence of an injunction for protection
564 against domestic violence, the court shall consider evidence of
565 domestic violence or child abuse as evidence of detriment to the
566 child.

567 a. In ordering shared parental responsibility, the court
568 may consider the expressed desires of the parents and may grant
569 to one party the ultimate responsibility over specific aspects
570 of the child's welfare or may divide those responsibilities
571 between the parties based on the best interests of the child.
572 Areas of responsibility may include education, health care, and
573 any other responsibilities that the court finds unique to a
574 particular family.

575 b. The court shall order sole parental responsibility for a
576 minor child to one parent, with or without time-sharing with the
577 other parent if it is in the best interests of the minor child.

578 3. Access to records and information pertaining to a minor
579 child, including, but not limited to, medical, dental, and
580 school records, may not be denied to either parent. Full rights

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581 under this subparagraph apply to either parent unless a court
582 order specifically revokes these rights, including any
583 restrictions on these rights as provided in a domestic violence
584 injunction. A parent having rights under this subparagraph has
585 the same rights upon request as to form, substance, and manner
586 of access as are available to the other parent of a child,
587 including, without limitation, the right to in-person
588 communication with medical, dental, and education providers.

589 Section 6. The amendments made by this act to s. 61.13,
590 Florida Statutes, providing for equal time-sharing, apply
591 prospectively to initial final custody orders made on or after
592 July 1, 2013. The amendments do not constitute a substantial
593 change in circumstances that warrant the modification of a final
594 custody order entered before July 1, 2013.

595 Section 7. Subsection (1) of section 61.14, Florida
596 Statutes, is amended, paragraphs (c) and (d) are added to
597 subsection (11) of that section, and subsection (12) is added to
598 that section, to read:

599 61.14 Enforcement and modification of support, maintenance,
600 or alimony agreements or orders.—

601 (1) (a) When the parties enter into an agreement for
602 payments for, or instead of, support, maintenance, or alimony,
603 whether in connection with a proceeding for dissolution or
604 separate maintenance or with any voluntary property settlement,
605 or when a party is required by court order to make any payments,
606 and the circumstances or the financial ability of either party
607 changes or the child who is a beneficiary of an agreement or
608 court order as described herein reaches majority after the
609 execution of the agreement or the rendition of the order, either

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610 party may apply to the circuit court of the circuit in which the
611 parties, or either of them, resided at the date of the execution
612 of the agreement or reside at the date of the application, or in
613 which the agreement was executed or in which the order was
614 rendered, for an order terminating, decreasing, or increasing
615 the amount of support, maintenance, or alimony, and the court
616 has jurisdiction to make orders as equity requires, with due
617 regard to the changed circumstances or the financial ability of
618 the parties or the child, decreasing, increasing, or confirming
619 the amount of separate support, maintenance, or alimony provided
620 for in the agreement or order. A finding that medical insurance
621 is reasonably available or the child support guidelines schedule
622 in s. 61.30 may constitute changed circumstances. Except as
623 otherwise provided in s. 61.30(11)(c), the court may modify an
624 order of support, maintenance, or alimony by terminating,
625 increasing, or decreasing the support, maintenance, or alimony
626 retroactively to the date of the filing of the action or
627 supplemental action for modification as equity requires, giving
628 due regard to the changed circumstances or the financial ability
629 of the parties or the child.

630 (b)1. If the court has determined that an existing alimony
631 award as determined by the court at the time of dissolution is
632 insufficient to meet the needs of the obligee, and that such
633 need continues to exist, an alimony order shall be modified
634 upward upon a showing by clear and convincing evidence of a
635 permanently increased ability to pay alimony. Clear and
636 convincing evidence must include, but need not be limited to,
637 federal tax returns. An increase in an obligor's income may not
638 be considered permanent in nature unless the increase has been

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639 maintained without interruption for at least 2 years, taking
640 into account the obligor's ability to sustain his or her income.

641 2.1- Notwithstanding subparagraph 1., the court shall ~~may~~
642 reduce or terminate an award of alimony upon specific written
643 findings by the court that since the granting of a divorce and
644 the award of alimony, a supportive relationship has existed
645 between the obligee and another ~~a~~ person, except upon a showing
646 by clear and convincing evidence by the obligee that his or her
647 long-term need for alimony, taking into account the totality of
648 the circumstances, has not been reduced by the supportive
649 relationship with whom the obligee resides. On the issue of
650 whether alimony should be reduced or terminated under this
651 paragraph, the burden is on the obligor to prove by a
652 preponderance of the evidence that a supportive relationship
653 exists.

