

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Workman offered the following:

Amendment (with title amendment)

Remove line 197 and insert:

Section 7. 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~~.

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17 Section 8. Paragraph (a) of subsection (6) and subsection
18 (10) of section 61.075, Florida Statutes, are amended to read:
19 61.075 Equitable distribution of marital assets and
20 liabilities.—

21 (6) As used in this section:

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

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

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

29 c. The paydown of principal of a note and mortgage secured
30 by nonmarital real property and a portion of any passive
31 appreciation in the property, if the note and mortgage secured
32 by the property are paid down from marital funds during the
33 marriage. The portion of passive appreciation in the property
34 characterized as marital and subject to equitable distribution
35 shall be determined by multiplying a coverture fraction by the
36 passive appreciation in the property during the marriage.

37 (I) The passive appreciation shall be determined by
38 subtracting the gross value of the property on the date of the
39 marriage or the date of acquisition of the property, whichever
40 is later, from the value of the property on the valuation date
41 in the dissolution action, less any active appreciation of the
42 property during the marriage, pursuant to sub-subparagraph b.,
43 and less any additional encumbrances secured by the property

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44 during the marriage in excess of the first note and mortgage on
45 which principal is paid from marital funds.

46 (II) The coverture fraction shall consist of a numerator,
47 defined as the total paydown of principal from marital funds of
48 all notes and mortgages secured by the property during the
49 marriage, and a denominator, defined as the value of the subject
50 real property on the date of the marriage, the date of
51 acquisition of the property, or the date the property was
52 encumbered by the first note and mortgage on which principal was
53 paid from marital funds, whichever is later.

54 (III) The passive appreciation shall be multiplied by the
55 coverture fraction to determine the marital portion of the
56 passive appreciation in the property.

57 (IV) The total marital portion of the property shall
58 consist of the marital portion of the passive appreciation,
59 pursuant to subparagraph 3., the mortgage principal paid during
60 the marriage from marital funds, and any active appreciation of
61 the property, pursuant to sub-subparagraph b., not to exceed the
62 total net equity in the property at the date of valuation.

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

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

67 ~~e.d.~~ All vested and nonvested benefits, rights, and funds
68 accrued during the marriage in retirement, pension, profit-
69 sharing, annuity, deferred compensation, and insurance plans and
70 programs.

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71 2. All real property held by the parties as tenants by the
72 entirety, whether acquired prior to or during the marriage,
73 shall be presumed to be a marital asset. If, in any case, a
74 party makes a claim to the contrary, the burden of proof shall
75 be on the party asserting the claim that the subject property,
76 or some portion thereof, is nonmarital.

77 3. All personal property titled jointly by the parties as
78 tenants by the entirety, whether acquired prior to or during
79 the marriage, shall be presumed to be a marital asset. In the
80 event a party makes a claim to the contrary, the burden of proof
81 shall be on the party asserting the claim that the subject
82 property, or some portion thereof, is nonmarital.

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

85 (10) (a) To do equity between the parties, the court may, in
86 lieu of or to supplement, facilitate, or effectuate the
87 equitable division of marital assets and liabilities, order a
88 monetary payment in a lump sum or in installments paid over a
89 fixed period of time.

90 (b) If installment payments are ordered, the court may
91 require security and a reasonable rate of interest, or otherwise
92 recognize the time value of money in determining the amount of
93 the installments. If security or interest is required, the court
94 shall make written findings relating to any deferred payments,
95 the amount of any security required, and the interest. This
96 subsection does not preclude the application of chapter 55 to
97 any subsequent default.

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98 Section 9. Section 61.08, Florida Statutes, is amended to
99 read:

100 61.08 Alimony.—

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

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

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

107 (c) "Mid-term marriage" means a marriage having a duration
108 of more than 11 years but less than 20 years, as measured from
109 the date of marriage to the date of filing the petition for
110 dissolution.

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

113 (e) "Short term marriage" means a marriage having a
114 duration equal to or less than 11 years, as measured from the
115 date of the marriage to the date of filing the petition for
116 dissolution.

117 (2) (a) ~~(1)~~ In a proceeding for dissolution of marriage, the
118 court may grant alimony to either party in the form of, ~~which~~
119 ~~alimony may be~~ bridge-the-gap, rehabilitative, or durational
120 ~~alimony, or a permanent in nature or any~~ combination of these
121 forms of alimony, but shall prioritize an award of bridge-the-
122 gap alimony, followed by rehabilitative alimony, over any other
123 form of alimony. In an ~~any~~ award of alimony, the court may order
124 periodic payments, ~~or~~ payments in lump sum, or both.

