

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Rodriguez offered the following:

Amendment (with title amendment)

Remove lines 246-600 and insert:

exceed 50 percent of the length of a ~~the~~ marriage lasting fewer than 20 years or 75 percent of the length of a marriage lasting 20 years or longer. For purposes of this section, the length of a marriage is the period of time beginning on the date of marriage and ending on the date an action for dissolution of marriage is filed. However, if the party seeking alimony meets the primary qualifications for the Florida Medicaid medically needy program under part III of chapter 409 and the related rules in effect on March 1, 2020, or is the full-time in-home

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14 caregiver to a totally and permanently disabled child, by reason
15 of a physical or mental impairment, who is common to the
16 parties, the court may extend durational alimony beyond 50
17 percent of the length of the marriage, until the death of the
18 child or until the court determines that there is no longer a
19 need for durational alimony.

20 (b) When awarding durational alimony, the court must make
21 written findings that an award of another type of alimony, or a
22 combination of the other forms of alimony, is not appropriate.

23 (c) The amount of durational alimony is the amount
24 determined to be the obligee's reasonable need or 30 percent of
25 the difference between the parties' net incomes, whichever
26 amount is less.

27 (8) A party against whom alimony is sought who has met the
28 requirements for retirement in accordance with s. 61.14(12)
29 before the filing of the petition for dissolution of marriage
30 may not be ordered to pay bridge-the-gap, rehabilitative, or
31 durational alimony, unless the court determines all of the
32 following:

33 (a) That the party seeking alimony has not reached the age
34 to qualify for any social security retirement benefits.

35 (b) That as a result of the dissolution of marriage, the
36 party seeking alimony would, based on the income and assets
37 available after the dissolution of marriage is final, meet the
38 primary qualifications for the Florida Medicaid medically needy

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39 program under part III of chapter 409 and the related rules in
40 effect on March 1, 2020.

41 (9) (a) Notwithstanding any other provision of law, alimony
42 may not be awarded to a party who has a monthly net income that
43 is equal to or more than the other party's monthly net income.

44 (b) Social security retirement benefits may not be imputed
45 to the obligor as demonstrated by a social security retirement
46 benefits entitlement letter unless those benefits are actually
47 being paid.

48 (c) If the obligee alleges that a physical disability has
49 impaired his or her capability to earn the income imputed by the
50 court, the obligee must have qualified for benefits under the
51 Social Security Disability Insurance program or, in the event
52 the obligee is not eligible for the program, must demonstrate
53 that his or her disability meets the disability qualification
54 standards of the Social Security Disability Insurance program.

55 ~~(8) Permanent alimony may be awarded to provide for the~~
56 ~~needs and necessities of life as they were established during~~
57 ~~the marriage of the parties for a party who lacks the financial~~
58 ~~ability to meet his or her needs and necessities of life~~
59 ~~following a dissolution of marriage. Permanent alimony may be~~
60 ~~awarded following a marriage of long duration if such an award~~
61 ~~is appropriate upon consideration of the factors set forth in~~
62 ~~subsection (2), following a marriage of moderate duration if~~
63 ~~such an award is appropriate based upon clear and convincing~~

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64 ~~evidence after consideration of the factors set forth in~~
65 ~~subsection (2), or following a marriage of short duration if~~
66 ~~there are written findings of exceptional circumstances. In~~
67 ~~awarding permanent alimony, the court shall include a finding~~
68 ~~that no other form of alimony is fair and reasonable under the~~
69 ~~circumstances of the parties. An award of permanent alimony~~
70 ~~terminates upon the death of either party or upon the remarriage~~
71 ~~of the party receiving alimony. An award may be modified or~~
72 ~~terminated based upon a substantial change in circumstances or~~
73 ~~upon the existence of a supportive relationship in accordance~~
74 ~~with s. 61.14.~~

75 ~~(9) The award of alimony may not leave the payor with~~
76 ~~significantly less net income than the net income of the~~
77 ~~recipient unless there are written findings of exceptional~~
78 ~~circumstances.~~

79 (10) (a) With respect to any order requiring the payment of
80 alimony entered on or after January 1, 1985, unless ~~the~~
81 ~~provisions of paragraph (c) or paragraph (d) applies~~ apply, the
82 court shall direct in the order that the payments of alimony be
83 made through the appropriate depository as provided in s.
84 61.181.

85 (b) With respect to any order requiring the payment of
86 alimony entered before January 1, 1985, upon the subsequent
87 appearance₇ on or after that date₇ of one or both parties before
88 the court having jurisdiction for the purpose of modifying or

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89 enforcing the order or in any other proceeding related to the
90 order, or upon the application of either party, unless ~~the~~
91 ~~provisions of~~ paragraph (c) or paragraph (d) applies ~~apply~~, the
92 court shall modify the terms of the order as necessary to direct
93 that payments of alimony be made through the appropriate
94 depository as provided in s. 61.181.

