

By the Committee on Judiciary; and Senator Stargel

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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 a court to consider certain alimony  
4           factors and make specific written findings of fact  
5           under certain circumstances; prohibiting a court from  
6           using certain presumptive alimony guidelines in  
7           calculating alimony pendente lite; amending s. 61.08,  
8           F.S.; defining terms; requiring a court to make  
9           specified initial written findings in a dissolution of  
10          marriage proceeding where a party has requested  
11          alimony; requiring a court to make specified findings  
12          before ruling on a request for alimony; providing for  
13          determinations of presumptive alimony amount range and  
14          duration range; providing presumptions concerning  
15          alimony awards depending on the duration of marriages;  
16          providing for imputation of income in certain  
17          circumstances; specifying exceptions to the guidelines  
18          for the amount and duration of alimony awards;  
19          providing for awards of nominal alimony in certain  
20          circumstances; providing for taxability and  
21          deductibility of alimony awards; prohibiting a  
22          combined award of alimony and child support from  
23          constituting more than a specified percentage of a  
24          payor's net income; authorizing the court to order a  
25          party to protect an alimony award by specified means;  
26          providing for termination of an award; authorizing a  
27          court to modify or terminate the amount of an initial  
28          alimony award; prohibiting a court from modifying the  
29          duration of an alimony award; providing for payment of  
30          awards; amending s. 61.13, F.S.; revising public  
31          policy; revising the factors that are used to  
32          determine the best interests of a child; requiring a

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33 court order to be supported by written findings of  
34 fact for a specified initial permanent time-sharing  
35 schedule; amending s. 61.14, F.S.; prohibiting a court  
36 from changing the duration of alimony; authorizing a  
37 party to pursue an immediate modification of alimony  
38 in certain circumstances; revising factors to be  
39 considered in determining whether an existing award of  
40 alimony should be reduced or terminated because of an  
41 alleged supportive relationship; providing for burden  
42 of proof for claims concerning the existence of  
43 supportive relationships; providing for the effective  
44 date of a reduction or termination of an alimony  
45 award; providing that the remarriage of an alimony  
46 obligor is not a substantial change in circumstance;  
47 providing that the financial information of a spouse  
48 of a party paying or receiving alimony is inadmissible  
49 and undiscoverable; providing an exception; providing  
50 for modification or termination of an award based on a  
51 party's retirement; providing a presumption upon a  
52 finding of a substantial change in circumstance;  
53 specifying factors to be considered in determining  
54 whether to modify or terminate an award based on a  
55 substantial change in circumstance; providing for a  
56 temporary suspension of an obligor's payment of  
57 alimony while his or her petition for modification or  
58 termination is pending; providing for an award of  
59 attorney fees and costs for unreasonably pursuing or  
60 defending a modification of an award; providing for an  
61 effective date of a modification or termination of an

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62 award; amending s. 61.30, F.S.; requiring that a child  
63 support award be adjusted to reduce the combined  
64 alimony and child support award under certain  
65 circumstances; creating s. 61.192, F.S.; providing for  
66 motions to advance the trial of certain actions if a  
67 specified period has passed since the initial service  
68 on the respondent; amending ss. 61.1827 and 409.2579,  
69 F.S.; conforming cross-references; providing  
70 applicability; providing an effective date.

71  
72 Be It Enacted by the Legislature of the State of Florida:

73  
74 Section 1. Section 61.071, Florida Statutes, is amended to  
75 read:

76 61.071 Alimony pendente lite; suit money.—In every  
77 proceeding for dissolution of the marriage, a party may claim  
78 alimony and suit money in the petition or by motion, and if the  
79 petition is well founded, the court shall allow a reasonable sum  
80 therefor. If a party in any proceeding for dissolution of  
81 marriage claims alimony or suit money in his or her answer or by  
82 motion, and the answer or motion is well founded, the court  
83 shall allow a reasonable sum therefor. After determining there  
84 is a need for alimony and that there is an ability to pay  
85 alimony, the court shall consider the alimony factors in s.  
86 61.08(4)(b)1.-14. and make specific written findings of fact  
87 regarding the relevant factors that justify an award of alimony  
88 under this section. The court may not use the presumptive  
89 alimony guidelines in s. 61.08 to calculate alimony under this  
90 section.

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91 Section 2. Section 61.08, Florida Statutes, is amended to  
92 read:

93 (Substantial rewording of section. See  
94 s. 61.08, F.S., for present text.)  
95 61.08 Alimony.—

96 (1) DEFINITIONS.—As used in this section, unless the  
97 context otherwise requires, the term:

98 (a)1. "Gross income" means recurring income from any source  
99 and includes, but is not limited to:

100 a. Income from salaries.

101 b. Wages, including tips declared by the individual for  
102 purposes of reporting to the Internal Revenue Service or tips  
103 imputed to bring the employee's gross earnings to the minimum  
104 wage for the number of hours worked, whichever is greater.

105 c. Commissions.

106 d. Payments received as an independent contractor for labor  
107 or services, which payments must be considered income from self-  
108 employment.

109 e. Bonuses.

110 f. Dividends.

111 g. Severance pay.

112 h. Pension payments and retirement benefits actually  
113 received.

114 i. Royalties.

115 j. Rental income, which is gross receipts minus ordinary  
116 and necessary expenses required to produce the income.

117 k. Interest.

118 l. Trust income and distributions which are regularly  
119 received, relied upon, or readily available to the beneficiary.

