

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Workman offered the following:

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:
 6 Section 1. Section 61.08, Florida Statutes, is amended to
 7 read:

8 61.08 Alimony.—

9 (1) In a proceeding for dissolution of marriage, the court
 10 may grant alimony to either party, which alimony may be bridge-
 11 the-gap, rehabilitative, durational, or long-term ~~permanent~~ in
 12 nature or a any combination of these forms of alimony where
 13 appropriate. The court shall make written findings regarding the
 14 basis for awarding combinations of alimony, including the type
 15 of alimony and length of time during which it is awarded. The
 16 purpose of combining forms of alimony is to provide greater
 17 economic assistance to allow the recipient spouse to achieve
 18 rehabilitation or an ability to contribute to the needs and
 19 necessities of life, taking into account such needs and

Amendment No. 1

20 necessities of life as they were established during the
21 marriage. In any award of alimony, the court may order periodic
22 payments, ~~or~~ payments in lump sum, or both. The court may
23 consider the adultery of either spouse and the circumstances
24 thereof in determining the amount of alimony, if any, to be
25 awarded, only to the extent that the adultery caused a
26 significant depletion in the material assets or caused a
27 significant reduction in the income of a party. In all
28 dissolution actions, the court shall include findings of fact
29 relative to the factors enumerated in subsection (2) supporting
30 an award or denial of alimony.

31 (2) In determining whether to award alimony or
32 maintenance, the court shall first make, in writing, a specific
33 factual determination as to whether either party has an actual
34 need for alimony or maintenance and whether either party has the
35 ability to pay alimony or maintenance. If the court finds that a
36 party has a need for alimony or maintenance and that the other
37 party has the ability to pay alimony or maintenance, then in
38 determining the proper type and amount of alimony or maintenance
39 under subsections (5)-(8), the court shall consider and make
40 written findings regarding all relevant factors, including, ~~but~~
41 ~~not limited to:~~

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

44 (b) The duration of the marriage.

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

Amendment No. 1

47 (d) The financial resources of each party, including the
48 nonmarital assets that were relied upon and utilized by the
49 parties during the marriage and ~~and~~ the marital assets and
50 liabilities distributed to each.

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

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

59 (g) The responsibilities each party will have with regard
60 to any minor children the parties ~~they~~ have in common.

61 (h) The tax treatment and consequences to both parties of
62 an ~~any~~ alimony award, which must be consistent with applicable
63 state and federal tax laws ~~including the designation of all or a~~
64 ~~portion of the payment as a nontaxable, nondeductible payment.~~

65 (i) All sources of income available to either party,
66 including income available to either party through investments
67 of any asset held by that party that were acquired during the
68 marriage.

69 (j) The net income and standard of living available to
70 each party after the application of the alimony award. There
71 shall be a rebuttable presumption that both parties will
72 necessarily have a lower standard of living after the
73 dissolution of marriage than the standard of living they enjoyed
74 during the marriage.

Amendment No. 1

75 ~~(k)(j)~~ Any other factor necessary to do equity and justice
76 between the parties, if that factor is specifically identified
77 in the award with findings of fact justifying the application of
78 the factor.

79 (3) To the extent necessary to protect an award of
80 alimony, the court may order any party who is ordered to pay
81 alimony to purchase or maintain a life insurance policy or a
82 bond, or to otherwise secure such alimony award with any other
83 assets which may be suitable for that purpose in an amount
84 adequate to secure the alimony award. Any such security may only
85 be awarded upon a showing of special circumstances. If the court
86 finds special circumstances and awards such security, the court
87 must make specific evidentiary findings regarding the
88 availability, cost, and financial impact on the obligated party,
89 Any security may be modifiable in the event the underlying
90 alimony award is modified, and shall be reduced in an amount
91 commensurate with any reduction in the alimony award.

92 (4) For purposes of determining alimony, ~~there is a~~
93 ~~rebuttable presumption that~~ a short-term marriage is a marriage
94 having a duration equal to or of less than 7 years, a moderate-
95 term marriage is a marriage having a duration of greater than 7
96 years but less than 20 ~~17~~ years, and long-term marriage is a
97 marriage having a duration of 20 ~~17~~ years or greater. The length
98 of a marriage is the period of time from the date of marriage
99 until the date of filing of an action for dissolution of
100 marriage.

101 (5) Bridge-the-gap alimony may be awarded to assist a
102 party by providing support to allow the party to make a

Amendment No. 1

103 transition from being married to being single. Bridge-the-gap
104 alimony is designed to assist a party with legitimate
105 identifiable short-term needs, and the length of an award may
106 not exceed 2 years. An award of bridge-the-gap alimony
107 terminates upon the death of either party or upon the remarriage
108 of the party receiving alimony. An award of bridge-the-gap
109 alimony shall not be modifiable in amount or duration.

110 (6) (a) Rehabilitative alimony may be awarded to assist a
111 party in establishing the capacity for self-support through
112 either:

- 113 1. The redevelopment of previous skills or credentials; or
- 114 2. The acquisition of education, training, or work
115 experience necessary to develop appropriate employment skills or
116 credentials.