654 3.2- In determining whether an existing award of alimony
655 should be reduced or terminated because of an alleged supportive
656 relationship between an obligee and a person who is not related
657 by consanguinity or affinity and with whom the obligee resides,
658 the court shall elicit the nature and extent of the relationship
659 in question. The court shall give consideration, without
660 limitation, to circumstances, including, but not limited to, the
661 following, in determining the relationship of an obligee to
662 another person:

663 a. The extent to which the obligee and the other person
664 have held themselves out as a married couple by engaging in
665 conduct such as using the same last name, using a common mailing
666 address, referring to each other in terms such as "my husband"
667 or "my wife," or otherwise conducting themselves in a manner

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668 that evidences a permanent supportive relationship.

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

671 c. The extent to which the obligee and the other person
672 have pooled their assets or income or otherwise exhibited
673 financial interdependence.

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

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

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

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

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

684 i. Evidence in support of a claim that the obligee and the
685 other person have an express agreement regarding property
686 sharing or support.

687 j. Evidence in support of a claim that the obligee and the
688 other person have an implied agreement regarding property
689 sharing or support.

690 k. Whether the obligee and the other person have provided
691 support to the children of one another, regardless of any legal
692 duty to do so.

693 ~~4.3-~~ This paragraph does not abrogate the requirement that
694 every marriage in this state be solemnized under a license, does
695 not recognize a common law marriage as valid, and does not
696 recognize a de facto marriage. This paragraph recognizes only

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697 that relationships do exist that provide economic support
698 equivalent to a marriage and that alimony terminable on
699 remarriage may be reduced or terminated upon the establishment
700 of equivalent equitable circumstances as described in this
701 paragraph. The existence of a conjugal relationship, though it
702 may be relevant to the nature and extent of the relationship, is
703 not necessary for the application of ~~the provisions of this~~
704 paragraph.

705 5. There is a rebuttable presumption that any modification
706 or termination of an alimony award is retroactive to the date of
707 the filing of the petition. In an action under this section, if
708 it is determined that the obligee unnecessarily or unreasonably
709 litigated the underlying petition for modification or
710 termination, the court may award the obligor his or her
711 reasonable attorney fees and costs pursuant to s. 61.16 and
712 applicable case law.

713 (c) For each support order reviewed by the department as
714 required by s. 409.2564(11), if the amount of the child support
715 award under the order differs by at least 10 percent but not
716 less than \$25 from the amount that would be awarded under s.
717 61.30, the department shall seek to have the order modified and
718 any modification shall be made without a requirement for proof
719 or showing of a change in circumstances.

720 (d) The department may ~~shall have authority to~~ adopt rules
721 to administer ~~implement~~ this section.

722 (11)

723 (c) If the court orders alimony payable concurrent with a
724 child support order, the alimony award may not be modified
725 solely because of a later reduction or termination of child

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726 support payments, unless the court finds the obligor has the
727 ability to pay the modified alimony award, the existing alimony
728 award as determined by the court at the time of dissolution is
729 insufficient to meet the needs of the obligee, and such need
730 continues to exist.

731 (d) An obligor's subsequent remarriage or cohabitation does
732 not constitute a basis for a modification of alimony. The income
733 and assets of the obligor's subsequent spouse or person with
734 whom the obligor resides is not relevant in a modification
735 action except under exceptional circumstances.

736 (12) The fact that an obligor has reached a reasonable
737 retirement age for his or her profession, has retired, and has
738 no intent to return to work shall be considered a substantial
739 change in circumstances as a matter of law. In determining
740 whether the obligor's retirement age is reasonable, the court
741 shall consider the obligor's:

742 (a) Age.

743 (b) Health.

744 (c) Motivation for retirement.

745 (d) Type of work.

746 (e) Normal retirement age for that type of work.

747
748 In anticipation of retirement, the obligor may file a petition
749 for termination or modification of the alimony award effective
750 upon the retirement date. The court shall terminate or modify
751 the alimony award based on the circumstances of the parties
752 after retirement of the obligor and based on the factors in s.
753 61.08(2), unless the court makes findings of fact that a
754 termination or modification of an alimony award is not

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755 warranted.

756 Section 8. Section 61.19, Florida Statutes, is amended to
757 read:

758 61.19 Entry of judgment of dissolution of marriage;~~7~~ delay
759 period; separate adjudication of issues.-

760 (1) A ~~No~~ final judgment of dissolution of marriage may not
761 be entered until at least 20 days have elapsed from the date of
762 filing the original petition for dissolution of marriage,~~7~~ but
763 the court, on a showing that injustice would result from this
764 delay, may enter a final judgment of dissolution of marriage at
765 an earlier date.

766 (2) (a) During the first 180 days after the date of service
767 of the original petition for dissolution of marriage, the court
768 may not grant a final dissolution of marriage with a reservation
769 of jurisdiction to subsequently determine all other substantive
770 issues unless the court makes written findings that there are
771 exceptional circumstances that make the use of this process
772 clearly necessary to protect the parties or their children and
773 that granting a final dissolution will not cause irreparable
774 harm to either party or the children. Before granting a final
775 dissolution of marriage with a reservation of jurisdiction to
776 subsequently determine all other substantive issues, the court
777 shall enter temporary orders necessary to protect the parties
778 and their children, which orders remain effective until all
779 other issues can be adjudicated by the court. The desire of one
780 party to remarry does not justify the use of this process.