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- 120       m. Annuity payments.
- 121       n. Capital gains.
- 122       o. Any money drawn by a self-employed individual for  
123 personal use that is deducted as a business expense, which  
124 moneys must be considered income from self-employment.
- 125       p. Social security benefits, including social security  
126 benefits actually received by a party as a result of the  
127 disability of that party.
- 128       q. Workers' compensation benefits.
- 129       r. Unemployment insurance benefits.
- 130       s. Disability insurance benefits.
- 131       t. Funds payable from any health, accident, disability, or  
132 casualty insurance to the extent that such insurance replaces  
133 wages or provides income in lieu of wages.
- 134       u. Continuing monetary gifts.
- 135       v. Income from general partnerships, limited partnerships,  
136 closely held corporations, or limited liability companies;  
137 except that if a party is a passive investor, has a minority  
138 interest in the company, and does not have any managerial duties  
139 or input, the income to be recognized may be limited to actual  
140 cash distributions received.
- 141       w. Expense reimbursements or in-kind payments or benefits  
142 received by a party in the course of employment, self-  
143 employment, or operation of a business which reduces personal  
144 living expenses.
- 145       x. Overtime pay.
- 146       y. Income from royalties, trusts, or estates.
- 147       z. Spousal support received from a previous marriage.
- 148       aa. Gains derived from dealings in property, unless the

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149 gain is nonrecurring.

150 2. "Gross income" does not include:

151 a. Child support payments received.

152 b. Benefits received from public assistance programs.

153 c. Social security benefits received by a parent on behalf  
154 of a minor child as a result of the death or disability of a  
155 parent or stepparent.

156 d. Earnings or gains on retirement accounts, including  
157 individual retirement accounts; except that such earnings or  
158 gains shall be included as income if a party takes a  
159 distribution from the account. If a party is able to take a  
160 distribution from the account without being subject to a federal  
161 tax penalty for early distribution and the party chooses not to  
162 take such a distribution, the court may consider the  
163 distribution that could have been taken in determining the  
164 party's gross income.

165 3.a. For income from self-employment, rent, royalties,  
166 proprietorship of a business, or joint ownership of a  
167 partnership or closely held corporation, the term "gross income"  
168 equals gross receipts minus ordinary and necessary expenses, as  
169 defined in sub-subparagraph b., which are required to produce  
170 such income.

171 b. "Ordinary and necessary expenses," as used in sub-  
172 paragraph a., does not include amounts allowable by the  
173 Internal Revenue Service for the accelerated component of  
174 depreciation expenses or investment tax credits or any other  
175 business expenses determined by the court to be inappropriate  
176 for determining gross income for purposes of calculating  
177 alimony.

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178       (b) "Potential income" means income which could be earned  
179 by a party using his or her best efforts and includes potential  
180 income from employment and potential income from the investment  
181 of assets or use of property. Potential income from employment  
182 is the income which a party could reasonably expect to earn by  
183 working at a locally available, full-time job commensurate with  
184 his or her education, training, and experience. Potential income  
185 from the investment of assets or use of property is the income  
186 which a party could reasonably expect to earn from the  
187 investment of his or her assets or the use of his or her  
188 property in a financially prudent manner.

189       (c)1. "Underemployed" means a party is not working full-  
190 time in a position which is appropriate, based upon his or her  
191 educational training and experience, and available in the  
192 geographical area of his or her residence.

193       2. A party is not considered "underemployed" if he or she  
194 is enrolled in an educational program that can be reasonably  
195 expected to result in a degree or certification within a  
196 reasonable period, so long as the educational program is:

197       a. Expected to result in higher income within the  
198 foreseeable future.

199       b. A good faith educational choice based upon the previous  
200 education, training, skills, and experience of the party and the  
201 availability of immediate employment based upon the educational  
202 program being pursued.

203       (d) "Years of marriage" means the number of whole years,  
204 beginning from the date of the parties' marriage until the date  
205 of the filing of the action for dissolution of marriage.

206       (2) INITIAL FINDINGS.—When a party has requested alimony in

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207 a dissolution of marriage proceeding, before granting or denying  
208 an award of alimony, the court shall make initial written  
209 findings as to:

210 (a) The amount of each party's monthly gross income,  
211 including, but not limited to, the actual or potential income,  
212 and also including actual or potential income from nonmarital or  
213 marital property distributed to each party.

214 (b) The years of marriage as determined from the date of  
215 marriage through the date of the filing of the action for  
216 dissolution of marriage.

217 (3) ALIMONY GUIDELINES.—After making the initial findings  
218 described in subsection (2), the court shall calculate the  
219 presumptive alimony amount range and the presumptive alimony  
220 duration range. The court shall make written findings as to the  
221 presumptive alimony amount range and presumptive alimony  
222 duration range.

223 (a) Presumptive alimony amount range.—The low end of the  
224 presumptive alimony amount range shall be calculated by using  
225 the following formula:

226  
227 (0.015 x the years of marriage) x the difference between the  
228 monthly gross incomes of the parties

229  
230 The high end of the presumptive alimony amount range shall be  
231 calculated by using the following formula:

232  
233 (0.020 x the years of marriage) x the difference between the  
234 monthly gross incomes of the parties

235



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236 For purposes of calculating the presumptive alimony amount  
237 range, 20 years of marriage shall be used in calculating the low  
238 end and high end for marriages of 20 years or more. In  
239 calculating the difference between the parties' monthly gross  
240 income, the income of the party seeking alimony shall be  
241 subtracted from the income of the other party. If the  
242 application of the formulas to establish a guideline range  
243 results in a negative number, the presumptive alimony amount  
244 shall be \$0.

