

HB 1469

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1 A bill to be entitled

2 An act relating to dissolution of marriage; providing a
3 short title; amending s. 61.052, F.S.; providing that a
4 party in a proceeding to dissolve a marriage solemnized
5 under religious auspices may request a declaration from
6 the other party that the other party will cooperate in
7 removal of any barrier to the requesting party's
8 remarriage following the dissolution; defining specified
9 terms; providing for the effect of failure to comply with
10 a request or declaration; providing for a sworn statement
11 by an officiating member of the clergy concerning a
12 party's compliance with removal of impediments to
13 remarriage; providing for construction of provisions;
14 amending s. 61.075, F.S.; providing for consideration of a
15 party's compliance with a request for removal of barriers
16 to remarriage as an equitable factor in distribution of
17 assets and liabilities; amending s. 61.08, F.S.; providing
18 for consideration of a party's compliance with a request
19 for removal of barriers to remarriage as a factor in award
20 of alimony; amending s. 61.14, F.S.; providing that a
21 party's failure to comply with a declaration to cooperate
22 in the removal of barriers to remarriage may be considered
23 a changed circumstance for purposes of modification of
24 alimony; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:
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28 Section 1. This act may be cited as the "Freedom to
 29 Remarry Act."

30 Section 2. Subsection (9) is added to section 61.052,
 31 Florida Statutes, to read:

32 61.052 Dissolution of marriage.--

33 (9) This subsection applies only to a marriage solemnized
 34 by a regularly ordained minister of the gospel or elder in
 35 communion with some church or other ordained member of the
 36 clergy, or in accordance with s. 741.07(2) or a similar
 37 provision in another jurisdiction.

38 (a) As used in this subsection, the term:

39 1. "Barrier to remarriage" includes, without limitation,
 40 any religious or conscientious restraint or inhibition of which
 41 the party required to make the verified statement is aware that
 42 is imposed on a party to a marriage under the principles held by
 43 the person who has solemnized the marriage by reason of the
 44 other party's commission or withholding of any voluntary act.
 45 Nothing in this subsection shall be construed to require any
 46 party to consult with any member of the clergy or minister to
 47 determine whether there exists any such religious or
 48 conscientious restraint or inhibition. It shall not be deemed a
 49 "barrier to remarriage" within the meaning of this subsection if
 50 the restraint or inhibition cannot be removed by the party's
 51 voluntary act. Nor shall it be deemed a "barrier to remarriage"
 52 if the party must incur expenses in connection with removal of
 53 the restraint or inhibition and the other party refuses to
 54 provide reasonable reimbursement for such expenses.

55 2. "All steps solely within his or her power" does not
56 include application to a marriage tribunal or other similar
57 organization or agency of a religious denomination which has
58 authority to annul or dissolve a marriage under the rules of
59 such denomination.

60 (b)1. Any party to a marriage subject to this subsection
61 who commences a dissolution proceeding may allege in his or her
62 verified complaint that:

63 a. To the best of his or her knowledge, he or she has
64 taken or will take, prior to the entry of final judgment, all
65 steps solely within his or her power to remove any barrier to
66 the defendant's remarriage following the dissolution and, as
67 needed, following entry of final judgment will take any such
68 steps that could not be taken beforehand; or

69 b. The defendant has waived in writing the requirements of
70 this paragraph.

71 2. If the plaintiff complies with subparagraph 1., he or
72 she may request that the defendant execute a written declaration
73 that, to the best of his or her knowledge, he or she has taken
74 or will take, prior to the entry of final judgment, all steps
75 solely within his or her power to remove any barrier to the
76 plaintiff's remarriage following the dissolution and, as needed,
77 following entry of final judgment will take any such steps that
78 could not be taken beforehand.

79 (c)1. Any party to a marriage subject to this subsection
80 against whom a dissolution is commenced may allege that:

81 a. To the best of his or her knowledge, he or she has
82 taken or will take, prior to the entry of final judgment, all

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83 steps solely within his or her power to remove any barrier to
84 the plaintiff's remarriage following the dissolution and, as
85 needed, following entry of final judgment will take any such
86 steps that could not be taken beforehand; or

87 b. The plaintiff has waived in writing the requirements of
88 this paragraph.

89 2. If the defendant complies with subparagraph 1., he or
90 she may request that the plaintiff execute a written declaration
91 that, to the best of his or her knowledge, he or she has taken
92 or will take, prior to the entry of final judgment, all steps
93 solely within his or her power to remove any barrier to the
94 defendant's remarriage following the dissolution and, as needed,
95 following entry of final judgment will take any such steps that
96 could not be taken beforehand.

