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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; amending s. 61.30, F.S.; providing for
81 consideration of time-sharing schedules as a factor in
82 the adjustment of awards of child support; providing
83 for retroactive application of the act to alimony
84 awards entered before July 1, 2013; providing an
85 exception; providing allowable dates for the
86 modification of such awards; providing an effective
87 date.

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

Section 1. Section 61.071, Florida Statutes, is amended to read:

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

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

61.075 Equitable distribution of marital assets and liabilities.—

(6) As used in this section:

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

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

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

c. The paydown of principal of a note and mortgage secured by nonmarital real property and a portion of any passive

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117 appreciation in the property, if the note and mortgage secured
118 by the property are paid down from marital funds during the
119 marriage. The portion of passive appreciation in the property
120 characterized as marital and subject to equitable distribution
121 shall be determined by multiplying a coverture fraction by the
122 passive appreciation in the property during the marriage.

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

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

140 (III) The passive appreciation shall be multiplied by the
141 coverture fraction to determine the marital portion of the
142 passive appreciation in the property.

143 (IV) The total marital portion of the property shall
144 consist of the marital portion of the passive appreciation,
145 pursuant to subparagraph 3., the mortgage principal paid during

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146 the marriage from marital funds, and any active appreciation of
147 the property, pursuant to sub-subparagraph b., not to exceed the
148 total net equity in the property at the date of valuation.

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

152 d.e. Interspousal gifts during the marriage.

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

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

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

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

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

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175 fixed period of time.

176 (b) If installment payments are ordered, the court may
177 require security and a reasonable rate of interest, or otherwise
178 recognize the time value of money in determining the amount of
179 the installments. If security or interest is required, the court
180 shall make written findings relating to any deferred payments,
181 the amount of any security required, and the interest. This
182 subsection does not preclude the application of chapter 55 to
183 any subsequent default.

184 Section 3. Section 61.08, Florida Statutes, is amended to
185 read:

186 61.08 Alimony.—

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

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

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

193 (c) "Mid-term marriage" means a marriage having a duration
194 of more than 10 years but less than 20 years, as measured from
195 the date of marriage to the date of filing the petition for
196 dissolution.

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

199 (e) "Short term marriage" means a marriage having a
200 duration equal to or less than 10 years, as measured from the
201 date of the marriage to the date of filing the petition for
202 dissolution.

203 (2) (a) ~~(1)~~ In a proceeding for dissolution of marriage, the

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204 court may grant alimony to either party in the form of, ~~which~~
205 ~~alimony may be~~ bridge-the-gap, rehabilitative, or durational
206 alimony, or a permanent in nature or any combination of these
207 forms of alimony, but shall prioritize an award of bridge-the-
208 gap alimony, followed by rehabilitative alimony, over any other
209 form of alimony. In an any award of alimony, the court may order
210 periodic payments, ~~or~~ payments in lump sum, or both.

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

217 (c) The court may consider the adultery of either party
218 ~~spouse~~ and the circumstances thereof in determining the amount
219 of alimony, if any, to be awarded.

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

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

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233 other party has the ability to pay alimony ~~or maintenance~~, then
234 in determining the proper type and amount of alimony ~~or~~
235 ~~maintenance~~ under subsections (5)-(9) ~~(5)-(8)~~, the court shall
236 consider all relevant factors, including, ~~but not limited to:~~
237 ~~(a) The standard of living established during the marriage.~~
238 (a) ~~(b)~~ The duration of the marriage.
239 (b) ~~(c)~~ The age and the physical and emotional condition of
240 each party.
241 (c) ~~(d)~~ The financial resources of each party, including the
242 portion of nonmarital assets that were relied upon by the
243 parties during the marriage and the marital assets and
244 liabilities distributed to each.
245 (d) ~~(e)~~ The earning capacities, educational levels,
246 vocational skills, and employability of the parties and, when
247 applicable, the time necessary for either party to acquire
248 sufficient education or training to enable such party to find
249 appropriate employment.
250 (e) ~~(f)~~ The contribution of each party to the marriage,
251 including, but not limited to, services rendered in homemaking,
252 child care, education, and career building of the other party.
253 (f) ~~(g)~~ The responsibilities each party will have with
254 regard to any minor children that the parties ~~they~~ have in
255 common.
256 (g) ~~(h)~~ The tax treatment and consequences to both parties
257 of an any alimony award, which must be consistent with
258 applicable state and federal tax laws and may include ~~including~~
259 the designation of all or a portion of the payment as a
260 nontaxable, nondeductible payment.
261 (h) ~~(i)~~ All sources of income available to either party,

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262 including income available to either party through investments
263 of any asset held by that party which was acquired during the
264 marriage or acquired outside the marriage and relied upon during
265 the marriage unless it is proven by clear and convincing
266 evidence that the income available to either party and the
267 assets relied upon during the marriage assets are not sufficient
268 to provide support for both parties, then the court may consider
269 assets that were not relied upon during the marriage.