245 (b) Presumptive alimony duration range.—The low end of the  
246 presumptive alimony duration range shall be calculated by using  
247 the following formula:

248  
249 0.25 x the years of marriage

250  
251 The high end of the presumptive alimony duration range shall be  
252 calculated by using the following formula:

253  
254 0.75 x the years of marriage

255  
256 (c) Exceptions to alimony guidelines.—

257 1. If a court establishes the duration of the alimony award  
258 at 50 percent or less of the length of the marriage, the court  
259 shall use the actual years of the marriage, up to a maximum of  
260 25 years, to calculate the high end of the presumptive alimony  
261 amount range.

262 2. A court may award alimony in an amount that equalizes  
263 the income of the parties until the obligor retires upon  
264 reaching the age for eligibility for full retirement benefits

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265 under s. 216 of the Social Security Act, 42 U.S.C. s. 416, or  
266 upon reaching the customary retirement age for his or her  
267 occupation if:

268 a. The duration of the marriage was at least 20 years;

269 b. Pursuant to the mutual agreement or consent of the  
270 parties to the marriage, one spouse substantially refrained from  
271 economic, educational, or employment opportunities primarily for  
272 the purpose of contributing to the marriage through homemaking  
273 or child care activities; and

274 c. The spouse seeking alimony even with additional  
275 education faces dramatically reduced opportunities to advance in  
276 a career.

277  
278 This subparagraph should not be applied in a manner that  
279 discourages a spouse from seeking additional education or  
280 employment opportunities.

281 (4) ALIMONY AWARD.—

282 (a) Marriages of 2 years or less.—For marriages of 2 years  
283 or less, there is a rebuttable presumption that no alimony shall  
284 be awarded. The court may award alimony for a marriage with a  
285 duration of 2 years or less only if the court makes written  
286 findings that there is a clear and convincing need for alimony,  
287 there is an ability to pay alimony, and that the failure to  
288 award alimony would be inequitable. The court shall then  
289 establish the alimony award in accordance with paragraph (b).

290 (b) Marriages of more than 2 years.—Absent an agreement of  
291 the parties, alimony shall presumptively be awarded in an amount  
292 within the alimony amount range calculated in paragraph (3) (a).  
293 Absent an agreement of the parties, alimony shall presumptively

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294 be awarded for a duration within the alimony duration range  
295 calculated in paragraph (3) (b). In determining the amount and  
296 duration of the alimony award, the court shall consider all of  
297 the following factors upon which evidence was presented:

298 1. The financial resources of the recipient spouse,  
299 including the actual or potential income from nonmarital or  
300 marital property or any other source and the ability of the  
301 recipient spouse to meet his or her reasonable needs  
302 independently.

303 2. The financial resources of the payor spouse, including  
304 the actual or potential income from nonmarital or marital  
305 property or any other source and the ability of the payor spouse  
306 to meet his or her reasonable needs while paying alimony.

307 3. The standard of living of the parties during the  
308 marriage with consideration that there will be two households to  
309 maintain after the dissolution of the marriage and that neither  
310 party may be able to maintain the same standard of living after  
311 the dissolution of the marriage.

312 4. The equitable distribution of marital property,  
313 including whether an unequal distribution of marital property  
314 was made to reduce or alleviate the need for alimony.

315 5. Both parties' income, employment, and employability,  
316 obtainable through reasonable diligence and additional training  
317 or education, if necessary, and any necessary reduction in  
318 employment due to the needs of an unemancipated child of the  
319 marriage or the circumstances of the parties.

320 6. Whether a party could become better able to support  
321 himself or herself and reduce the need for ongoing alimony by  
322 pursuing additional educational or vocational training along

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323 with all of the details of such educational or vocational plan,  
324 including, but not limited to, the length of time required and  
325 the anticipated costs of such educational or vocational  
326 training.

327 7. Whether one party has historically earned higher or  
328 lower income than the income reflected at the time of trial and  
329 the duration and consistency of income from overtime or  
330 secondary employment.

331 8. Whether either party has foregone or postponed economic,  
332 educational, or employment opportunities during the course of  
333 the marriage.

334 9. Whether either party has caused the unreasonable  
335 depletion or dissipation of marital assets.

336 10. The amount of temporary alimony and the number of  
337 months that temporary alimony was paid to the recipient spouse.

338 11. The age, health, and physical and mental condition of  
339 the parties, including consideration of significant health care  
340 needs or uninsured or unreimbursed health care expenses.

341 12. Significant economic or noneconomic contributions to  
342 the marriage or to the economic, educational, or occupational  
343 advancement of a party, including, but not limited to, services  
344 rendered in homemaking, child care, education, and career  
345 building of the other party, payment by one spouse of the other  
346 spouse's separate debts, or enhancement of the other spouse's  
347 personal or real property.

348 13. The tax consequence of the alimony award.

349 14. Any other factor necessary to do equity and justice  
350 between the parties.

351 (c) Deviation from guidelines.—The court may establish an

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352 award of alimony that is outside the presumptive alimony amount  
353 or alimony duration ranges only if the court considers all of  
354 the factors in paragraph (b) and makes specific written findings  
355 concerning the relevant factors justifying that the application  
356 of the presumptive alimony amount or alimony duration ranges, as  
357 applicable, is inappropriate or inequitable.

358 (d) Order establishing alimony award.—After consideration  
359 of the presumptive alimony amount and duration ranges in  
360 accordance with paragraphs (3) (a) and (b) and the factors upon  
361 which evidence was presented in accordance with paragraph (b),  
362 the court may establish an alimony award. An order establishing  
363 an alimony award must clearly set forth both the amount and the  
364 duration of the award. The court shall also make a written  
365 finding that the payor has the financial ability to pay the  
366 award.

367 (5) IMPUTATION OF INCOME.—If a party is voluntarily  
368 unemployed or underemployed, alimony shall be calculated based  
369 on a determination of potential income unless the court makes  
370 specific written findings regarding the circumstances that make  
371 it inequitable to impute income.