97 (d) A writing attesting to any waiver of the requirements
98 of paragraph (b) or paragraph (c) shall be filed with the court
99 prior to the entry of a final judgment of dissolution.

100 (e) Failure of a party to a dissolution subject to this
101 subsection to comply with a request under subparagraph (b)2. or
102 subparagraph (c)2. in the absence of a waiver by the opposing
103 party or failure to honor the terms of a declaration made under
104 paragraph (b) or paragraph (c) may be considered a factor in the
105 distribution of assets and liabilities as provided in s. 61.075,
106 an award of alimony as provided in s. 61.08, or modification of
107 an award of alimony under s. 61.14.

108 (f) Notwithstanding the filing of a party's sworn
109 statement prescribed by subparagraph (b)1. or subparagraph
110 (c)1., such subparagraph shall not be considered to have been

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111 complied with by that party if the member of the clergy who has
 112 solemnized the marriage certifies, in a sworn statement, that he
 113 or she has solemnized the marriage and that to his or her
 114 knowledge the party has failed to take all steps solely within
 115 his or her power to remove all barriers to the opposing party's
 116 remarriage following the dissolution, provided that the member
 117 of the clergy or minister is alive, available, and competent to
 118 testify at the time a court finds a failure to comply based on
 119 such statement.

120 (g) Nothing in this subsection authorizes a court to
 121 inquire into or determine any ecclesiastical or religious issue.
 122 The truth of any statement submitted pursuant to this subsection
 123 shall not be the subject of any judicial inquiry, except as
 124 provided in paragraph (f).

125 Section 3. Subsection (10) is added to section 61.075,
 126 Florida Statutes, to read:

127 61.075 Equitable distribution of marital assets and
 128 liabilities.--

129 (10) A court may consider as an equitable factor in
 130 determining the distribution of assets and liabilities whether a
 131 party has complied with a request to make a declaration under s.
 132 61.052(9) to cooperate in removing any barrier to the other
 133 party's remarriage and, if such a declaration has been made,
 134 whether the party has complied with that declaration.

135 Section 4. Paragraph (h) is added to subsection (2) of
 136 section 61.08, Florida Statutes, to read:

137 61.08 Alimony.--

138 (2) In determining a proper award of alimony or
 139 maintenance, the court shall consider all relevant economic
 140 factors, including but not limited to:

141 (h) A party's compliance with a request to make a
 142 declaration under s. 61.052(9) to cooperate in removing any
 143 barrier to the other party's remarriage and, if such a
 144 declaration has been made, the party's compliance with that
 145 declaration.

146
 147 The court may consider any other factor necessary to do equity
 148 and justice between the parties.

149 Section 5. Paragraph (a) of subsection (1) of section
 150 61.14, Florida Statutes, is amended to read:

151 61.14 Enforcement and modification of support,
 152 maintenance, or alimony agreements or orders.--

153 (1) (a) When the parties enter into an agreement for
 154 payments for, or instead of, support, maintenance, or alimony,
 155 whether in connection with a proceeding for dissolution or
 156 separate maintenance or with any voluntary property settlement,
 157 or when a party is required by court order to make any payments,
 158 and the circumstances or the financial ability of either party
 159 changes or the child who is a beneficiary of an agreement or
 160 court order as described herein reaches majority after the
 161 execution of the agreement or the rendition of the order, either
 162 party may apply to the circuit court of the circuit in which the
 163 parties, or either of them, resided at the date of the execution
 164 of the agreement or reside at the date of the application, or in
 165 which the agreement was executed or in which the order was

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166 rendered, for an order decreasing or increasing the amount of
167 support, maintenance, or alimony, and the court has jurisdiction
168 to make orders as equity requires, with due regard to the
169 changed circumstances or the financial ability of the parties or
170 the child, decreasing, increasing, or confirming the amount of
171 separate support, maintenance, or alimony provided for in the
172 agreement or order. A finding that medical insurance is
173 reasonably available or the child support guidelines in s. 61.30
174 may constitute changed circumstances. Except as otherwise
175 provided in s. 61.30(11)(c), the court may modify an order of
176 support, maintenance, or alimony by increasing or decreasing the
177 support, maintenance, or alimony retroactively to the date of
178 the filing of the action or supplemental action for modification
179 as equity requires, giving due regard to the changed
180 circumstances or the financial ability of the parties or the
181 child. A finding that a party has failed to comply with a
182 declaration made by that party under s. 61.052(9) to cooperate
183 in removing any barrier to the other party's remarriage may
184 constitute a changed circumstance regarding an award of alimony.

185 Section 6. This act shall take effect July 1, 2007.