270 (i) The needs and necessities of life after dissolution of
271 marriage, taking into account the lifestyle of the parties
272 during the marriage but subject to the presumption in paragraph
273 (j).

274 (j) The net income and standard of living available to each
275 party after the application of the alimony award. There is a
276 rebuttable presumption that both parties will have a lower
277 standard of living after the dissolution of marriage than the
278 standard of living they enjoyed during the marriage. This
279 presumption may be overcome by a preponderance of the evidence.

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

284 (4)~~(3)~~ To the extent necessary to protect an award of
285 alimony, the court may order any party who is ordered to pay
286 alimony to purchase or maintain a life insurance policy that may
287 be decreasing or another form of term life insurance at the
288 option of the obligor or a bond, or to otherwise secure such
289 alimony award with any other assets that ~~which~~ may be suitable
290 for that purpose, in an amount adequate to secure the alimony

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291 award. Any such security may be awarded only upon a showing of
292 special circumstances. If the court finds special circumstances
293 and awards such security, the court must make specific
294 evidentiary findings regarding the availability, cost, and
295 financial impact on the obligated party. Any security may be
296 modifiable in the event that the underlying alimony award is
297 modified and shall be reduced in an amount commensurate with any
298 reduction in the alimony award.

299 ~~(4) For purposes of determining alimony, there is a~~
300 ~~rebuttable presumption that a short-term marriage is a marriage~~
301 ~~having a duration of less than 7 years, a moderate-term marriage~~
302 ~~is a marriage having a duration of greater than 7 years but less~~
303 ~~than 17 years, and long-term marriage is a marriage having a~~
304 ~~duration of 17 years or greater. The length of a marriage is the~~
305 ~~period of time from the date of marriage until the date of~~
306 ~~filing of an action for dissolution of marriage.~~

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

316 (6) (a) Rehabilitative alimony may be awarded to assist a
317 party in establishing the capacity for self-support through
318 either:

319 1. The redevelopment of previous skills or credentials; or

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320 2. The acquisition of education, training, or work
321 experience necessary to develop appropriate employment skills or
322 credentials.

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

326 (c) An award of rehabilitative alimony may be modified or
327 terminated only during the rehabilitative period in accordance
328 with s. 61.14 based upon a substantial change in circumstances,
329 upon noncompliance with the rehabilitative plan, or upon
330 completion of the rehabilitative plan.

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

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349 by a preponderance of the evidence the circumstances justifying
350 the need for a longer award of alimony, which circumstances must
351 be set out in writing by the court ~~the length of the marriage.~~

352 (8) (a) There is a rebuttable presumption against awarding
353 alimony for a short-term marriage. A party seeking bridge-the-
354 gap or rehabilitative alimony may overcome this presumption by
355 demonstrating by a preponderance of the evidence a need for
356 alimony. A party seeking durational alimony may overcome this
357 presumption by demonstrating by clear and convincing evidence a
358 need for alimony. If the court finds that the party has met its
359 burden in demonstrating a need for alimony and that the other
360 party has the ability to pay alimony, the court shall determine
361 a monthly award of alimony which may not exceed 20 percent of
362 the obligor's gross monthly income, as calculated under s.
363 61.30(2) (a), with the exception that gross income does not
364 include, consistent with paragraph (3) (h), sources of income
365 acquired outside of the marriage which were not relied upon
366 during the marriage.

367 (b) There is no presumption in favor of either party to an
368 award of alimony for a mid-term marriage. A party seeking such
369 alimony must prove by a preponderance of the evidence a need for
370 alimony. If the court finds that the party has met its burden in
371 demonstrating a need for alimony and that the other party has
372 the ability to pay alimony, the court shall determine a monthly
373 alimony obligation that may not exceed 30 percent of the
374 obligor's gross monthly income, as calculated under s.
375 61.30(2) (a), with the exception that gross income does not
376 include, consistent with paragraph (3) (h), sources of income
377 acquired outside of the marriage which were not relied upon

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378 during the marriage.