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

97 (d)1. If there is a minor child of the parties and both
98 parties so request, the court may order that alimony payments
99 need not be directed through the depository. In this case, the
100 order of support must ~~shall~~ provide, or be deemed to provide,
101 that either party may subsequently apply to the depository to
102 require that payments be made through the depository. The court
103 shall provide a copy of the order to the depository.

104 2. If ~~the provisions of~~ subparagraph 1. applies ~~apply~~,
105 either party may subsequently file with the depository an
106 affidavit alleging default or arrearages in payment and stating
107 that the party wishes to initiate participation in the
108 depository program. The party shall provide copies of the
109 affidavit to the court and the other party or parties. Fifteen
110 days after receipt of the affidavit, the depository shall notify
111 all parties that future payments shall be directed to the
112 depository.

113 3. In IV-D cases, the IV-D agency has ~~shall have~~ the same

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114 rights as the obligee in requesting that payments be made
115 through the depository.

116 (11) The court shall consider any alimony payments made to
117 the obligee after the date of filing of a petition for
118 dissolution of marriage, either voluntarily or pursuant to a
119 court order, in determining the amount and length of an award of
120 rehabilitative or durational alimony.

121 Section 3. Paragraph (c) of subsection (2) of section
122 61.13, Florida Statutes, is amended to read:

123 61.13 Support of children; parenting and time-sharing;
124 powers of court.-

125 (2)

126 (c) The court shall determine all matters relating to
127 parenting and time-sharing of each minor child of the parties in
128 accordance with the best interests of the child and in
129 accordance with the Uniform Child Custody Jurisdiction and
130 Enforcement Act, except that modification of a parenting plan
131 and time-sharing schedule requires a showing of a substantial,
132 material, and unanticipated change of circumstances.

133 1. It is the public policy of this state that each minor
134 child has frequent and continuing contact with both parents
135 after the parents separate or the marriage of the parties is
136 dissolved and to encourage parents to share the rights and
137 responsibilities, and joys, of childrearing. Unless otherwise
138 provided in this section or agreed to by the parties, there is a

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139 presumption that equal time-sharing of a minor child is in the
140 best interests of the minor child common to both parties. This
141 subparagraph applies to all actions filed on or after July 1,
142 2021 ~~There is no presumption for or against the father or mother~~
143 ~~of the child or for or against any specific time-sharing~~
144 ~~schedule when creating or modifying the parenting plan of the~~
145 ~~child.~~

146 2. The court shall order that the parental responsibility
147 for a minor child be shared by both parents unless the court
148 finds that shared parental responsibility would be detrimental
149 to the child. Evidence that a parent has been convicted of a
150 misdemeanor of the first degree or higher involving domestic
151 violence, as defined in s. 741.28 and chapter 775, or meets the
152 criteria of s. 39.806(1)(d), creates a rebuttable presumption of
153 detriment to the child. If the presumption is not rebutted after
154 the convicted parent is advised by the court that the
155 presumption exists, shared parental responsibility, including
156 time-sharing with the child, and decisions made regarding the
157 child, may not be granted to the convicted parent. However, the
158 convicted parent is not relieved of any obligation to provide
159 financial support. If the court determines that shared parental
160 responsibility would be detrimental to the child, it may order
161 sole parental responsibility and make such arrangements for
162 time-sharing as specified in the parenting plan as will best
163 protect the child or abused spouse from further harm. Regardless

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164 of whether ~~or not~~ there is a conviction of any offense of
165 domestic violence or child abuse or the existence of an
166 injunction for protection against domestic violence, the court
167 shall consider evidence of domestic violence or child abuse as
168 evidence of detriment to the child.

169 a. In ordering shared parental responsibility, the court
170 may consider the expressed desires of the parents and may grant
171 to one party the ultimate responsibility over specific aspects
172 of the child's welfare or may divide those responsibilities
173 between the parties based on the best interests of the child.
174 Areas of responsibility may include education, health care, and
175 any other responsibilities that the court finds unique to a
176 particular family.

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

181 3. Access to records and information pertaining to a minor
182 child, including, but not limited to, medical, dental, and
183 school records, may not be denied to either parent. Full rights
184 under this subparagraph apply to either parent unless a court
185 order specifically revokes these rights, including any
186 restrictions on these rights as provided in a domestic violence
187 injunction. A parent having rights under this subparagraph has
188 the same rights upon request as to form, substance, and manner

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189 of access as are available to the other parent of a child,
190 including, without limitation, the right to in-person
191 communication with medical, dental, and education providers.