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125 (b) The court shall make written findings regarding the
126 basis for awarding a combination of forms of alimony, including
127 the type of alimony and the length of time for which it is
128 awarded. The court may award only a combination of forms of
129 alimony to provide greater economic assistance in order to allow
130 the recipient to achieve rehabilitation.

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

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

137 (3) ~~(2)~~ The party seeking alimony has the burden of proof of
138 demonstrating a need for alimony in accordance with subsection
139 (8) and that the other party has the ability to pay alimony. In
140 determining whether to award alimony ~~or maintenance~~, the court
141 shall ~~first~~ make, in writing, a specific factual determination
142 as to whether the other ~~either~~ party ~~has an actual need for~~
143 ~~alimony or maintenance~~ and whether either party has the ability
144 to pay alimony ~~or maintenance~~. If the court finds that the a
145 party seeking alimony has met its burden of proof in
146 demonstrating a need for alimony ~~or maintenance~~ and that the
147 other party has the ability to pay alimony ~~or maintenance~~, then
148 in determining the proper type and amount of alimony ~~or~~
149 ~~maintenance~~ under subsections (5)-(9) ~~(5)-(8)~~, the court shall
150 consider all relevant factors, including, ~~but not limited to:~~

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

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

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

155 (c)~~(d)~~ The financial resources of each party, including the
156 portion of nonmarital assets that were relied upon by the
157 parties during the marriage and the marital assets and
158 liabilities distributed to each.

159 (d)~~(e)~~ The earning capacities, educational levels,
160 vocational skills, and employability of the parties and, when
161 applicable, the time necessary for either party to acquire
162 sufficient education or training to enable such party to find
163 appropriate employment.

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

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

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

175 (h)~~(i)~~ All sources of income available to either party,
176 including income available to either party through investments
177 of any asset held by that party which was acquired during the
178 marriage or acquired outside the marriage and relied upon during
179 the marriage.

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180 (i) The needs and necessities of life after dissolution of
181 marriage, taking into account the lifestyle of the parties
182 during the marriage but subject to the presumption in paragraph
183 (j).

184 (j) The net income and standard of living available to each
185 party after the application of the alimony award. There is a
186 rebuttable presumption that both parties will have a lower
187 standard of living after the dissolution of marriage than the
188 standard of living they enjoyed during the marriage. This
189 presumption may be overcome by a preponderance of the evidence.

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

194 (4) ~~(3)~~ To the extent necessary to protect an award of
195 alimony, the court may order any party who is ordered to pay
196 alimony to purchase or maintain a life insurance policy that may
197 be decreasing or another form of term life insurance at the
198 option of the obligor or a bond, or to otherwise secure such
199 alimony award with any other assets that ~~which~~ may be suitable
200 for that purpose, in an amount adequate to secure the alimony
201 award. Any such security may be awarded only upon a showing of
202 special circumstances. If the court finds special circumstances
203 and awards such security, the court must make specific
204 evidentiary findings regarding the availability, cost, and
205 financial impact on the obligated party. Any security may be
206 modifiable in the event that the underlying alimony award is

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207 modified and shall be reduced in an amount commensurate with any
208 reduction in the alimony award.

209 ~~(4) For purposes of determining alimony, there is a~~
210 ~~rebuttable presumption that a short-term marriage is a marriage~~
211 ~~having a duration of less than 7 years, a moderate-term marriage~~
212 ~~is a marriage having a duration of greater than 7 years but less~~
213 ~~than 17 years, and long-term marriage is a marriage having a~~
214 ~~duration of 17 years or greater. The length of a marriage is the~~
215 ~~period of time from the date of marriage until the date of~~
216 ~~filing of an action for dissolution of marriage.~~

217 (5) Bridge-the-gap alimony may be awarded to assist a party
218 by providing support to allow the party to make a transition
219 from being married to being single. Bridge-the-gap alimony is
220 designed to assist a party with legitimate identifiable short-
221 term needs, and the length of an award may not exceed 2 years.
222 An award of bridge-the-gap alimony terminates upon the death of
223 either party or upon the remarriage of the party receiving
224 alimony. An award of bridge-the-gap alimony is ~~shall~~ not ~~be~~
225 modifiable in amount or duration.

226 (6) (a) Rehabilitative alimony may be awarded to assist a
227 party in establishing the capacity for self-support through
228 either:

- 229 1. The redevelopment of previous skills or credentials; or
230 2. The acquisition of education, training, or work
231 experience necessary to develop appropriate employment skills or
232 credentials.

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

236 (c) An award of rehabilitative alimony may be modified or
237 terminated only during the rehabilitative period in accordance
238 with s. 61.14 based upon a substantial change in circumstances,
239 upon noncompliance with the rehabilitative plan, or upon
240 completion of the rehabilitative plan.