379 (c) There is a rebuttable presumption in favor of awarding
380 alimony for a long-term marriage. A party against whom alimony
381 is sought may overcome this presumption by demonstrating by
382 clear and convincing evidence that there is no need for alimony.
383 If the court finds that the party against whom alimony is sought
384 fails to meet its burden to demonstrate that there is no need
385 for alimony and that the party has the ability to pay alimony,
386 the court shall determine a monthly alimony obligation that may
387 not exceed 33 percent of the obligor's gross monthly income, as
388 calculated under s. 61.30(2)(a), with the exception that gross
389 income does not include, consistent with paragraph (3)(h),
390 sources of income acquired outside of the marriage which were
391 not relied upon during the marriage.

392 (9) The court may order alimony exceeding the monthly
393 income limits established in subsection (8) if the court
394 determines, in accordance with the factors in subsection (3),
395 that there is a need for additional alimony, which determination
396 must be set out in writing ~~Permanent alimony may be awarded to~~
397 ~~provide for the needs and necessities of life as they were~~
398 ~~established during the marriage of the parties for a party who~~
399 ~~lacks the financial ability to meet his or her needs and~~
400 ~~necessities of life following a dissolution of marriage.~~
401 ~~Permanent alimony may be awarded following a marriage of long~~
402 ~~duration if such an award is appropriate upon consideration of~~
403 ~~the factors set forth in subsection (2), following a marriage of~~
404 ~~moderate duration if such an award is appropriate based upon~~
405 ~~clear and convincing evidence after consideration of the factors~~
406 ~~set forth in subsection (2), or following a marriage of short~~

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407 ~~duration if there are written findings of exceptional~~
408 ~~circumstances. In awarding permanent alimony, the court shall~~
409 ~~include a finding that no other form of alimony is fair and~~
410 ~~reasonable under the circumstances of the parties. An award of~~
411 ~~permanent alimony terminates upon the death of either party or~~
412 ~~upon the remarriage of the party receiving alimony. An award may~~
413 ~~be modified or terminated based upon a substantial change in~~
414 ~~circumstances or upon the existence of a supportive relationship~~
415 ~~in accordance with s. 61.14.~~

416 (10) A party against whom alimony is sought who has met the
417 requirements for retirement in accordance with s. 61.14(12)
418 before the filing of the petition for dissolution is not
419 required to pay alimony unless the party seeking alimony proves
420 by clear and convincing evidence the other party has the ability
421 to pay alimony, in addition to all other requirements of this
422 section.

423 (11)-(9) Notwithstanding any other provision of law, alimony
424 may not be awarded to a party who has a monthly net income that
425 is equal to or more than the other party. Except in the case of
426 a long-term marriage, in awarding alimony, the court shall
427 impute income to the obligor and obligee as follows:

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

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

432 1. Is unemployed at the time the petition is filed and has
433 been unemployed for less than 1 year before the time of the
434 filing of the petition, the obligee's monthly net income shall
435 be imputed at 90 percent of the obligee's prior monthly net

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436 income.

437 2. Is unemployed at the time the petition is filed and has
438 been unemployed for at least 1 year but less than 2 years before
439 the time of the filing of the petition, the obligee's monthly
440 net income shall be imputed at 80 percent of the obligee's prior
441 monthly net income.

442 3. Is unemployed at the time the petition is filed and has
443 been unemployed for at least 2 years but less than 3 years
444 before the time of the filing of the petition, the obligee's
445 monthly net income shall be imputed at 70 percent of the
446 obligee's prior monthly net income.

447 4. Is unemployed at the time the petition is filed and has
448 been unemployed for at least 3 years but less than 4 years
449 before the time of the filing of the petition, the obligee's
450 monthly net income shall be imputed at 60 percent of the
451 obligee's prior monthly net income.

452 5. Is unemployed at the time the petition is filed and has
453 been unemployed for at least 4 years but less than 5 years
454 before the time of the filing of the petition, the obligee's
455 monthly net income shall be imputed at 50 percent of the
456 obligee's prior monthly net income.

457 6. Is unemployed at the time the petition is filed and has
458 been unemployed for at least 5 years before the time of the
459 filing of the petition, the obligee's monthly net income shall
460 be imputed at 40 percent of the obligee's prior monthly net
461 income, or the monthly net income of a minimum wage earner at
462 the time of the filing of the petition, whichever is greater.