192 Section 4. Paragraph (b) of subsection (1) of section
193 61.14, Florida Statutes, is amended, paragraph (c) is added to
194 subsection (11), and subsections (12), (13), and (14) are added
195 to that section, to read:

196 61.14 Enforcement and modification of support,
197 maintenance, or alimony agreements or orders.—

198 (1)

199 (b)1. The court may reduce or terminate an award of
200 alimony or order reimbursement to the obligor for any amount the
201 court determines is equitable upon specific written findings by
202 the court that since the granting of a divorce and the award of
203 alimony, a supportive relationship exists or has existed between
204 the obligee and another a person at any time during the 180 days
205 before the filing of a petition for modification of alimony with
206 ~~whom the obligee resides~~. On the issue of whether alimony should
207 be reduced or terminated under this paragraph, the burden is on
208 the obligor to prove by a preponderance of the evidence that a
209 supportive relationship exists or existed.

210 2. In determining whether an existing award of alimony
211 should be reduced or terminated because of an alleged supportive
212 relationship between an obligee and a person who is not related
213 by consanguinity or affinity and with whom the obligee resides,

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214 the court shall elicit the nature and extent of the relationship
215 in question. The court shall give consideration, without
216 limitation, to circumstances, including, but not limited to, the
217 following, in determining the relationship of an obligee to
218 another person:

219 a. The extent to which the obligee and the other person
220 have held themselves out as a married couple by engaging in
221 conduct such as using the same last name, using a common mailing
222 address, referring to each other in terms such as "my husband,"
223 ~~or~~ "my wife," "my partner," or "my fiancé," or otherwise
224 conducting themselves in a manner that evidences a permanent or
225 longstanding committed and supportive relationship.

226 b. The period of time that the obligee has resided with
227 the other person ~~in a permanent place of abode.~~

228 c. The extent to which the obligee and the other person
229 have pooled their assets or income or otherwise exhibited
230 financial interdependence.

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

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

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

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

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

241 i. Evidence in support of a claim that the obligee and the
242 other person have an express agreement regarding property
243 sharing or support.

244 j. Evidence in support of a claim that the obligee and the
245 other person have an implied agreement regarding property
246 sharing or support.

247 k. Whether the obligee and the other person have provided
248 support to the children of one another, regardless of any legal
249 duty to do so.

250 l. Whether the obligee and the other person are engaged to
251 be married.

252 3. This paragraph does not abrogate the requirement that
253 every marriage in this state be solemnized under a license, does
254 not recognize a common law marriage as valid, and does not
255 recognize a de facto marriage. This paragraph recognizes only
256 that relationships do exist that provide economic support
257 equivalent to a marriage and that alimony terminable on
258 remarriage may be reduced or terminated upon the establishment
259 of equivalent equitable circumstances as described in this
260 paragraph. The existence of a conjugal relationship, though it
261 may be relevant to the nature and extent of the relationship, is
262 not necessary for the application of ~~the provisions of~~ this
263 paragraph.

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264 (11)
265 (c) An obligor's subsequent remarriage or cohabitation
266 does not constitute a basis for either party to seek a
267 modification of an alimony award. An obligee may not seek
268 modification to increase an award of alimony based on the income
269 and assets of the obligor's subsequent spouse or person with
270 whom the obligor resides, and the obligor may not seek
271 modification to reduce an award of alimony based on the
272 obligor's reliance upon the income and assets of the obligor's
273 subsequent spouse or person with whom the obligor resides.

274 (12) (a) An alimony award terminates when the obligor
275 reaches full retirement age as determined by the United States
276 Social Security Administration. However, if an obligor reaches
277 full retirement age as determined by the United States Social
278 Security Administration but he or she has not paid durational
279 alimony for a period equal to 50 percent of the length of the
280 marriage, the court may require the obligor to continue to pay
281 durational alimony, not to exceed 50 percent of the length of
282 the marriage, only if the court determines that all of the
283 following apply:

284 1. The obligee has not reached the minimum age to qualify
285 for social security retirement benefits.

286 2. As a result of the dissolution of marriage or the
287 termination of alimony payments under this paragraph, the
288 obligee would, based on the income and assets available after

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289 the dissolution of marriage is final, meet the primary
290 qualifications for the Florida Medicaid medically needy program
291 under part III of chapter 409 and the related rules in effect on
292 March 1, 2020.