241 (7) Durational alimony may be awarded ~~when permanent~~
242 ~~periodic alimony is inappropriate. The purpose of durational~~
243 ~~alimony is to provide a party with economic assistance for a set~~
244 ~~period of time following a short-term, mid-term, or long-term~~
245 ~~marriage of short or moderate duration or following a marriage~~
246 ~~of long duration if there is no ongoing need for support on a~~
247 ~~permanent basis. When awarding durational alimony, the court~~
248 ~~must make written findings that an award of another form of~~
249 ~~alimony or a combination of the other forms of alimony is not~~
250 ~~appropriate.~~ An award of durational alimony terminates upon the
251 death of either party or upon the remarriage of the party
252 receiving alimony. The amount of an award of durational alimony
253 shall ~~may~~ be modified or terminated based upon a substantial
254 change in circumstances or upon the existence of a supportive
255 relationship in accordance with s. 61.14. ~~However,~~ The length of
256 an award of durational alimony may not ~~be modified except under~~
257 ~~exceptional circumstances and may not~~ exceed 50 percent of the
258 length of the marriage, unless the party seeking alimony proves
259 by a preponderance of the evidence the circumstances justifying

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260 the need for a longer award of alimony, which circumstances must
261 be set out in writing by the court ~~the length of the marriage.~~

262 (8) (a) There is a rebuttable presumption against awarding
263 alimony for a short-term marriage. A party seeking bridge-the-
264 gap or rehabilitative alimony may overcome this presumption by
265 demonstrating by a preponderance of the evidence a need for
266 alimony. A party seeking durational alimony may overcome this
267 presumption by demonstrating by clear and convincing evidence a
268 need for alimony. If the court finds that the party has met its
269 burden in demonstrating a need for alimony and that the other
270 party has the ability to pay alimony, the court shall determine
271 a monthly award of alimony that may not exceed 25 percent of the
272 obligor's gross monthly income, as calculated under s.
273 61.30(2) (a), with the exception that gross income does not
274 include, consistent with paragraph (3) (h), sources of income
275 acquired outside of the marriage which were not relied upon
276 during the marriage.

277 (b) There is no presumption in favor of either party to an
278 award of alimony for a mid-term marriage. A party seeking such
279 alimony must prove by a preponderance of the evidence a need for
280 alimony. If the court finds that the party has met its burden in
281 demonstrating a need for alimony and that the other party has
282 the ability to pay alimony, the court shall determine a monthly
283 award of alimony that may not exceed 35 percent of the obligor's
284 gross monthly income, as calculated under s. 61.30(2) (a), with
285 the exception that gross income does not include, consistent
286 with paragraph (3) (h), sources of income acquired outside of the
287 marriage which were not relied upon during the marriage.

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288 (c) There is a rebuttable presumption in favor of awarding
289 alimony for a long-term marriage. A party against whom alimony
290 is sought may overcome this presumption by demonstrating by
291 clear and convincing evidence that there is no need for alimony.
292 If the court finds that the party against whom alimony is sought
293 fails to meet its burden to demonstrate that there is no need
294 for alimony and that the party has the ability to pay alimony,
295 the court shall determine a monthly award of alimony which may
296 not exceed 38 percent of the obligor's gross monthly income, as
297 calculated under s. 61.30(2)(a), with the exception that gross
298 income does not include, consistent with paragraph (3)(h),
299 sources of income acquired outside of the marriage which were
300 not relied upon during the marriage.

301 (d) Notwithstanding subsections (8) and (9), the
302 combination of an award of rehabilitative alimony and another
303 form of alimony may be awarded up to a maximum of 40 percent of
304 the obligor's gross monthly income during the temporary period
305 in which rehabilitative alimony has been awarded, as calculated
306 under s. 61.30(2)(a), with the exception that gross income does
307 not include, consistent with paragraph (3)(h), sources of income
308 acquired outside of the marriage which were not relied upon
309 during the marriage.

