

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Workman offered the following:

**Amendment (with title amendment)**

Remove lines 167-392 and insert:

period of time following a marriage of short or moderate duration or following a marriage of long duration if there is no ongoing need for support on a long-term ~~permanent~~ basis. When awarding durational alimony, the court must make written findings that an award of any other form of alimony or a combination thereof is not appropriate. An award of durational alimony terminates upon the death of either party or upon the remarriage of the party receiving alimony. The amount of an award of durational alimony shall ~~may~~ be modified or terminated based upon a substantial change in circumstances or upon the existence of a supportive relationship in accordance with s. 61.14 unless the court makes written findings stating the

638611

Approved For Filing: 2/21/2012 1:54:42 PM

Amendment No.

17 exceptional circumstances as to why it should not be modified or  
18 terminated. ~~However,~~ The length of an award of durational  
19 alimony may not ~~be modified except under exceptional~~  
20 ~~circumstances and may not~~ exceed the length of the marriage. If  
21 the court awards durational alimony for a length of time greater  
22 than 50 percent of the length of the marriage, the court must  
23 make written findings stating the circumstances warranting the  
24 length of the award.

25 (8) Long-term ~~Permanent~~ alimony may be awarded to provide  
26 for the needs and necessities of life as they were established  
27 during the marriage of the parties for a party who lacks the  
28 financial ability to meet his or her needs and necessities of  
29 life following a dissolution of marriage. Long-term ~~Permanent~~  
30 alimony may be awarded following a long-term marriage ~~of long~~  
31 ~~duration~~ if such an award is appropriate upon consideration of  
32 the factors set forth in subsection (2), following a moderate-  
33 term marriage ~~of moderate duration~~ if such an award is  
34 appropriate based upon clear and convincing evidence after  
35 consideration of the factors set forth in subsection (2), or  
36 following a short-term marriage ~~of short duration~~ if there are  
37 written findings of exceptional circumstances. In awarding long-  
38 term ~~permanent~~ alimony, the court shall include findings a  
39 finding that no other form of alimony will provide for the needs  
40 and necessities of life of the recipient and that no other form  
41 is fair and reasonable under the circumstances of the parties.  
42 An award of long-term ~~permanent~~ alimony terminates upon the  
43 death of either party, ~~or~~ upon the remarriage of the party  
44 receiving alimony, or as provided in s. 61.14(12). An award

638611

Approved For Filing: 2/21/2012 1:54:42 PM

Amendment No.

45 shall ~~may~~ be modified or terminated based upon a substantial  
46 change in circumstances or upon the existence of a supportive  
47 relationship in accordance with s. 61.14.

48 (9) Notwithstanding any other law to the contrary, an ~~The~~  
49 award of alimony may not leave the payor with ~~significantly~~ less  
50 net income or with a lower standard of living than the ~~net~~  
51 ~~income of the~~ recipient unless there are written findings of  
52 exceptional circumstances. The court shall make written findings  
53 regarding the relative incomes and standards of living citing to  
54 evidence in the record and to this subsection.

55 (10) (a) With respect to any order requiring the payment of  
56 alimony entered on or after January 1, 1985, unless ~~the~~  
57 ~~provisions of~~ paragraph (c) or paragraph (d) applies ~~apply~~, the  
58 court shall direct in the order that the payments of alimony be  
59 made through the appropriate depository as provided in s.  
60 61.181.

61 (b) With respect to any order requiring the payment of  
62 alimony entered before January 1, 1985, upon the subsequent  
63 appearance, on or after that date, of one or both parties before  
64 the court having jurisdiction for the purpose of modifying or  
65 enforcing the order or in any other proceeding related to the  
66 order, or upon the application of either party, unless ~~the~~  
67 ~~provisions of~~ paragraph (c) or paragraph (d) applies ~~apply~~, the  
68 court shall modify the terms of the order as necessary to direct  
69 that payments of alimony be made through the appropriate  
70 depository as provided in s. 61.181.

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

638611

Approved For Filing: 2/21/2012 1:54:42 PM

Amendment No.

73 (d)1. If there is a minor child of the parties and both  
74 parties so request, the court may order that alimony payments  
75 need not be directed through the depository. In this case, the  
76 order of support shall provide, or be deemed to provide, that  
77 either party may subsequently apply to the depository to require  
78 that payments be made through the depository. The court shall  
79 provide a copy of the order to the depository.

80 2. If ~~the provisions of~~ subparagraph 1. applies ~~apply~~,  
81 either party may subsequently file with the depository an  
82 affidavit alleging default or arrearages in payment and stating  
83 that the party wishes to initiate participation in the  
84 depository program. The party shall provide copies of the  
85 affidavit to the court and the other party or parties. Fifteen  
86 days after receipt of the affidavit, the depository shall notify  
87 all parties that future payments shall be directed to the  
88 depository.

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

92 Section 2. Paragraphs (a) and (b) of subsection (1) of  
93 section 61.14, Florida Statutes, are amended, paragraphs (c) and  
94 (d) are added to subsection (11) of that section, and  
95 subsections (12) and (13) are added to that section, to read:

96 61.14 Enforcement and modification of support,  
97 maintenance, or alimony agreements or orders.—

98 (1) (a) When the parties enter into an agreement for  
99 payments for, or instead of, support, maintenance, or alimony,  
100 whether in connection with a proceeding for dissolution or

638611

Approved For Filing: 2/21/2012 1:54:42 PM

Amendment No.