463 7. Proves by a preponderance of the evidence that he or she
464 does not have the ability to earn the imputed income through

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465 reasonable means, the court shall reduce the imputation of
466 income specified in this paragraph. If the obligee alleges that
467 a physical disability has impaired his or her ability to earn
468 the imputed income, such disability must meet the definition of
469 disability as determined by the Social Security Administration.
470 ~~The award of alimony may not leave the payor with significantly~~
471 ~~less net income than the net income of the recipient unless~~
472 ~~there are written findings of exceptional circumstances.~~

473 (12) (a) ~~(10) (a)~~ With respect to any order requiring the
474 payment of alimony entered on or after January 1, 1985, unless
475 ~~the provisions of~~ paragraph (c) or paragraph (d) applies apply,
476 the court shall direct in the order that the payments of alimony
477 be made through the appropriate depository as provided in s.
478 61.181.

479 (b) With respect to any order requiring the payment of
480 alimony entered before January 1, 1985, upon the subsequent
481 appearance, on or after that date, of one or both parties before
482 the court having jurisdiction for the purpose of modifying or
483 enforcing the order or in any other proceeding related to the
484 order, or upon the application of either party, unless ~~the~~
485 ~~provisions of~~ paragraph (c) or paragraph (d) applies apply, the
486 court shall modify the terms of the order as necessary to direct
487 that payments of alimony be made through the appropriate
488 depository as provided in s. 61.181.

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

491 (d)1. If there is a minor child of the parties and both
492 parties so request, the court may order that alimony payments
493 need not be directed through the depository. In this case, the

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494 order of support must ~~shall~~ provide, or be deemed to provide,
495 that either party may subsequently apply to the depository to
496 require that payments be made through the depository. The court
497 shall provide a copy of the order to the depository.

498 2. If ~~the provisions of~~ subparagraph 1. applies ~~apply~~,
499 either party may subsequently file with the depository an
500 affidavit alleging default or arrearages in payment and stating
501 that the party wishes to initiate participation in the
502 depository program. The party shall provide copies of the
503 affidavit to the court and the other party or parties. Fifteen
504 days after receipt of the affidavit, the depository shall notify
505 all parties that future payments shall be directed to the
506 depository.

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

510 Section 4. Section 61.09, Florida Statutes, is amended to
511 read:

512 61.09 Alimony and child support unconnected with
513 dissolution.—If a person having the ability to contribute to the
514 maintenance of his or her spouse and support of his or her minor
515 child fails to do so, the spouse who is not receiving support
516 may apply to the court for alimony and for support for the child
517 without seeking dissolution of marriage, and the court shall
518 enter an order as it deems just and proper. Alimony awarded
519 under this section shall be calculated in accordance with s.
520 61.08.

521 Section 5. Paragraph (c) of subsection (2) of section
522 61.13, Florida Statutes, is amended to read:

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523 61.13 Support of children; parenting and time-sharing;
524 powers of court.—

525 (2)

526 (c) The court shall determine all matters relating to
527 parenting and time-sharing of each minor child of the parties in
528 accordance with the best interests of the child and in
529 accordance with the Uniform Child Custody Jurisdiction and
530 Enforcement Act, except that modification of a parenting plan
531 and time-sharing schedule requires a showing of a substantial,
532 material, and unanticipated change of circumstances.

533 1. It is the public policy of this state that each minor
534 child has frequent and continuing contact with both parents
535 after the parents separate or the marriage of the parties is
536 dissolved and to encourage parents to share the rights and
537 responsibilities, and joys, of childrearing. There is no
538 presumption for or against the father or mother of the child or
539 for or against any specific time-sharing schedule when creating
540 or modifying the parenting plan of the child. Equal time-sharing
541 with a minor child by both parents is in the best interest of
542 the child unless the court finds that:

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

548 b. Clear and convincing evidence of extenuating
549 circumstances justify a departure from equal time-sharing and
550 the court makes written findings justifying the departure from
551 equal time-sharing;

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552 c. A parent is incarcerated;

553 d. The distance between parental residences makes equal
554 time-sharing impracticable;

555 e. A parent does not request at least 50-percent time-
556 sharing;

557 f. A permanent injunction has been entered or is warranted
558 against a parent or household member relating to contact between
559 the subject of the injunction and the parent or household
560 member; or

561 g. Domestic violence, as defined in s. 741.28, has
562 occurred.