310 (9) The court may order alimony exceeding the monthly
311 income limits established in subsection (8) if the court
312 determines, in accordance with the factors in subsection (3),
313 that there is a need for additional alimony, which determination
314 must be set out in writing ~~Permanent alimony may be awarded to~~
315 ~~provide for the needs and necessities of life as they were~~

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316 ~~established during the marriage of the parties for a party who~~
317 ~~lacks the financial ability to meet his or her needs and~~
318 ~~necessities of life following a dissolution of marriage.~~
319 ~~Permanent alimony may be awarded following a marriage of long~~
320 ~~duration if such an award is appropriate upon consideration of~~
321 ~~the factors set forth in subsection (2), following a marriage of~~
322 ~~moderate duration if such an award is appropriate based upon~~
323 ~~clear and convincing evidence after consideration of the factors~~
324 ~~set forth in subsection (2), or following a marriage of short~~
325 ~~duration if there are written findings of exceptional~~
326 ~~circumstances. In awarding permanent alimony, the court shall~~
327 ~~include a finding that no other form of alimony is fair and~~
328 ~~reasonable under the circumstances of the parties. An award of~~
329 ~~permanent alimony terminates upon the death of either party or~~
330 ~~upon the remarriage of the party receiving alimony. An award may~~
331 ~~be modified or terminated based upon a substantial change in~~
332 ~~circumstances or upon the existence of a supportive relationship~~
333 ~~in accordance with s. 61.14.~~

334 (10) A party against whom alimony is sought who has met the
335 requirements for retirement in accordance with s. 61.14(12)
336 before the filing of the petition for dissolution is not
337 required to pay alimony unless the party seeking alimony proves
338 by clear and convincing evidence the other party has the ability
339 to pay alimony, in addition to all other requirements of this
340 section.

341 (11)-(9) Notwithstanding any other provision of law, alimony
342 may not be awarded to a party who has a monthly net income that
343 is equal to or more than the other party. Except in the case of

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

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

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

350 1. Is unemployed at the time the petition is filed and has
351 been unemployed for less than 1 year before the time of the
352 filing of the petition, the obligee's monthly net income shall
353 be imputed at 90 percent of the obligee's prior monthly net
354 income.

355 2. Is unemployed at the time the petition is filed and has
356 been unemployed for at least 1 year but less than 2 years before
357 the time of the filing of the petition, the obligee's monthly
358 net income shall be imputed at 80 percent of the obligee's prior
359 monthly net income.

360 3. Is unemployed at the time the petition is filed and has
361 been unemployed for at least 2 years but less than 3 years
362 before the time of the filing of the petition, the obligee's
363 monthly net income shall be imputed at 70 percent of the
364 obligee's prior monthly net income.

365 4. Is unemployed at the time the petition is filed and has
366 been unemployed for at least 3 years but less than 4 years
367 before the time of the filing of the petition, the obligee's
368 monthly net income shall be imputed at 60 percent of the
369 obligee's prior monthly net income.

370 5. Is unemployed at the time the petition is filed and has
371 been unemployed for at least 4 years but less than 5 years

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372 before the time of the filing of the petition, the obligee's
373 monthly net income shall be imputed at 50 percent of the
374 obligee's prior monthly net income.

375 6. Is unemployed at the time the petition is filed and has
376 been unemployed for at least 5 years before the time of the
377 filing of the petition, the obligee's monthly net income shall
378 be imputed at 40 percent of the obligee's prior monthly net
379 income, or the monthly net income of a minimum wage earner at
380 the time of the filing of the petition, whichever is greater.

381 7. Proves by a preponderance of the evidence that he or she
382 does not have the ability to earn the imputed income through
383 reasonable means, the court shall reduce the imputation of
384 income specified in this paragraph. If the obligee alleges that
385 a physical disability has impaired his or her ability to earn
386 the imputed income, such disability must meet the definition of
387 disability as determined by the Social Security Administration.
388 ~~The award of alimony may not leave the payor with significantly~~
389 ~~less net income than the net income of the recipient unless~~
390 ~~there are written findings of exceptional circumstances.~~

391 (12) (a)-(10) (a) With respect to any order requiring the
392 payment of alimony entered on or after January 1, 1985, unless
393 ~~the provisions of paragraph (c) or paragraph (d) applies apply,~~
394 the court shall direct in the order that the payments of alimony
395 be made through the appropriate depository as provided in s.
396 61.181.

397 (b) With respect to any order requiring the payment of
398 alimony entered before January 1, 1985, upon the subsequent
399 appearance, on or after that date, of one or both parties before

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400 the court having jurisdiction for the purpose of modifying or
401 enforcing the order or in any other proceeding related to the
402 order, or upon the application of either party, unless ~~the~~
403 ~~provisions of~~ paragraph (c) or paragraph (d) applies ~~apply~~, the
404 court shall modify the terms of the order as necessary to direct
405 that payments of alimony be made through the appropriate
406 depository as provided in s. 61.181.

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

409 (d)1. If there is a minor child of the parties and both
410 parties so request, the court may order that alimony payments
411 need not be directed through the depository. In this case, the
412 order of support must ~~shall~~ provide, or be deemed to provide,
413 that either party may subsequently apply to the depository to
414 require that payments be made through the depository. The court
415 shall provide a copy of the order to the depository.