101 separate maintenance or with any voluntary property settlement,  
102 or when a party is required by court order to make any payments,  
103 and the circumstances or the financial ability of either party  
104 changes or the child who is a beneficiary of an agreement or  
105 court order as described herein reaches majority after the  
106 execution of the agreement or the rendition of the order, either  
107 party may apply to the circuit court of the circuit in which the  
108 parties, or either of them, resided at the date of the execution  
109 of the agreement or reside at the date of the application, or in  
110 which the agreement was executed or in which the order was  
111 rendered, for an order decreasing or increasing the amount of  
112 support, maintenance, or alimony, and the court has jurisdiction  
113 to make orders as equity requires, with due regard to the  
114 changed circumstances or the financial ability of the parties or  
115 the child, decreasing, increasing, or confirming the amount of  
116 separate support, maintenance, or alimony provided for in the  
117 agreement or order. For purposes of considering a petition for  
118 modification of an alimony award, an increase in an obligor's  
119 income may not be considered permanent in nature unless the  
120 increase has been maintained without interruption for at least 1  
121 year. A finding that medical insurance is reasonably available  
122 or the child support guidelines schedule in s. 61.30 may  
123 constitute changed circumstances. Except as otherwise provided  
124 in s. 61.30(11)(c), the court may modify an order of support,  
125 maintenance, or alimony by increasing or decreasing the support,  
126 maintenance, or alimony retroactively to the date of the filing  
127 of the action or supplemental action for modification as equity

638611

Approved For Filing: 2/21/2012 1:54:42 PM

Amendment No.

128 requires, giving due regard to the changed circumstances or the  
129 financial ability of the parties or the child.

130 (b)1. The court must, except upon a written finding of  
131 exceptional circumstances, ~~may~~ reduce or terminate an award of  
132 alimony upon specific written findings by the court that since  
133 the granting of a divorce and the award of alimony a supportive  
134 relationship has existed between the obligee and a person with  
135 whom the obligee resides. On the issue of whether alimony should  
136 be reduced or terminated under this paragraph, the burden is on  
137 the obligor to prove by a preponderance of the evidence that a  
138 supportive relationship exists.

139 2. In determining whether an existing award of alimony  
140 should be reduced or terminated because of an alleged supportive  
141 relationship between an obligee and a person who is not related  
142 by consanguinity or affinity and with whom the obligee resides,  
143 the court shall elicit the nature and extent of the relationship  
144 in question. The court shall give consideration, without  
145 limitation, to circumstances~~7~~ including, but not limited to, the  
146 following~~7~~ in determining the relationship of an obligee to  
147 another person:

148 a. The extent to which the obligee and the other person  
149 have held themselves out as a married couple by engaging in  
150 conduct such as using the same last name, using a common mailing  
151 address, referring to each other in terms such as "my husband"  
152 or "my wife," or otherwise conducting themselves in a manner  
153 that evidences a permanent supportive relationship.

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

638611

Approved For Filing: 2/21/2012 1:54:42 PM

Amendment No.

156 c. The extent to which the obligee and the other person  
157 have pooled their assets or income or otherwise exhibited  
158 financial interdependence.

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

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

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

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

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

169 i. Evidence in support of a claim that the obligee and the  
170 other person have an express agreement regarding property  
171 sharing or support.

172 j. Evidence in support of a claim that the obligee and the  
173 other person have an implied agreement regarding property  
174 sharing or support.

175 k. Whether the obligee and the other person have provided  
176 support to the children of one another, regardless of any legal  
177 duty to do so.

178 3. This paragraph does not abrogate the requirement that  
179 every marriage in this state be solemnized under a license, does  
180 not recognize a common law marriage as valid, and does not  
181 recognize a de facto marriage. This paragraph recognizes only  
182 that relationships do exist that provide economic support  
183 equivalent to a marriage and that alimony terminable on

638611

Approved For Filing: 2/21/2012 1:54:42 PM

Amendment No.

184 remarriage may be reduced or terminated upon the establishment  
185 of equivalent equitable circumstances as described in this  
186 paragraph. The existence of a conjugal relationship, though it  
187 may be relevant to the nature and extent of the relationship, is  
188 not necessary for the application of ~~the provisions of~~ this  
189 paragraph.

190 4. There shall be a rebuttable presumption that any  
191 modification or termination of an alimony award is retroactive  
192 to the date of the filing of the petition. In an action under  
193 this section, if it is determined that the obligee unnecessarily  
194 or unreasonably litigated the underlying petition for  
195 modification or termination, the court may award the obligor his  
196 or her reasonable attorney fees and costs pursuant to s. 61.16  
197 and applicable case law.

198 5. A court terminating an alimony award based on the  
199 existence of a supportive relationship may not reserve  
200 jurisdiction to later reinstate alimony.

201 (11)

202 (c) If the obligor remarries or resides with another  
203 person, the income and assets of the obligor's spouse or the  
204 person with whom the obligor resides may not be considered in a  
205 modification action regarding such obligor, except for purposes  
206 of discovery to determine the obligor's income or assets within  
207 the pooled income and assets.

208 (d) If the court orders alimony payable concurrent with a  
209 child support order, the alimony award may not be modified  
210 solely because of a later modification or termination of child  
211 support payments.

638611

Approved For Filing: 2/21/2012 1:54:42 PM

Amendment No.

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

- 218 (a) Age.
- 219 (b) Health.
- 220 (c) Motivation for retirement.
- 221 (d) Type of work.
- 222 (e) Normal retirement age for that type of work.

223  
224 In anticipation of retirement, the obligor may file a petition  
225 for termination or modification of the alimony award effective  
226 upon the retirement date. The court shall terminate or modify  
227 the alimony award based on the circumstances of the parties  
228 after retirement of the obligor and based on the factors in s.  
229 61.08(2), unless the court makes findings of fact that a  
230 termination or modification of an alimony award is not  
231 warranted.

232  
233 -----  
234 **T I T L E A M E N D M E N T**

235 Remove lines 33-34 and insert:  
236 circumstances; providing factors the court  
237