563 2. The court shall order that the parental responsibility
564 for a minor child be shared by both parents unless the court
565 finds that shared parental responsibility would be detrimental
566 to the child. Evidence that a parent has been convicted of a
567 misdemeanor of the first degree or higher involving domestic
568 violence, as defined in s. 741.28 and chapter 775, or meets the
569 criteria of s. 39.806(1)(d), creates a rebuttable presumption of
570 detriment to the child. If the presumption is not rebutted after
571 the convicted parent is advised by the court that the
572 presumption exists, shared parental responsibility, including
573 time-sharing with the child, and decisions made regarding the
574 child, may not be granted to the convicted parent. However, the
575 convicted parent is not relieved of any obligation to provide
576 financial support. If the court determines that shared parental
577 responsibility would be detrimental to the child, it may order
578 sole parental responsibility and make such arrangements for
579 time-sharing as specified in the parenting plan as will best
580 protect the child or abused spouse from further harm. Whether or

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581 not there is a conviction of any offense of domestic violence or
582 child abuse or the existence of an injunction for protection
583 against domestic violence, the court shall consider evidence of
584 domestic violence or child abuse as evidence of detriment to the
585 child.

586 a. In ordering shared parental responsibility, the court
587 may consider the expressed desires of the parents and may grant
588 to one party the ultimate responsibility over specific aspects
589 of the child's welfare or may divide those responsibilities
590 between the parties based on the best interests of the child.
591 Areas of responsibility may include education, health care, and
592 any other responsibilities that the court finds unique to a
593 particular family.

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

597 3. Access to records and information pertaining to a minor
598 child, including, but not limited to, medical, dental, and
599 school records, may not be denied to either parent. Full rights
600 under this subparagraph apply to either parent unless a court
601 order specifically revokes these rights, including any
602 restrictions on these rights as provided in a domestic violence
603 injunction. A parent having rights under this subparagraph has
604 the same rights upon request as to form, substance, and manner
605 of access as are available to the other parent of a child,
606 including, without limitation, the right to in-person
607 communication with medical, dental, and education providers.

608 Section 6. The amendments made by this act to s. 61.13,
609 Florida Statutes, providing for equal time-sharing, apply

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610 prospectively to initial final custody orders made on or after
611 July 1, 2013. The amendments do not constitute a substantial
612 change in circumstances that warrant the modification of a final
613 custody order entered before July 1, 2013.

614 Section 7. Subsection (1) of section 61.14, Florida
615 Statutes, is amended, paragraphs (c) and (d) are added to
616 subsection (11) of that section, and subsection (12) is added to
617 that section, to read:

618 61.14 Enforcement and modification of support, maintenance,
619 or alimony agreements or orders.—

620 (1) (a) When the parties enter into an agreement for
621 payments for, or instead of, support, maintenance, or alimony,
622 whether in connection with a proceeding for dissolution or
623 separate maintenance or with any voluntary property settlement,
624 or when a party is required by court order to make any payments,
625 and the circumstances or the financial ability of either party
626 changes or the child who is a beneficiary of an agreement or
627 court order as described herein reaches majority after the
628 execution of the agreement or the rendition of the order, either
629 party may apply to the circuit court of the circuit in which the
630 parties, or either of them, resided at the date of the execution
631 of the agreement or reside at the date of the application, or in
632 which the agreement was executed or in which the order was
633 rendered, for an order terminating, decreasing, or increasing
634 the amount of support, maintenance, or alimony, and the court
635 has jurisdiction to make orders as equity requires, with due
636 regard to the changed circumstances or the financial ability of
637 the parties or the child, decreasing, increasing, or confirming
638 the amount of separate support, maintenance, or alimony provided

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639 for in the agreement or order. A finding that medical insurance
640 is reasonably available or the child support guidelines schedule
641 in s. 61.30 may constitute changed circumstances. Except as
642 otherwise provided in s. 61.30(11)(c), the court may modify an
643 order of support, maintenance, or alimony by terminating,
644 increasing, or decreasing the support, maintenance, or alimony
645 retroactively to the date of the filing of the action or
646 supplemental action for modification as equity requires, giving
647 due regard to the changed circumstances or the financial ability
648 of the parties or the child.

649 (b)1. If the court has determined that an existing alimony
650 award as determined by the court at the time of dissolution is
651 insufficient to meet the needs of the obligee, and that such
652 need continues to exist, an alimony order shall be modified
653 upward upon a showing by clear and convincing evidence of a
654 permanently increased ability to pay alimony. An increase in an
655 obligor's income may not be considered permanent in nature
656 unless the increase has been maintained without interruption for
657 at least 2 years, taking into account the obligor's ability to
658 sustain his or her income.