416 2. If ~~the provisions of~~ subparagraph 1. applies ~~apply~~,
417 either party may subsequently file with the depository an
418 affidavit alleging default or arrearages in payment and stating
419 that the party wishes to initiate participation in the
420 depository program. The party shall provide copies of the
421 affidavit to the court and the other party or parties. Fifteen
422 days after receipt of the affidavit, the depository shall notify
423 all parties that future payments shall be directed to the
424 depository.

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

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428 Section 10. Section 61.09, Florida Statutes, is amended to
429 read:

430 61.09 Alimony and child support unconnected with
431 dissolution.—If a person having the ability to contribute to the
432 maintenance of his or her spouse and support of his or her minor
433 child fails to do so, the spouse who is not receiving support
434 may apply to the court for alimony and for support for the child
435 without seeking dissolution of marriage, and the court shall
436 enter an order as it deems just and proper. Alimony awarded
437 under this section shall be calculated in accordance with s.
438 61.08.

439 Section 11. Paragraph (c) of subsection (2) of section
440 61.13, Florida Statutes, is amended to read:

441 61.13 Support of children; parenting and time-sharing;
442 powers of court.—

443 (2)

444 (c) The court shall determine all matters relating to
445 parenting and time-sharing of each minor child of the parties in
446 accordance with the best interests of the child and in
447 accordance with the Uniform Child Custody Jurisdiction and
448 Enforcement Act, except that modification of a parenting plan
449 and time-sharing schedule requires a showing of a substantial,
450 material, and unanticipated change of circumstances.

451 1. It is the public policy of this state that each minor
452 child has frequent and continuing contact with both parents
453 after the parents separate or the marriage of the parties is
454 dissolved and to encourage parents to share the rights and
455 responsibilities, and joys, of childrearing. There is no

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456 presumption for or against the father or mother of the child or
457 for or against any specific time-sharing schedule when creating
458 or modifying the parenting plan of the child. Equal time-sharing
459 with a minor child by both parents is in the best interest of
460 the child unless the court finds that:

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

466 b. Clear and convincing evidence of extenuating
467 circumstances justify a departure from equal time-sharing and
468 the court makes written findings justifying the departure from
469 equal time-sharing;

470 c. A parent is incarcerated;

471 d. The distance between parental residences makes equal
472 time-sharing impracticable;

473 e. A parent does not request at least 50-percent time-
474 sharing;

475 f. A permanent injunction has been entered or is warranted
476 against a parent or household member relating to contact between
477 the subject of the injunction and the parent or household
478 member; or

479 g. Domestic violence, as defined in s. 741.28, has
480 occurred.

481 2. The court shall order that the parental responsibility
482 for a minor child be shared by both parents unless the court
483 finds that shared parental responsibility would be detrimental

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484 to the child. Evidence that a parent has been convicted of a
485 misdemeanor of the first degree or higher involving domestic
486 violence, as defined in s. 741.28 and chapter 775, or meets the
487 criteria of s. 39.806(1)(d), creates a rebuttable presumption of
488 detriment to the child. If the presumption is not rebutted after
489 the convicted parent is advised by the court that the
490 presumption exists, shared parental responsibility, including
491 time-sharing with the child, and decisions made regarding the
492 child, may not be granted to the convicted parent. However, the
493 convicted parent is not relieved of any obligation to provide
494 financial support. If the court determines that shared parental
495 responsibility would be detrimental to the child, it may order
496 sole parental responsibility and make such arrangements for
497 time-sharing as specified in the parenting plan as will best
498 protect the child or abused spouse from further harm. Whether or
499 not there is a conviction of any offense of domestic violence or
500 child abuse or the existence of an injunction for protection
501 against domestic violence, the court shall consider evidence of
502 domestic violence or child abuse as evidence of detriment to the
503 child.

504 a. In ordering shared parental responsibility, the court
505 may consider the expressed desires of the parents and may grant
506 to one party the ultimate responsibility over specific aspects
507 of the child's welfare or may divide those responsibilities
508 between the parties based on the best interests of the child.
509 Areas of responsibility may include education, health care, and
510 any other responsibilities that the court finds unique to a
511 particular family.

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

515 3. Access to records and information pertaining to a minor
516 child, including, but not limited to, medical, dental, and
517 school records, may not be denied to either parent. Full rights
518 under this subparagraph apply to either parent unless a court
519 order specifically revokes these rights, including any
520 restrictions on these rights as provided in a domestic violence
521 injunction. A parent having rights under this subparagraph has
522 the same rights upon request as to form, substance, and manner
523 of access as are available to the other parent of a child,
524 including, without limitation, the right to in-person
525 communication with medical, dental, and education providers.