372 (6) NOMINAL ALIMONY.—Notwithstanding subsections (1), (3),  
373 and (4), the court may make an award of nominal alimony in the  
374 amount of \$1 per year if, at the time of trial, a party who has  
375 traditionally provided the primary source of financial support  
376 to the family temporarily lacks the ability to pay support but  
377 is reasonably anticipated to have the ability to pay support in  
378 the future. The court may also award nominal alimony for an  
379 alimony recipient who is presently able to work but for whom a  
380 medical condition with a reasonable degree of medical certainty

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381 may inhibit or prevent his or her ability to work during the  
382 duration of the alimony period. The duration of the nominal  
383 alimony shall be established within the presumptive durational  
384 range based upon the length of the marriage subject to the  
385 alimony factors in paragraph (4) (b). Before the expiration of  
386 the durational period, nominal alimony may be modified in  
387 accordance with s. 61.14 as to amount to a full alimony award  
388 using the alimony guidelines and factors in accordance with s.  
389 61.08.

390 (7) TAXABILITY AND DEDUCTIBILITY OF ALIMONY.—

391 (a) Unless otherwise stated in the judgment or order for  
392 alimony or in an agreement incorporated thereby, alimony shall  
393 be deductible from income by the payor under s. 215 of the  
394 Internal Revenue Code and includable in the income of the payee  
395 under s. 71 of the Internal Revenue Code.

396 (b) When making a judgment or order for alimony, the court  
397 may, in its discretion after weighing the equities and tax  
398 efficiencies, order alimony be nondeductible from income by the  
399 payor and nonincludable in the income of the payee.

400 (c) The parties may, in a marital settlement agreement,  
401 separation agreement, or related agreement, specifically agree  
402 in writing that alimony be nondeductible from income by the  
403 payor and nonincludable in the income of the payee.

404 (8) MAXIMUM COMBINED AWARD.—In no event shall a combined  
405 award of alimony and child support constitute more than 55  
406 percent of the payor's net income, calculated without any  
407 consideration of alimony or child support obligations.

408 (9) SECURITY OF AWARD.—To the extent necessary to protect  
409 an award of alimony, the court may order any party who is

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410 ordered to pay alimony to purchase or maintain a decreasing term  
411 life insurance policy or a bond, or to otherwise secure such  
412 alimony award with any other assets that may be suitable for  
413 that purpose, in an amount adequate to secure the alimony award.  
414 Any such security may be awarded only upon a showing of special  
415 circumstances. If the court finds special circumstances and  
416 awards such security, the court must make specific evidentiary  
417 findings regarding the availability, cost, and financial impact  
418 on the obligated party. Any security may be modifiable in the  
419 event the underlying alimony award is modified and shall be  
420 reduced in an amount commensurate with any reduction in the  
421 alimony award.

422 (10) TERMINATION OF AWARD.—An alimony award shall terminate  
423 upon the death of either party or the remarriage of the obligee.

424 (11) MODIFICATION OF AWARD.—A court may subsequently modify  
425 or terminate the amount of an award of alimony initially  
426 established under this section in accordance with s. 61.14.  
427 However, a court may not modify the duration of an award of  
428 alimony initially established under this section.

429 (12) PAYMENT OF AWARD.—

430 (a) With respect to an order requiring the payment of  
431 alimony entered on or after January 1, 1985, unless paragraph  
432 (c) or paragraph (d) applies, the court shall direct in the  
433 order that the payments of alimony be made through the  
434 appropriate depository as provided in s. 61.181.

435 (b) With respect to an order requiring the payment of  
436 alimony entered before January 1, 1985, upon the subsequent  
437 appearance, on or after that date, of one or both parties before  
438 the court having jurisdiction for the purpose of modifying or

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439 enforcing the order or in any other proceeding related to the  
440 order, or upon the application of either party, unless paragraph  
441 (c) or paragraph (d) applies, the court shall modify the terms  
442 of the order as necessary to direct that payments of alimony be  
443 made through the appropriate depository as provided in s.  
444 61.181.

445 (c) If there is no minor child, alimony payments do not  
446 need to be directed through the depository.

447 (d)1. If there is a minor child of the parties and both  
448 parties so request, the court may order that alimony payments do  
449 not need to be directed through the depository. In this case,  
450 the order of support shall provide, or be deemed to provide,  
451 that either party may subsequently apply to the depository to  
452 require that payments be made through the depository. The court  
453 shall provide a copy of the order to the depository.

454 2. If subparagraph 1. applies, either party may  
455 subsequently file with the clerk of the court a verified motion  
456 alleging a default or arrearages in payment stating that the  
457 party wishes to initiate participation in the depository  
458 program. The moving party shall copy the other party with the  
459 motion. No later than 15 days after filing the motion, the court  
460 shall conduct an evidentiary hearing establishing the default  
461 and arrearages, if any, and issue an order directing the clerk  
462 of the circuit court to establish, or amend an existing, family  
463 law case history account, and further advising the parties that  
464 future payments must thereafter be directed through the  
465 depository.

466 3. In IV-D cases, the Title IV-D agency shall have the same  
467 rights as the obligee in requesting that payments be made



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468 through the depository.

469 Section 3. Paragraph (c) of subsection (2) and subsection  
470 (3) of section 61.13, Florida Statutes, are amended, present  
471 subsections (4) through (8) of that section are redesignated as  
472 subsections (5) through (9), respectively, and a new subsection  
473 (4) is added to that section, to read:

474 61.13 Support of children; parenting and time-sharing;  
475 powers of court.—

476 (2)

477 (c) The court shall determine all matters relating to  
478 parenting and time-sharing of each minor child of the parties in  
479 accordance with the best interests of the child and in  
480 accordance with the Uniform Child Custody Jurisdiction and  
481 Enforcement Act, except that modification of a parenting plan  
482 and time-sharing schedule requires a showing of a substantial,  
483 material, and unanticipated change of circumstances.