659 2.1- Notwithstanding subparagraph 1., the court shall may
660 reduce or terminate an award of alimony upon specific written
661 findings by the court that since the granting of a divorce and
662 the award of alimony, a supportive relationship has existed
663 between the obligee and another a person, except upon a showing
664 by clear and convincing evidence by the obligee that his or her
665 long-term need for alimony, taking into account the totality of
666 the circumstances, has not been reduced by the supportive
667 relationship with whom the obligee resides. On the issue of

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668 whether alimony should be reduced or terminated under this
669 paragraph, the burden is on the obligor to prove by a
670 preponderance of the evidence that a supportive relationship
671 exists.

672 ~~3.2.~~ In determining whether an existing award of alimony
673 should be reduced or terminated because of an alleged supportive
674 relationship between an obligee and a person who is not related
675 by consanguinity or affinity and with whom the obligee resides,
676 the court shall elicit the nature and extent of the relationship
677 in question. The court shall give consideration, without
678 limitation, to circumstances, including, but not limited to, the
679 following, in determining the relationship of an obligee to
680 another person:

681 a. The extent to which the obligee and the other person
682 have held themselves out as a married couple by engaging in
683 conduct such as using the same last name, using a common mailing
684 address, referring to each other in terms such as "my husband"
685 or "my wife," or otherwise conducting themselves in a manner
686 that evidences a permanent supportive relationship.

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

689 c. The extent to which the obligee and the other person
690 have pooled their assets or income or otherwise exhibited
691 financial interdependence.

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

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

696 f. The extent to which the obligee or the other person has

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697 performed valuable services for the other's company or employer.

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

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

702 i. Evidence in support of a claim that the obligee and the
703 other person have an express agreement regarding property
704 sharing or support.

705 j. Evidence in support of a claim that the obligee and the
706 other person have an implied agreement regarding property
707 sharing or support.

708 k. Whether the obligee and the other person have provided
709 support to the children of one another, regardless of any legal
710 duty to do so.

711 ~~4.3.~~ This paragraph does not abrogate the requirement that
712 every marriage in this state be solemnized under a license, does
713 not recognize a common law marriage as valid, and does not
714 recognize a de facto marriage. This paragraph recognizes only
715 that relationships do exist that provide economic support
716 equivalent to a marriage and that alimony terminable on
717 remarriage may be reduced or terminated upon the establishment
718 of equivalent equitable circumstances as described in this
719 paragraph. The existence of a conjugal relationship, though it
720 may be relevant to the nature and extent of the relationship, is
721 not necessary for the application of ~~the provisions of this~~
722 paragraph.

723 5. There is a rebuttable presumption that any modification
724 or termination of an alimony award is retroactive to the date of
725 the filing of the petition. In an action under this section, if

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726 it is determined that the obligee or obligor unnecessarily or
727 unreasonably litigated the underlying petition for modification
728 or termination, the court may award the other party his or her
729 reasonable attorney fees and costs pursuant to s. 61.16 and
730 applicable case law.

731 (c) For each support order reviewed by the department as
732 required by s. 409.2564(11), if the amount of the child support
733 award under the order differs by at least 10 percent but not
734 less than \$25 from the amount that would be awarded under s.
735 61.30, the department shall seek to have the order modified and
736 any modification shall be made without a requirement for proof
737 or showing of a change in circumstances.

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

740 (11)

741 (c) If the court orders alimony payable concurrent with a
742 child support order, the alimony award may not be modified
743 solely because of a later reduction or termination of child
744 support payments, unless the court finds the obligor has the
745 ability to pay the modified alimony award, the existing alimony
746 award as determined by the court at the time of dissolution is
747 insufficient to meet the needs of the obligee, and such need
748 continues to exist.

749 (d) An obligor's subsequent remarriage or cohabitation does
750 not constitute a basis for a modification of alimony. The income
751 and assets of the obligor's subsequent spouse or person with
752 whom the obligor resides is not relevant in a modification
753 action except under exceptional circumstances.

754 (12) The fact that an obligor has reached a reasonable

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755 retirement age for his or her profession, has retired, and has
756 no intent to return to work shall be considered a substantial
757 change in circumstances as a matter of law. In determining
758 whether the obligor's retirement age is reasonable, the court
759 shall consider the obligor's:

760 (a) Age.