526 Section 12. The amendments made by this act to s. 61.13,
527 Florida Statutes, providing for equal time-sharing, apply
528 prospectively to initial final custody orders made on or after
529 July 1, 2013. The amendments do not constitute a substantial
530 change in circumstances that warrant the modification of a final
531 custody order entered before July 1, 2013.

532 Section 13. Subsection (1) of section 61.14, Florida
533 Statutes, is amended, paragraphs (c) and (d) are added to
534 subsection (11) of that section, and subsection (12) is added to
535 that section, to read:

536 61.14 Enforcement and modification of support, maintenance,
537 or alimony agreements or orders.—

538 (1) (a) When the parties enter into an agreement for
539 payments for, or instead of, support, maintenance, or alimony,

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540 whether in connection with a proceeding for dissolution or
541 separate maintenance or with any voluntary property settlement,
542 or when a party is required by court order to make any payments,
543 and the circumstances or the financial ability of either party
544 changes or the child who is a beneficiary of an agreement or
545 court order as described herein reaches majority after the
546 execution of the agreement or the rendition of the order, either
547 party may apply to the circuit court of the circuit in which the
548 parties, or either of them, resided at the date of the execution
549 of the agreement or reside at the date of the application, or in
550 which the agreement was executed or in which the order was
551 rendered, for an order terminating, decreasing, or increasing
552 the amount of support, maintenance, or alimony, and the court
553 has jurisdiction to make orders as equity requires, with due
554 regard to the changed circumstances or the financial ability of
555 the parties or the child, decreasing, increasing, or confirming
556 the amount of separate support, maintenance, or alimony provided
557 for in the agreement or order. A finding that medical insurance
558 is reasonably available or the child support guidelines schedule
559 in s. 61.30 may constitute changed circumstances. Except as
560 otherwise provided in s. 61.30(11)(c), the court may modify an
561 order of support, maintenance, or alimony by terminating,
562 increasing, or decreasing the support, maintenance, or alimony
563 retroactively to the date of the filing of the action or
564 supplemental action for modification as equity requires, giving
565 due regard to the changed circumstances or the financial ability
566 of the parties or the child.

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567 (b) 1. If the court has determined that an existing alimony
568 award as determined by the court at the time of dissolution is
569 insufficient to meet the needs of the obligee, and that such
570 need continues to exist, an alimony order shall be modified
571 upward and upon a showing by a preponderance of the evidence of
572 increased ability to pay alimony. Absent a finding of fraud, an
573 increase in an obligor's income may not be considered permanent
574 in nature unless the increase has been maintained without
575 interruption for at least 1 year, taking into account the
576 obligor's ability to sustain his or her income.

577 ~~2.1.~~ Notwithstanding subparagraph 1., the court shall ~~may~~
578 reduce or terminate an award of alimony upon specific written
579 findings by the court that since the granting of a divorce and
580 the award of alimony, a supportive relationship has existed
581 between the obligee and another a person, except upon a showing
582 by clear and convincing evidence by the obligee that his or her
583 long-term need for alimony, taking into account the totality of
584 the circumstances, has not been reduced by the supportive
585 relationship with whom the obligee resides. On the issue of
586 whether alimony should be reduced or terminated under this
587 paragraph, the burden is on the obligor to prove by a
588 preponderance of the evidence that a supportive relationship
589 exists.

590 ~~3.2.~~ In determining whether an existing award of alimony
591 should be reduced or terminated because of an alleged supportive
592 relationship between an obligee and a person who is not related
593 by consanguinity or affinity and with whom the obligee resides,
594 the court shall elicit the nature and extent of the relationship

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595 in question. The court shall give consideration, without
596 limitation, to circumstances, including, but not limited to, the
597 following, in determining the relationship of an obligee to
598 another person:

599 a. The extent to which the obligee and the other person
600 have held themselves out as a married couple by engaging in
601 conduct such as using the same last name, using a common mailing
602 address, referring to each other in terms such as "my husband"
603 or "my wife," or otherwise conducting themselves in a manner
604 that evidences a permanent supportive relationship.

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

607 c. The extent to which the obligee and the other person
608 have pooled their assets or income or otherwise exhibited
609 financial interdependence.

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

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

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

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

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

620 i. Evidence in support of a claim that the obligee and the
621 other person have an express agreement regarding property
622 sharing or support.

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623 j. Evidence in support of a claim that the obligee and the
624 other person have an implied agreement regarding property
625 sharing or support.