293 (b) If an obligor seeks to retire at an age that is
294 reasonable for his or her profession or line of work, but before
295 he or she reaches full retirement age as determined by the
296 United States Social Security Administration, the court may
297 terminate an alimony award if it determines that the obligor's
298 retirement is reasonable. In determining whether the obligor's
299 retirement is reasonable, the court shall consider all of the
300 following:

- 301 1. The obligor's age and health.
- 302 2. The obligor's motivation for retirement.
- 303 3. The obligor's profession or line of work and the
304 typical retirement age for that profession or line of work.
- 305 4. The obligee's needs and necessities of life and the
306 obligor's needs and necessities of life.
- 307 5. The impact that a termination or reduction of alimony
308 would have on the obligee. In determining such impact, the court
309 must consider any assets accumulated or received by the obligee,
310 including any income generated by such assets, since the final
311 judgment of dissolution of marriage.

312 (c) Up to 12 months before the obligor's anticipated
313 retirement under paragraph (a) or paragraph (b), the obligor may

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314 file a petition to modify or terminate the alimony award,
315 effective upon his or her actual retirement date. The court
316 shall modify or terminate the alimony award after the obligor's
317 retirement unless, after consideration of the factors under
318 paragraph (b), the court makes written findings of fact that the
319 obligor's retirement is unreasonable.

320 (13) Any amount of social security or disability benefits
321 or retirement payments received by an obligee subsequent to an
322 initial award of alimony constitutes a change in circumstances
323 for which an obligor may seek modification of an alimony award.

324 (14) Agreements on alimony payments, whether voluntary or
325 court ordered, which allow for modification or termination of
326 alimony by virtue of either party reaching a certain age,
327 income, or other threshold, or agreements that establish a
328 limited period of time after which alimony is modifiable, are
329 considered agreements that are expressly modifiable or eligible
330 for termination for purposes of this section once the specified
331 condition is met.

332 Section 5. Section 61.19, Florida Statutes, is amended to
333 read:

334 61.19 Entry of judgment of dissolution of marriage;~~7~~ delay
335 period; separate adjudication of issues.-

336 (1) A ~~No~~ final judgment of dissolution of marriage may not
337 be entered until at least 20 days have elapsed from the date of
338 filing the original petition for dissolution of marriage,~~7~~ but

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339 the court, on a showing that injustice would result from this
340 delay, may enter a final judgment of dissolution of marriage at
341 an earlier date.

342 (2) If more than 365 days have elapsed after the date of
343 service of the original petition for dissolution of marriage,
344 absent a showing by either party that irreparable harm will
345 result from granting a final judgment of dissolution of
346 marriage, the court shall, upon request of either party, grant a
347 final judgment of dissolution of marriage with a reservation of
348 jurisdiction to subsequently determine all other substantive
349 issues. Before granting the judgment, the court shall enter
350 temporary orders necessary to protect the parties and their
351 children, which orders remain effective until all other issues
352 can be adjudicated by the court. This subsection applies to all
353 petitions for dissolution of marriage filed on or after July 1,
354 2021.

355 Section 6. This act applies to all petitions for
356 dissolution of marriage which have not been adjudicated before
357 July 1, 2021, to cases pending on appeal, and to all petitions
358 for dissolution of marriage filed on or after July 1, 2021.

360 -----

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

362 Remove lines 36-69 and insert:

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363 amending s. 61.13, F.S.; creating a presumption that
364 equal time-sharing is in the best interests of a minor
365 child; providing an exception; providing
366 applicability; amending s. 61.14, F.S.; revising
367 provisions relating to reducing or terminating an
368 award of alimony or ordering reimbursement of certain
369 alimony payments based on the existence of a
370 supportive relationship; revising factors a court may
371 consider when determining whether a supportive
372 relationship exists or existed; providing that an
373 obligor's subsequent remarriage or cohabitation is not
374 a basis for modification of alimony; prohibiting
375 modification of an alimony award under certain
376 circumstances; requiring an alimony award to terminate
377 when the obligor reaches full retirement age;
378 providing an exception; providing factors to be
379 considered in determining whether an obligor's
380 retirement age is reasonable; authorizing an obligor
381 to prospectively file a petition for modification or
382 termination of an alimony award effective upon his or
383 her retirement; providing that certain benefits
384 received by an obligee constitute a change in
385 circumstances for which an obligor may seek
386 modification of an alimony award; providing that
387 certain agreements for alimony payments are considered

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388 | expressly modifiable or eligible for termination under
389 | certain circumstances; amending s. 61.19, F.S.;
390 | requiring the court to grant a final judgment of
391 | dissolution of marriage and reserve jurisdiction to
392 | subsequently determine all other substantive issues
393 | under certain circumstances; requiring the court to
394 | enter temporary orders to protect the parties and
395 | their children; providing applicability; providing an
396 | effective date.

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