761 (b) Health.

762 (c) Motivation for retirement.

763 (d) Type of work.

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

765
766 In anticipation of retirement, the obligor may file a petition
767 for termination or modification of the alimony award effective
768 upon the retirement date. The court shall terminate or modify
769 the alimony award based on the circumstances of the parties
770 after retirement of the obligor and based on the factors in s.
771 61.08(2), unless the court makes findings of fact that a
772 termination or modification of an alimony award is not
773 warranted.

774 Section 8. Paragraphs (a) and (b) of subsection (11) of
775 section 61.30, Florida Statutes, are amended to read:

776 61.30 Child support guidelines; retroactive child support.-

777 (11) (a) The court may adjust the total minimum child
778 support award, or either or both parents' share of the total
779 minimum child support award, based upon the following deviation
780 factors:

781 1. Extraordinary medical, psychological, educational, or
782 dental expenses.

783 2. Independent income of the child, not to include moneys

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784 received by a child from supplemental security income.

785 3. The payment of support for a parent which has been
786 regularly paid and for which there is a demonstrated need.

787 4. Seasonal variations in one or both parents' incomes or
788 expenses.

789 5. The age of the child, taking into account the greater
790 needs of older children.

791 6. Special needs, such as costs that may be associated with
792 the disability of a child, that have traditionally been met
793 within the family budget even though fulfilling those needs will
794 cause the support to exceed the presumptive amount established
795 by the guidelines.

796 7. Total available assets of the obligee, obligor, and the
797 child.

798 8. The impact of the Internal Revenue Service Child &
799 Dependent Care Tax Credit, Earned Income Tax Credit, and
800 dependency exemption and waiver of that exemption. The court may
801 order a parent to execute a waiver of the Internal Revenue
802 Service dependency exemption if the paying parent is current in
803 support payments.

804 9. An application of the child support guidelines schedule
805 that requires a person to pay another person more than 55
806 percent of his or her gross income for a child support
807 obligation for current support resulting from a single support
808 order.

809 10. The particular parenting plan, court-ordered time-
810 sharing schedule, or particular time-sharing schedule exercised
811 by agreement of the parties, such as where the child spends a
812 significant amount of time, but less than 20 percent of the

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813 overnights, with one parent, thereby reducing the financial
814 expenditures incurred by the other parent; or the refusal of a
815 parent to become involved in the activities of the child.

816 11. Any other adjustment that is needed to achieve an
817 equitable result which may include, but not be limited to, a
818 reasonable and necessary existing expense or debt. Such expense
819 or debt may include, but is not limited to, a reasonable and
820 necessary expense or debt that the parties jointly incurred
821 during the marriage.

822 (b) Whenever a particular parenting plan, court-ordered
823 time-sharing schedule, or particular time-sharing schedule
824 exercised by agreement of the parties provides that each child
825 spend a substantial amount of time with each parent, the court
826 shall adjust any award of child support, as follows:

827 1. In accordance with subsections (9) and (10), calculate
828 the amount of support obligation apportioned to each parent
829 without including day care and health insurance costs in the
830 calculation and multiply the amount by 1.5.

831 2. Calculate the percentage of overnight stays the child
832 spends with each parent.

833 3. Multiply each parent's support obligation as calculated
834 in subparagraph 1. by the percentage of the other parent's
835 overnight stays with the child as calculated in subparagraph 2.

836 4. The difference between the amounts calculated in
837 subparagraph 3. shall be the monetary transfer necessary between
838 the parents for the care of the child, subject to an adjustment
839 for day care and health insurance expenses.

840 5. Pursuant to subsections (7) and (8), calculate the net
841 amounts owed by each parent for the expenses incurred for day

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842 care and health insurance coverage for the child.

843 6. Adjust the support obligation owed by each parent
844 pursuant to subparagraph 4. by crediting or debiting the amount
845 calculated in subparagraph 5. This amount represents the child
846 support which must be exchanged between the parents.

847 7. The court may deviate from the child support amount
848 calculated pursuant to subparagraph 6. based upon the deviation
849 factors in paragraph (a), as well as the obligee parent's low
850 income and ability to maintain the basic necessities of the home
851 for the child, the likelihood that either parent will actually
852 exercise the time-sharing schedule set forth in the parenting
853 plan granted by the court, and whether all of the children are
854 exercising the same time-sharing schedule.

855 8. For purposes of adjusting any award of child support
856 under this paragraph, "substantial amount of time" means that a
857 parent exercises time-sharing at least 20 percent of the
858 overnights of the year.