626 k. Whether the obligee and the other person have provided
627 support to the children of one another, regardless of any legal
628 duty to do so.

629 ~~4.3.~~ This paragraph does not abrogate the requirement that
630 every marriage in this state be solemnized under a license, does
631 not recognize a common law marriage as valid, and does not
632 recognize a de facto marriage. This paragraph recognizes only
633 that relationships do exist that provide economic support
634 equivalent to a marriage and that alimony terminable on
635 remarriage may be reduced or terminated upon the establishment
636 of equivalent equitable circumstances as described in this
637 paragraph. The existence of a conjugal relationship, though it
638 may be relevant to the nature and extent of the relationship, is
639 not necessary for the application of ~~the provisions of this~~
640 paragraph.

641 5. There is a rebuttable presumption that any modification
642 or termination of an alimony award is retroactive to the date of
643 the filing of the petition. In an action under this section, if
644 it is determined that the obligee or obligor unnecessarily or
645 unreasonably litigated the underlying petition for modification
646 or termination, the court may award the other party his or her
647 reasonable attorney fees and costs pursuant to s. 61.16 and
648 applicable case law.

649 (c) For each support order reviewed by the department as
650 required by s. 409.2564(11), if the amount of the child support

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651 award under the order differs by at least 10 percent but not
652 less than \$25 from the amount that would be awarded under s.
653 61.30, the department shall seek to have the order modified and
654 any modification shall be made without a requirement for proof
655 or showing of a change in circumstances.

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

658 (11)

659 (c) If the court orders alimony payable concurrent with a
660 child support order, the alimony award may not be modified
661 solely because of a later reduction or termination of child
662 support payments, unless the court finds the obligor has the
663 ability to pay the modified alimony award, the existing alimony
664 award as determined by the court at the time of dissolution is
665 insufficient to meet the needs of the obligee, and such need
666 continues to exist.

667 (d) An obligor's subsequent remarriage or cohabitation does
668 not constitute a basis for a modification of alimony. The income
669 and assets of the obligor's subsequent spouse or person with
670 whom the obligor resides is not relevant in a modification
671 action except under exceptional circumstances.

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

678 (a) Age.

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679 (b) Health.

680 (c) Motivation for retirement.

681 (d) Type of work.

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

683
684 In anticipation of retirement, the obligor may file a petition
685 for termination or modification of the alimony award effective
686 upon the retirement date. The court shall terminate or modify
687 the alimony award based on the circumstances of the parties
688 after retirement of the obligor and based on the factors in s.
689 61.08(3), unless the court makes findings of fact that a
690 termination or modification of an alimony award is not
691 warranted.

692 Section 14. Section 61.19, Florida Statutes, is amended to
693 read:

694 61.19 Entry of judgment of dissolution of marriage; ~~7~~ delay
695 period; separate adjudication of issues.-

696 (1) A ~~No~~ final judgment of dissolution of marriage may not
697 be entered until at least 20 days have elapsed from the date of
698 filing the original petition for dissolution of marriage, ~~7~~ but
699 the court, on a showing that injustice would result from this
700 delay, may enter a final judgment of dissolution of marriage at
701 an earlier date.

702 (2) (a) During the first 180 days after the date of service
703 of the original petition for dissolution of marriage, the court
704 may not grant a final dissolution of marriage with a reservation
705 of jurisdiction to subsequently determine all other substantive
706 issues unless the court makes written findings that there are

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707 exceptional circumstances that make the use of this process
708 clearly necessary to protect the parties or their children and
709 that granting a final dissolution will not cause irreparable
710 harm to either party or the children. Before granting a final
711 dissolution of marriage with a reservation of jurisdiction to
712 subsequently determine all other substantive issues, the court
713 shall enter temporary orders necessary to protect the parties
714 and their children, which orders remain effective until all
715 other issues can be adjudicated by the court. The desire of one
716 party to remarry does not justify the use of this process.

717 (b) If more than 180 days have elapsed after the date of
718 service of the original petition for dissolution of marriage,
719 the court may grant a final dissolution of marriage with a
720 reservation of jurisdiction to subsequently determine all other
721 substantive issues only if the court enters temporary orders
722 necessary to protect the parties and their children, which
723 orders remain effective until such time as all other issues can
724 be adjudicated by the court, and makes a written finding that no
725 irreparable harm will result from granting a final dissolution.

726 (c) If more than 365 days have elapsed after the date of
727 service of the original petition for dissolution of marriage,
728 absent a showing by either party that irreparable harm will
729 result from granting a final dissolution, the court shall, upon
730 request of either party, immediately grant a final dissolution
731 of marriage with a reservation of jurisdiction to subsequently
732 determine all other substantive issues. Before granting a final
733 dissolution of marriage with a reservation of jurisdiction to
734 subsequently determine all other substantive issues, the court

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735 shall enter temporary orders necessary to protect the parties
736 and their children, which orders remain effective until all
737 other issues can be adjudicated by the court.