484 1. Absent good cause, it is the public policy of this state  
485 that the best interest of each minor child is served by a time-  
486 sharing schedule that provides for substantially equal time-  
487 sharing with both parents. It is the public policy of this state  
488 ~~that each minor child has frequent and continuing contact with~~  
489 ~~both parents after the parents separate or the marriage of the~~  
490 ~~parties is dissolved and~~ to encourage parents to share the  
491 rights and responsibilities, and joys, of childrearing. There is  
492 no presumption for or against the father or mother of the child  
493 or for or against any specific time-sharing schedule when  
494 creating or modifying the parenting plan of the child.

495 2. The court shall order that the parental responsibility  
496 for a minor child be shared by both parents unless the court

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497 finds that shared parental responsibility would be detrimental  
498 to the child. Evidence that a parent has been convicted of a  
499 misdemeanor of the first degree or higher involving domestic  
500 violence, as defined in s. 741.28 and chapter 775, or meets the  
501 criteria of s. 39.806(1)(d), creates a rebuttable presumption of  
502 detriment to the child. If the presumption is not rebutted after  
503 the convicted parent is advised by the court that the  
504 presumption exists, shared parental responsibility, including  
505 time-sharing with the child, and decisions made regarding the  
506 child, may not be granted to the convicted parent. However, the  
507 convicted parent is not relieved of any obligation to provide  
508 financial support. If the court determines that shared parental  
509 responsibility would be detrimental to the child, it may order  
510 sole parental responsibility and make such arrangements for  
511 time-sharing as specified in the parenting plan as will best  
512 protect the child or abused spouse from further harm. Whether or  
513 not there is a conviction of any offense of domestic violence or  
514 child abuse or the existence of an injunction for protection  
515 against domestic violence, the court shall consider evidence of  
516 domestic violence or child abuse as evidence of detriment to the  
517 child.

518       a. In ordering shared parental responsibility, the court  
519 may consider the expressed desires of the parents and may grant  
520 to one party the ultimate responsibility over specific aspects  
521 of the child's welfare or may divide those responsibilities  
522 between the parties based on the best interests of the child.  
523 Areas of responsibility may include education, health care, and  
524 any other responsibilities that the court finds unique to a  
525 particular family.

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

529           3. Access to records and information pertaining to a minor  
530 child, including, but not limited to, medical, dental, and  
531 school records, may not be denied to either parent. Full rights  
532 under this subparagraph apply to either parent unless a court  
533 order specifically revokes these rights, including any  
534 restrictions on these rights as provided in a domestic violence  
535 injunction. A parent having rights under this subparagraph has  
536 the same rights upon request as to form, substance, and manner  
537 of access as are available to the other parent of a child,  
538 including, without limitation, the right to in-person  
539 communication with medical, dental, and education providers.

540           (3) For purposes of establishing or modifying parental  
541 responsibility and creating, developing, approving, or modifying  
542 a parenting plan, including a time-sharing schedule, which  
543 governs each parent's relationship with his or her minor child  
544 and the relationship between each parent with regard to his or  
545 her minor child, the best interest of the child shall be the  
546 primary consideration. A determination of parental  
547 responsibility, a parenting plan, or a time-sharing schedule may  
548 not be modified without a showing of a substantial, material,  
549 and unanticipated change in circumstances and a determination  
550 that the modification is in the best interests of the child.  
551 Determination of the best interests of the child shall be made  
552 by evaluating all of the factors affecting the welfare and  
553 interests of the particular minor child and the circumstances of  
554 that family, including, ~~but not limited to:~~

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555 (a) The demonstrated capacity or ~~and~~ disposition of each  
556 parent to facilitate and encourage a close and continuing  
557 parent-child relationship, to honor the time-sharing schedule,  
558 and to be reasonable when changes are required.

559 (b) The anticipated division of parental responsibilities  
560 after the litigation, including the extent to which parental  
561 responsibilities will be delegated to third parties.

562 (c) The demonstrated capacity and disposition of each  
563 parent to determine, consider, and act upon the needs of the  
564 child as opposed to the needs or desires of the parent.

565 (d) The length of time the child has lived in a stable,  
566 satisfactory environment and the desirability of maintaining  
567 continuity.

568 (e) The geographic viability of the parenting plan, with  
569 special attention paid to the needs of school-age children and  
570 the amount of time to be spent traveling to carry out ~~effectuate~~  
571 the parenting plan. This factor does not create a presumption  
572 for or against relocation of either parent with a child.

573 (f) The moral fitness of the parents.

574 (g) The mental and physical health of the parents.

575 (h) The home, school, and community record of the child.

576 (i) The reasonable preference of the child, if the court  
577 deems the child to be of sufficient intelligence, understanding,  
578 and experience to express a preference.

579 (j) The demonstrated knowledge, capacity, or ~~and~~  
580 disposition of each parent to be informed of the circumstances  
581 of the minor child, including, but not limited to, the child's  
582 friends, teachers, medical care providers, daily activities, and  
583 favorite things.

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584 (k) The demonstrated capacity or ~~and~~ disposition of each  
585 parent to provide a consistent routine for the child, such as  
586 discipline, and daily schedules for homework, meals, and  
587 bedtime.

588 (l) The demonstrated capacity of each parent to communicate  
589 with the other parent and keep the other parent informed of  
590 issues and activities regarding the minor child, and the  
591 willingness of each parent to adopt a unified front on all major  
592 issues when dealing with the child.