859 Section 9. Section 61.19, Florida Statutes, is amended to
860 read:

861 61.19 Entry of judgment of dissolution of marriage;7 delay
862 period; separate adjudication of issues.-

863 (1) A ~~No~~ final judgment of dissolution of marriage may not
864 be entered until at least 20 days have elapsed from the date of
865 filing the original petition for dissolution of marriage,7 but
866 the court, on a showing that injustice would result from this
867 delay, may enter a final judgment of dissolution of marriage at
868 an earlier date.

869 (2) (a) During the first 180 days after the date of service
870 of the original petition for dissolution of marriage, the court

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871 may not grant a final dissolution of marriage with a reservation
872 of jurisdiction to subsequently determine all other substantive
873 issues unless the court makes written findings that there are
874 exceptional circumstances that make the use of this process
875 clearly necessary to protect the parties or their children and
876 that granting a final dissolution will not cause irreparable
877 harm to either party or the children. Before granting a final
878 dissolution of marriage with a reservation of jurisdiction to
879 subsequently determine all other substantive issues, the court
880 shall enter temporary orders necessary to protect the parties
881 and their children, which orders remain effective until all
882 other issues can be adjudicated by the court. The desire of one
883 party to remarry does not justify the use of this process.

884 (b) If more than 180 days have elapsed after the date of
885 service of the original petition for dissolution of marriage,
886 the court may grant a final dissolution of marriage with a
887 reservation of jurisdiction to subsequently determine all other
888 substantive issues only if the court enters temporary orders
889 necessary to protect the parties and their children, which
890 orders remain effective until such time as all other issues can
891 be adjudicated by the court, and makes a written finding that no
892 irreparable harm will result from granting a final dissolution.

893 (c) If more than 365 days have elapsed after the date of
894 service of the original petition for dissolution of marriage,
895 absent a showing by either party that irreparable harm will
896 result from granting a final dissolution, the court shall, upon
897 request of either party, immediately grant a final dissolution
898 of marriage with a reservation of jurisdiction to subsequently
899 determine all other substantive issues. Before granting a final

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900 dissolution of marriage with a reservation of jurisdiction to
901 subsequently determine all other substantive issues, the court
902 shall enter temporary orders necessary to protect the parties
903 and their children, which orders remain effective until all
904 other issues can be adjudicated by the court.

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

- 909 1. Restrict the sale or disposition of property.
- 910 2. Protect and preserve the marital assets.
- 911 3. Establish temporary support.
- 912 4. Provide for maintenance of health insurance.
- 913 5. Provide for maintenance of life insurance.

914 (e) The court is not required to enter temporary orders to
915 protect the parties and their children if the court enters a
916 final judgment of dissolution of marriage that adjudicates
917 substantially all of the substantive issues between the parties
918 but reserves jurisdiction to address ancillary issues such as
919 the entry of a qualified domestic relations order or the
920 adjudication of attorney fees and costs.

921 Section 10. (1) (a) The amendments to chapter 61, Florida
922 Statutes, made by this act apply to:

- 923 1. Final judgments of alimony awards entered before July 1,
924 2013.
- 925 2. Final orders entered before July 1, 2013, that
926 incorporate an agreement between the parties for alimony, if the
927 duration of the marriage was equal to or less than 15 years and
928 the duration of the alimony agreement exceeds the duration of

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929 the marriage.

930 (b) For such judgments or orders, the amendments to chapter
931 61, Florida Statutes, shall constitute a substantial change in
932 circumstances for which an obligor may seek, in accordance with
933 s. 61.14, Florida Statutes, a modification of the amount or
934 duration of alimony, except for an order incorporating an
935 agreement that is expressly nonmodifiable.

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

942 1. The obligor did not execute the agreement voluntarily;

943 2. The agreement was the product of fraud, duress,
944 coercion, or overreaching; or

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

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

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

952 c. Did not have or reasonably could not have had an
953 adequate knowledge of the property or financial obligations of
954 the other party.

955 (b) For such orders, the amendments to chapter 61, Florida
956 Statutes, shall constitute a substantial change in circumstances
957 for which an obligor may seek, in accordance with s. 61.14,

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958 Florida Statutes, a modification of the amount or duration of
959 alimony, except for an order incorporating an agreement that is
960 expressly nonmodifiable.

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

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

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

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

972 Section 11. This act shall take effect July 1, 2013.