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

- 742 1. Restrict the sale or disposition of property.
- 743 2. Protect and preserve the marital assets.
- 744 3. Establish temporary support.
- 745 4. Provide for maintenance of health insurance.
- 746 5. Provide for maintenance of life insurance.

747 (e) The court is not required to enter temporary orders to
748 protect the parties and their children if the court enters a
749 final judgment of dissolution of marriage that adjudicates
750 substantially all of the substantive issues between the parties
751 but reserves jurisdiction to address ancillary issues such as
752 the entry of a qualified domestic relations order or the
753 adjudication of attorney fees and costs.

754 Section 15. This act shall take effect upon becoming a law.

756 -----

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

758 Remove line 22 and insert:

759 dating violence, or stalking; amending s. 61.071,
760 F.S.; requiring that alimony pendente lite be
761 calculated in accordance with s. 61.08, F.S.; amending
762 s. 61.075, F.S.; redefining the term "marital assets

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763 and liabilities" for purposes of equitable
764 distribution in dissolution of marriage actions;
765 providing that the term includes the paydown of
766 principal of notes and mortgages secured by nonmarital
767 real property and certain passive appreciation in such
768 property under certain circumstances; providing
769 formulas and guidelines for determining the amount of
770 such passive appreciation; requiring security and
771 interest relating to the installment payment of such
772 assets; providing exceptions; permitting the court to
773 provide written findings regarding any installment
774 payments; amending s. 61.08, F.S.; defining terms;
775 providing for the priority of bridge-the-gap alimony,
776 followed by rehabilitative alimony, over any other
777 form; requiring a court to make written findings
778 regarding the basis for awarding a combination of
779 forms of alimony, including the type of alimony and
780 length of time for which it is awarded; providing that
781 the party seeking alimony has the burden of proof of
782 demonstrating a need for alimony and that the other
783 party has the ability to pay alimony; requiring the
784 court to consider specified relevant factors when
785 determining the proper type and amount of alimony;
786 revising provisions relating to the protection of
787 awards of alimony; revising provisions for an award of
788 durational alimony; specifying criteria related to the
789 rebuttable presumption to award or not to award
790 alimony; specifying criteria for awarding

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791 rehabilitative alimony; deleting a provision
792 authorizing permanent alimony; providing for
793 retirement of a party against whom alimony is sought;
794 providing for imputation of income to the obligor or
795 obligee in certain circumstances; amending s. 61.09,
796 F.S.; providing for the calculation of alimony;
797 amending s. 61.13, F.S.; establishing a presumption
798 that it is in the best interest of the child for the
799 court to order equal time-sharing for each minor
800 child; providing exceptions; providing prospective
801 applicability of the presumption; amending s. 61.14,
802 F.S.; authorizing a party to apply for an order to
803 terminate the amount of support, maintenance, or
804 alimony; requiring that an alimony order be modified
805 upward upon a showing by clear and convincing evidence
806 of an increased ability to pay alimony by the other
807 party; prohibiting an increase in an obligor's income
808 from being considered permanent in nature until it has
809 been maintained for a specified period without
810 interruption; providing an exemption from the
811 reduction or termination of an alimony award in
812 certain circumstances; providing that there is a
813 rebuttable presumption that any modification or
814 termination of an alimony award is retroactive to the
815 date of the filing of the petition; providing for an
816 award of attorney fees and costs if it is determined
817 that an obligee unnecessarily or unreasonably
818 litigates a petition for modification or termination

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819 of an alimony award; prohibiting an alimony award from
820 being modified providing that if the court orders
821 alimony concurrent with a child support order, the
822 alimony award may not be modified because of the later
823 modification or termination of child support payments;
824 providing that an obligor's subsequent remarriage or
825 cohabitation is not a basis for modification of
826 alimony; providing that income and assets of obligor's
827 subsequent spouse or person with whom the obligor is
828 residing are generally not relevant to modification;
829 providing that the attaining of retirement age is a
830 substantial change in circumstances; requiring the
831 court to consider certain factors in determining
832 whether the obligor's retirement is reasonable;
833 requiring a court to terminate or reduce an alimony
834 award based on certain factors; amending s. 61.19,
835 F.S.; authorizing separate adjudication of issues in a
836 dissolution of marriage case in certain circumstances;
837 providing for temporary orders necessary to protect
838 the parties and their children; providing an effective