

By the Committee on Children, Families, and Elder Affairs; and
Senator Altman

586-03768-10

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1 A bill to be entitled
2 An act relating to alimony; amending s. 61.08, F.S.;
3 allowing for award of more than one type of alimony;
4 revising factors to be considered in whether to award
5 alimony or maintenance; providing for award of bridge-
6 the-gap alimony; providing that such an award is not
7 modifiable; providing for award of rehabilitative
8 alimony in certain circumstances; providing for
9 modification or termination of such an award;
10 providing for award of durational alimony in certain
11 circumstances; providing for modification or
12 termination of such an award; providing for award of
13 permanent alimony in certain circumstances; providing
14 for modification or termination of such an award;
15 providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 61.08, Florida Statutes, is amended to
20 read:

21 61.08 Alimony.—

22 (1) In a proceeding for dissolution of marriage, the court
23 may grant alimony to either party, which alimony may be bridge-
24 the-gap, rehabilitative, durational, or permanent in nature or
25 any combination of these forms of alimony. In any award of
26 alimony, the court may order periodic payments or payments in
27 lump sum or both. The court may consider the adultery of either
28 spouse and the circumstances thereof in determining the amount
29 of alimony, if any, to be awarded. In all dissolution actions,

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30 the court shall include findings of fact relative to the factors
31 enumerated in subsection (2) supporting an award or denial of
32 alimony.

33 (2) In determining whether to ~~a proper~~ award ~~of~~ alimony or
34 maintenance, the court shall first make a specific factual
35 determination as to whether either party has an actual need for
36 alimony or maintenance and whether either party has the ability
37 to pay alimony or maintenance. If the court finds that a party
38 has a need for alimony or maintenance and that the other party
39 has the ability to pay alimony or maintenance, in determining
40 the proper type and amount of alimony or maintenance, the court
41 shall consider all relevant ~~economic~~ factors, including, but not
42 limited to:

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

44 (b) The duration of the marriage.

45 (c) The age and the physical and emotional condition of
46 each party.

47 (d) The financial resources of each party, including the
48 nonmarital and the marital assets and liabilities distributed to
49 each.

50 (e) The earning capacities, educational levels, vocational
51 skills, and employability of the parties and, when applicable,
52 the time necessary for either party to acquire sufficient
53 education or training to enable such party to find appropriate
54 employment.

55 (f) The contribution of each party to the marriage,
56 including, but not limited to, services rendered in homemaking,
57 child care, education, and career building of the other party.

58 (g) The responsibilities each party will have with regard

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59 to any minor children they have in common.

60 (h) The tax treatment and consequences to both parties of
61 any alimony award, including the designation of all or a portion
62 of the payment as a nontaxable, nondeductible payment.

63 (i) ~~(g)~~ All sources of income available to either party,
64 including income available to either party through investments
65 of any asset held by that party.

66
67 (j) ~~The court may consider~~ Any other factor necessary to do
68 equity and justice between the parties.

69 (3) To the extent necessary to protect an award of alimony,
70 the court may order any party who is ordered to pay alimony to
71 purchase or maintain a life insurance policy or a bond, or to
72 otherwise secure such alimony award with any other assets which
73 may be suitable for that purpose.

74 (4) Bridge-the-gap alimony may be awarded to assist a party
75 by providing support to allow the party to make a transition
76 from being married to being single. Bridge-the-gap alimony is
77 designed to assist a party with legitimate identifiable short-
78 term needs and the length of such award may not exceed 2 years.
79 An award of bridge-the-gap alimony terminates upon the death of
80 either party or upon the remarriage of the party receiving
81 alimony. An award of bridge-the-gap alimony shall not be
82 modifiable in amount or duration.

83 (5) (a) Rehabilitative alimony may be awarded to assist a
84 party in establishing the capacity for self-support through
85 either:

- 86 1. The redevelopment of previous skills or credentials; or
87 2. The acquisition of education, training, or work

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88 experience necessary to develop appropriate employment skills or
89 credentials.

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

93 (c) An award of rehabilitative alimony may be modified or
94 terminated in accordance with s. 61.14 based upon a substantial
95 change in circumstances, upon noncompliance with the
96 rehabilitative plan, or upon completion of the rehabilitative
97 plan.

98 (6) Durational alimony may be awarded when permanent
99 periodic alimony is inappropriate. The purpose of durational
100 alimony is to provide a party with economic assistance for a set
101 period of time following a marriage of short or moderate
102 duration. An award of durational alimony terminates upon the
103 death of either party or upon the remarriage of the party
104 receiving alimony. The amount of an award of durational alimony
105 may be modified or terminated based upon a substantial change in
106 circumstances in accordance with s. 61.14. However, the length
107 of an award of durational alimony may not be modified except
108 under exceptional circumstances.

109 (7) Permanent alimony may be awarded to provide for the
110 needs and necessities of life as they were established during
111 the marriage of the parties for a party who lacks the financial
112 ability to meet his or her needs and necessities of life
113 following a dissolution of marriage. Permanent alimony may be
114 awarded following a marriage of long duration, following a
115 marriage of moderate duration if such an award is appropriate
116 upon consideration of the factors set forth in subsection (2),

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117 or following a marriage of short duration if there are
118 exceptional circumstances. An award of permanent alimony
119 terminates upon the death of either party or upon the remarriage
120 of the party receiving alimony. An award may be modified or
121 terminated based upon a substantial change in circumstances or
122 upon the existence of a supportive relationship in accordance
123 with s. 61.14.

124 (8)-(4)(a) With respect to any order requiring the payment
125 of alimony entered on or after January 1, 1985, unless the
126 provisions of paragraph (c) or paragraph (d) apply, the court
127 shall direct in the order that the payments of alimony be made
128 through the appropriate depository as provided in s. 61.181.

129 (b) With respect to any order requiring the payment of
130 alimony entered before January 1, 1985, upon the subsequent
131 appearance, on or after that date, of one or both parties before
132 the court having jurisdiction for the purpose of modifying or
133 enforcing the order or in any other proceeding related to the
134 order, or upon the application of either party, unless the
135 provisions of paragraph (c) or paragraph (d) apply, the court
136 shall modify the terms of the order as necessary to direct that
137 payments of alimony be made through the appropriate depository
138 as provided in s. 61.181.

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

141 (d)1. If there is a minor child of the parties and both
142 parties so request, the court may order that alimony payments
143 need not be directed through the depository. In this case, the
144 order of support shall provide, or be deemed to provide, that
145 either party may subsequently apply to the depository to require

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146 that payments be made through the depository. The court shall
147 provide a copy of the order to the depository.

148 2. If the provisions of subparagraph 1. apply, either party
149 may subsequently file with the depository an affidavit alleging
150 default or arrearages in payment and stating that the party
151 wishes to initiate participation in the depository program. The
152 party shall provide copies of the affidavit to the court and the
153 other party or parties. Fifteen days after receipt of the
154 affidavit, the depository shall notify all parties that future
155 payments shall be directed to the depository.

156 3. In IV-D cases, the IV-D agency shall have the same
157 rights as the obligee in requesting that payments be made
158 through the depository.

159 Section 2. This act shall take effect July 1, 2010.