781 (b) If more than 180 days have elapsed after the date of
782 service of the original petition for dissolution of marriage,
783 the court may grant a final dissolution of marriage with a

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784 reservation of jurisdiction to subsequently determine all other
785 substantive issues only if the court enters temporary orders
786 necessary to protect the parties and their children, which
787 orders remain effective until such time as all other issues can
788 be adjudicated by the court, and makes a written finding that no
789 irreparable harm will result from granting a final dissolution.

790 (c) If more than 365 days have elapsed after the date of
791 service of the original petition for dissolution of marriage,
792 absent a showing by either party that irreparable harm will
793 result from granting a final dissolution, the court shall, upon
794 request of either party, immediately grant a final dissolution
795 of marriage with a reservation of jurisdiction to subsequently
796 determine all other substantive issues. Before granting a final
797 dissolution of marriage with a reservation of jurisdiction to
798 subsequently determine all other substantive issues, the court
799 shall enter temporary orders necessary to protect the parties
800 and their children, which orders remain effective until all
801 other issues can be adjudicated by the court.

802 (d) The temporary orders necessary to protect the parties
803 and their children entered before granting a dissolution of
804 marriage without an adjudication of all substantive issues may
805 include, but are not limited to, temporary orders that:

- 806 1. Restrict the sale or disposition of property.
- 807 2. Protect and preserve the marital assets.
- 808 3. Establish temporary support.
- 809 4. Provide for maintenance of health insurance.
- 810 5. Provide for maintenance of life insurance.

811 (e) The court is not required to enter temporary orders to
812 protect the parties and their children if the court enters a

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813 final judgment of dissolution of marriage that adjudicates
814 substantially all of the substantive issues between the parties
815 but reserves jurisdiction to address ancillary issues such as
816 the entry of a qualified domestic relations order or the
817 adjudication of attorney fees and costs.

818 Section 9. (1) (a) The amendments to chapter 61, Florida
819 Statutes, made by this act apply to:

820 1. Final judgments of alimony awards entered before July 1,
821 2013.

822 2. Final orders entered before July 1, 2013, that
823 incorporate an agreement between the parties for alimony, if the
824 duration of the marriage was equal to or less than 15 years and
825 the duration of the alimony agreement exceeds the duration of
826 the marriage.

827 (b) For such judgments or orders, the amendments to chapter
828 61, Florida Statutes, shall constitute a substantial change in
829 circumstances for which an obligor may seek, in accordance with
830 s. 61.14, Florida Statutes, a modification of the amount or
831 duration of alimony, except for an order incorporating an
832 agreement that is expressly nonmodifiable.

833 (2) (a) For final orders entered before July 1, 2013 that
834 incorporate an agreement between the parties for alimony, but
835 otherwise do not meet the criteria set forth in subparagraph
836 (1) (a)2., the amendments to chapter 61, Florida Statutes, made
837 by this act shall apply if the obligor proves, by clear and
838 convincing evidence, that:

839 1. The obligor did not execute the agreement voluntarily;
840 2. The agreement was the product of fraud, duress,
841 coercion, or overreaching; or

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842 3. The agreement was unconscionable when it was executed
843 and, before execution of the agreement, the obligor:

844 a. Was not provided a fair and reasonable disclosure of the
845 property or financial obligations of the other party.

846 b. Did not voluntarily and expressly waive, in writing, any
847 right to disclosure of the property or financial obligations of
848 the other party beyond disclosure provided.

849 c. Did not have or reasonably could not have had an
850 adequate knowledge of the property or financial obligations of
851 the other party.

852 (b) For such orders, the amendments to chapter 61, Florida
853 Statutes, shall constitute a substantial change in circumstances
854 for which an obligor may seek, in accordance with s. 61.14,
855 Florida Statutes, a modification of the amount or duration of
856 alimony, except for an order incorporating an agreement that is
857 expressly nonmodifiable.

858 (3) Final judgments and orders for which the amendments to
859 chapter 61, Florida Statutes, constitute a substantial change in
860 circumstances under subsection (1) and (2) may be the subject of
861 a modification action according to the following schedule:

862 (a) An obligor who is subject to alimony of 15 years or
863 more may file a modification action on or after July 1, 2013.

864 (b) An obligor who is subject to alimony of 8 years of
865 more, but less than 15 years, may file a modification action on
866 or after July 1, 2014.

867 (c) An obligor who is subject to alimony of less than 8
868 years may file a modification action on or after July 1, 2015.

869 Section 10. This act shall take effect July 1, 2013.