593 (m) Evidence of domestic violence, sexual violence, child  
594 abuse, child abandonment, or child neglect, regardless of  
595 whether a prior or pending action relating to those issues has  
596 been brought. If the court accepts evidence of prior or pending  
597 actions regarding domestic violence, sexual violence, child  
598 abuse, child abandonment, or child neglect, the court must  
599 specifically acknowledge in writing that such evidence was  
600 considered when evaluating the best interests of the child.

601 (n) Evidence that either parent has knowingly provided  
602 false information to the court regarding any prior or pending  
603 action regarding domestic violence, sexual violence, child  
604 abuse, child abandonment, or child neglect.

605 (o) The demonstrated capacity or disposition of each parent  
606 to perform or ensure the performance of particular parenting  
607 tasks customarily performed by the other ~~each~~ parent and the  
608 division of parental responsibilities before the institution of  
609 litigation and during the pending litigation, including the  
610 extent to which parenting responsibilities were undertaken by  
611 third parties.

612 (p) The demonstrated capacity and disposition of each

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613 parent to participate and be involved in the child's school and  
614 extracurricular activities.

615 (q) The demonstrated capacity and disposition of each  
616 parent to maintain an environment for the child which is free  
617 from substance abuse.

618 (r) The capacity and disposition of each parent to protect  
619 the child from the ongoing litigation as demonstrated by not  
620 discussing the litigation with the child, not sharing documents  
621 or electronic media related to the litigation with the child,  
622 and refraining from disparaging comments about the other parent  
623 to the child.

624 (s) The developmental stages and needs of the child and the  
625 demonstrated capacity and disposition of each parent to meet the  
626 child's developmental needs.

627 (t) The amount of time-sharing requested by each parent.

628 (u) The frequency that a parent would likely leave the  
629 child in the care of a nonrelative on evenings and weekends when  
630 the other parent would be available and willing to provide care.

631 (v) ~~(t)~~ Any other factor that is relevant to the  
632 determination of a specific parenting plan, including the time-  
633 sharing schedule.

634 (4) A court order must be supported by written findings of  
635 fact if the order establishes an initial permanent time-sharing  
636 schedule that does not provide for substantially equal time-  
637 sharing.

638 Section 4. Subsection (1) of section 61.14, Florida  
639 Statutes, is amended to read:

640 61.14 Enforcement and modification of support, maintenance,  
641 or alimony agreements or orders.-

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642 (1) (a) When the parties enter into an agreement for  
643 payments for, or instead of, support, maintenance, or alimony,  
644 whether in connection with a proceeding for dissolution or  
645 separate maintenance or with any voluntary property settlement,  
646 or when a party is required by court order to make any payments,  
647 and the circumstances or the financial ability of either party  
648 changes or the child who is a beneficiary of an agreement or  
649 court order as described herein reaches majority after the  
650 execution of the agreement or the rendition of the order, either  
651 party may apply to the circuit court of the circuit in which the  
652 parties, or either of them, resided at the date of the execution  
653 of the agreement or reside at the date of the application, or in  
654 which the agreement was executed or in which the order was  
655 rendered, for an order decreasing or increasing the amount of  
656 support, maintenance, or alimony, and the court has jurisdiction  
657 to make orders as equity requires, with due regard to the  
658 changed circumstances or the financial ability of the parties or  
659 the child, decreasing, increasing, or confirming the amount of  
660 separate support, maintenance, or alimony provided for in the  
661 agreement or order. However, a court may not decrease or  
662 increase the duration of alimony provided for in the agreement  
663 or order. A party is entitled to pursue an immediate  
664 modification of alimony if the actual income earned by the other  
665 party exceeds by at least 10 percent the amount imputed to that  
666 party at the time the existing alimony award was determined and  
667 such circumstance shall constitute a substantial change in  
668 circumstances sufficient to support a modification of alimony.  
669 However, an increase in an alimony obligor's income alone does  
670 not constitute a basis for a modification to increase alimony

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671 unless at the time the alimony award was established it was  
672 determined that the obligor was underemployed or unemployed and  
673 the court did not impute income to that party at his or her  
674 maximum potential income. If an alimony obligor becomes  
675 involuntarily underemployed or unemployed for a period of 6  
676 months following the entry of the last order requiring the  
677 payment of alimony, the obligor is entitled to pursue an  
678 immediate modification of his or her existing alimony  
679 obligations and such circumstance shall constitute a substantial  
680 change in circumstance sufficient to support a modification of  
681 alimony. A finding that medical insurance is reasonably  
682 available or the child support guidelines schedule in s. 61.30  
683 may constitute changed circumstances. Except as otherwise  
684 provided in s. 61.30(11)(c), the court may modify an order of  
685 support, maintenance, or alimony by increasing or decreasing the  
686 support, maintenance, or alimony retroactively to the date of  
687 the filing of the action or supplemental action for modification  
688 as equity requires, giving due regard to the changed  
689 circumstances or the financial ability of the parties or the  
690 child.

691 (b)1. The court may reduce or terminate an award of alimony  
692 upon specific written findings by the court that since the  
693 granting of a divorce and the award of alimony a supportive  
694 relationship exists or has existed within the previous year  
695 before the date of the filing of the petition for modification  
696 or termination between the obligee and another a person with  
697 ~~whom the obligee resides. On the issue of whether alimony should~~  
698 ~~be reduced or terminated under this paragraph, the burden is on~~  
699 ~~the obligor to prove by a preponderance of the evidence that a~~



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700 ~~supportive relationship exists.~~

701       2. In determining whether an existing award of alimony  
702 should be reduced or terminated because of an alleged supportive  
703 relationship between an obligee and a person who is not related  
704 by consanguinity or affinity ~~and with whom the obligee resides,~~  
705 the court shall elicit the nature and extent of the relationship  
706 in question. The court shall give consideration, without  
707 limitation, to circumstances, including, but not limited to, the  
708 following, in determining the relationship of an obligee to  
709 another person:

710       a. The extent to which the obligee and the other person  
711 have held themselves out as a married couple by engaging in  
712 conduct such as using the same last name, using a common mailing  
713 address, referring to each other ~~in terms such as "my husband"~~  
714 ~~or "my wife,"~~ "my spouse" or otherwise conducting themselves in  
715 a manner that evidences a permanent supportive relationship.

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

718       c. The extent to which the obligee and the other person  
719 have pooled their assets or income or otherwise exhibited  
720 financial interdependence.

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

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

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

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

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

731 i. Evidence in support of a claim that the obligee and the  
732 other person have an express agreement regarding property  
733 sharing or support.

734 j. Evidence in support of a claim that the obligee and the  
735 other person have an implied agreement regarding property  
736 sharing or support.

737 k. Whether the obligee and the other person have provided  
738 support to the children of one another, regardless of any legal  
739 duty to do so.

740 1. Whether the obligor's failure, in whole or in part, to  
741 comply with all court-ordered financial obligations to the  
742 obligee constituted a significant factor in the establishment of  
743 the supportive relationship.

744 3. In any proceeding to modify an alimony award based upon  
745 a supportive relationship, the obligor has the burden of proof  
746 to establish, by a preponderance of the evidence, that a  
747 supportive relationship exists or has existed within the  
748 previous year before the date of the filing of the petition for  
749 modification or termination. The obligor is not required to  
750 prove cohabitation of the obligee and the third party.

751 4. Notwithstanding paragraph (f), if a reduction or  
752 termination is granted under this paragraph, the reduction or  
753 termination is retroactive to the date of filing of the petition  
754 for reduction or termination.

755 ~~5.3-~~ This paragraph does not abrogate the requirement that  
756 every marriage in this state be solemnized under a license, does  
757 not recognize a common law marriage as valid, and does not

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758 recognize a de facto marriage. This paragraph recognizes only  
759 that relationships do exist that provide economic support  
760 equivalent to a marriage and that alimony terminable on  
761 remarriage may be reduced or terminated upon the establishment  
762 of equivalent equitable circumstances as described in this  
763 paragraph. The existence of a conjugal relationship, though it  
764 may be relevant to the nature and extent of the relationship, is  
765 not necessary for the application of the provisions of this  
766 paragraph.

767 (c)1. For purposes of this section, the remarriage of an  
768 alimony obligor does not constitute a substantial change in  
769 circumstance or a basis for a modification of alimony.

770 2. The financial information, including, but not limited  
771 to, information related to assets and income, of a subsequent  
772 spouse of a party paying or receiving alimony is inadmissible  
773 and may not be considered as a part of any modification action  
774 unless a party is claiming that his or her income has decreased  
775 since the marriage. If a party makes such a claim, the financial  
776 information of the subsequent spouse is discoverable and  
777 admissible only to the extent necessary to establish whether the  
778 party claiming that his or her income has decreased is diverting  
779 income or assets to the subsequent spouse that might otherwise  
780 be available for the payment of alimony. However, this  
781 subparagraph may not be used to prevent the discovery of or  
782 admissibility in evidence of the income or assets of a party  
783 when those assets are held jointly with a subsequent spouse.  
784 This subparagraph is not intended to prohibit the discovery or  
785 admissibility of a joint tax return filed by a party and his or  
786 her subsequent spouse in connection with a modification of

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787 alimony.

788 (d)1. An obligor may file a petition for modification or  
789 termination of an alimony award based upon his or her actual  
790 retirement.

791 a. A substantial change in circumstance is deemed to exist  
792 if:

793 (I) The obligor has reached the age for eligibility to  
794 receive full retirement benefits under s. 216 of the Social  
795 Security Act, 42 U.S.C. s. 416, and has retired; or

796 (II) The obligor has reached the customary retirement age  
797 for his or her occupation and has retired from that occupation.  
798 An obligor may file an action within 1 year of his or her  
799 anticipated retirement date and the court shall determine the  
800 customary retirement date for the obligor's profession. However,  
801 a determination of the customary retirement age is not an  
802 adjudication of a petition for a modification of an alimony  
803 award.

804 b. If an obligor voluntarily retires before reaching any of  
805 the ages described in sub-subparagraph a., the court shall  
806 determine whether the obligor's retirement is reasonable upon  
807 consideration of the obligor's age, health, and motivation for  
808 retirement and the financial impact on the obligee. A finding of  
809 reasonableness by the court shall constitute a substantial  
810 change in circumstance.

811 2. Upon a finding of a substantial change in circumstance,  
812 there is a rebuttable presumption that an obligor's existing  
813 alimony obligation shall be modified or terminated. The court  
814 shall modify or terminate the alimony obligation, or make a  
815 determination regarding whether the rebuttable presumption has

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816 been overcome, based upon the following factors applied to the  
817 current circumstances of the obligor and obligee:

818 a. The age of the parties.

819 b. The health of the parties.

820 c. The assets and liabilities of the parties.

821 d. The earned or imputed income of the parties as provided  
822 in s. 61.08(1)(a) and (5).

823 e. The ability of the parties to maintain part-time or  
824 full-time employment.

825 f. Any other factor deemed relevant by the court.

826 3. The court may temporarily reduce or suspend the  
827 obligor's payment of alimony while his or her petition for  
828 modification or termination under this paragraph is pending.

829 (e) A party who unreasonably pursues or defends an action  
830 for modification of alimony shall be required to pay the  
831 reasonable attorney fees and costs of the prevailing party.

832 Further, a party obligated to pay prevailing party attorney fees  
833 and costs in connection with unreasonably pursuing or defending  
834 an action for modification is not entitled to an award of  
835 attorney fees and costs in accordance with s. 61.16.

836 (f) There is a rebuttable presumption that a modification  
837 or termination of an alimony award is retroactive to the date of  
838 the filing of the petition, unless the obligee demonstrates that  
839 the result is inequitable.

840 (g)~~(e)~~ For each support order reviewed by the department as  
841 required by s. 409.2564(11), if the amount of the child support  
842 award under the order differs by at least 10 percent but not  
843 less than \$25 from the amount that would be awarded under s.  
844 61.30, the department shall seek to have the order modified and

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845 any modification shall be made without a requirement for proof  
846 or showing of a change in circumstances.

847 ~~(h)(d)~~ The department may ~~shall have authority to~~ adopt  
848 rules to implement this section.

849 Section 5. Paragraph (d) is added to subsection (11) of  
850 section 61.30, Florida Statutes, to read:

851 61.30 Child support guidelines; retroactive child support.-

852 (11)

853 (d) Whenever a combined alimony and child support award  
854 constitutes more than 55 percent of the payor's net income,  
855 calculated without any consideration of alimony or child support  
856 obligations, the court shall adjust the award of child support  
857 to ensure that the 55 percent cap is not exceeded.

858 Section 6. Section 61.192, Florida Statutes, is created to  
859 read:

860 61.192 Advancing trial.-In an action brought pursuant to  
861 this chapter, if more than 2 years have passed since the initial  
862 petition was served on the respondent, either party may move the  
863 court to advance the trial of their action on the docket. This  
864 motion may be made at any time after 2 years have passed since  
865 the petition was served, and once made the court must give the  
866 case priority on the court's calendar.

867 Section 7. Subsection (1) of section 61.1827, Florida  
868 Statutes, is amended to read:

869 61.1827 Identifying information concerning applicants for  
870 and recipients of child support services.-

871 (1) Any information that reveals the identity of applicants  
872 for or recipients of child support services, including the name,  
873 address, and telephone number of such persons, held by a non-

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874 Title IV-D county child support enforcement agency is  
 875 confidential and exempt from s. 119.07(1) and s. 24(a) of Art. I  
 876 of the State Constitution. The use or disclosure of such  
 877 information by the non-Title IV-D county child support  
 878 enforcement agency is limited to the purposes directly connected  
 879 with:

880 (a) Any investigation, prosecution, or criminal or civil  
 881 proceeding connected with the administration of any non-Title  
 882 IV-D county child support enforcement program;

883 (b) Mandatory disclosure of identifying and location  
 884 information as provided in s. 61.13(8) ~~s. 61.13(7)~~ by the non-  
 885 Title IV-D county child support enforcement agency when  
 886 providing non-Title IV-D services;

887 (c) Mandatory disclosure of information as required by ss.  
 888 409.2577, 61.181, 61.1825, and 61.1826 and Title IV-D of the  
 889 Social Security Act; or

890 (d) Disclosure to an authorized person, as defined in 45  
 891 C.F.R. s. 303.15, for purposes of enforcing any state or federal  
 892 law with respect to the unlawful taking or restraint of a child  
 893 or making or enforcing a parenting plan. As used in this  
 894 paragraph, the term "authorized person" includes a parent with  
 895 whom the child does not currently reside, unless a court has  
 896 entered an order under s. 741.30, s. 741.31, or s. 784.046.

897 Section 8. Subsection (1) of section 409.2579, Florida  
 898 Statutes, is amended to read:

899 409.2579 Safeguarding Title IV-D case file information.—

900 (1) Information concerning applicants for or recipients of  
 901 Title IV-D child support services is confidential and exempt  
 902 from the provisions of s. 119.07(1). The use or disclosure of

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903 such information by the IV-D program is limited to purposes  
904 directly connected with:

905 (a) The administration of the plan or program approved  
906 under part A, part B, part D, part E, or part F of Title IV;  
907 under Title II, Title X, Title XIV, Title XVI, Title XIX, or  
908 Title XX; or under the supplemental security income program  
909 established under Title XVI of the Social Security Act;

910 (b) Any investigation, prosecution, or criminal or civil  
911 proceeding connected with the administration of any such plan or  
912 program;

913 (c) The administration of any other federal or federally  
914 assisted program which provides service or assistance, in cash  
915 or in kind, directly to individuals on the basis of need;

916 (d) Reporting to an appropriate agency or official,  
917 information on known or suspected instances of physical or  
918 mental injury, child abuse, sexual abuse or exploitation, or  
919 negligent treatment or maltreatment of a child who is the  
920 subject of a support enforcement activity under circumstances  
921 which indicate that the child's health or welfare is threatened  
922 thereby; and

923 (e) Mandatory disclosure of identifying and location  
924 information as provided in s. 61.13(8) ~~s. 61.13(7)~~ by the IV-D  
925 program when providing Title IV-D services.

926 Section 9. The amendments made by this act to chapter 61,  
927 Florida Statutes, apply to all initial determinations of alimony  
928 and all alimony modification actions that are pending as of the  
929 effective date of this act, and to all initial determinations of  
930 alimony and all alimony modification actions brought on or after  
931 the effective date of this act. The enacting of this act may not



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932 serve as the sole basis for a party to seek a modification of an  
933 alimony award existing before the effective date of this act.

934 Section 10. This act shall take effect October 1, 2016.