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

120 (c) An award of rehabilitative alimony may be modified or
121 terminated in accordance with s. 61.14 based upon a substantial
122 change in circumstances, upon noncompliance with the
123 rehabilitative plan, or upon completion of the rehabilitative
124 plan.

125 ~~(7) Durational alimony may be awarded when permanent~~
126 ~~periodic alimony is inappropriate. The purpose of Durational~~
127 ~~alimony may be awarded ~~is~~ to provide a party with economic~~
128 ~~assistance for a set period of time following a marriage of~~
129 ~~short or moderate duration or following a marriage of long~~
130 ~~duration if there is no ongoing need for support on a long-term~~

941873 - h0549-strike.docx

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Amendment No. 1

131 ~~permanent~~ basis. When awarding durational alimony, the court
132 must provide written findings that an award of rehabilitative or
133 bridge-the-gap alimony or a combination thereof is not
134 appropriate. An award of durational alimony terminates upon the
135 death of either party or upon the remarriage of the party
136 receiving alimony. The amount of an award of durational alimony
137 shall, except upon a written finding of exceptional
138 circumstances, ~~may~~ be modified or terminated based upon a
139 substantial change in circumstances or upon the existence of a
140 supportive relationship in accordance with s. 61.14. ~~However,~~
141 The length of an award of durational alimony may not ~~be modified~~
142 ~~except under exceptional circumstances and may not~~ exceed the
143 length of the marriage. In the event that the court awards
144 durational alimony for a length of time greater than 50 percent
145 of the length of the marriage, the court must make written
146 findings of fact stating the circumstances warranting the length
147 of the award.

148 (8) Long-term ~~Permanent~~ alimony may be awarded to provide
149 for the needs and necessities of life ~~as they were established~~
150 ~~during the marriage of the parties~~ for a party who lacks the
151 financial ability to meet his or her needs and necessities of
152 life following a dissolution of marriage. Long-term ~~Permanent~~
153 alimony may be awarded following a long-term marriage ~~of long~~
154 ~~duration~~ if such an award is appropriate upon consideration of
155 the factors set forth in subsection (2), following a moderate-
156 term marriage ~~of moderate duration~~ if such an award is
157 appropriate based upon clear and convincing evidence after
158 consideration of the factors set forth in subsection (2), or

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Published On: 2/15/2012 7:02:13 PM

Amendment No. 1

159 following a short-term marriage ~~of short duration~~ if there are
160 written findings of exceptional circumstances. In awarding long-
161 term permanent alimony, the court shall include findings a
162 finding that no other form of alimony will provide for the needs
163 and necessities of life of the recipient and that no other form
164 is fair and reasonable under the circumstances of the parties.
165 An award of long-term permanent alimony terminates upon the
166 death of either party, ~~or~~ upon the remarriage of the party
167 receiving alimony, or as provided in s. 61.14(12). An award
168 shall ~~may~~ be modified or terminated based upon a substantial
169 change in circumstances or upon the existence of a supportive
170 relationship in accordance with s. 61.14.

171 (9) Notwithstanding any other law to the contrary, an ~~The~~
172 award of alimony may not leave the payor with ~~significantly~~ less
173 net income or with a lower standard of living than the ~~net~~
174 ~~income of the~~ recipient unless there are written findings of
175 exceptional circumstances. The court shall make written findings
176 regarding the relative incomes and standards of living citing to
177 evidence in the record and to this subsection.

178 (10) (a) With respect to any order requiring the payment of
179 alimony entered on or after January 1, 1985, unless ~~the~~
180 ~~provisions of~~ paragraph (c) or paragraph (d) applies ~~apply~~, the
181 court shall direct in the order that the payments of alimony be
182 made through the appropriate depository as provided in s.
183 61.181.

184 (b) With respect to any order requiring the payment of
185 alimony entered before January 1, 1985, upon the subsequent
186 appearance, on or after that date, of one or both parties before

Amendment No. 1

187 the court having jurisdiction for the purpose of modifying or
188 enforcing the order or in any other proceeding related to the
189 order, or upon the application of either party, unless ~~the~~
190 ~~provisions of~~ paragraph (c) or paragraph (d) applies ~~apply~~, the
191 court shall modify the terms of the order as necessary to direct
192 that payments of alimony be made through the appropriate
193 depository as provided in s. 61.181.

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

196 (d)1. If there is a minor child of the parties and both
197 parties so request, the court may order that alimony payments
198 need not be directed through the depository. In this case, the
199 order of support shall provide, or be deemed to provide, that
200 either party may subsequently apply to the depository to require
201 that payments be made through the depository. The court shall
202 provide a copy of the order to the depository.

203 2. If ~~the provisions of~~ subparagraph 1. applies ~~apply~~,
204 either party may subsequently file with the depository an
205 affidavit alleging default or arrearages in payment and stating
206 that the party wishes to initiate participation in the
207 depository program. The party shall provide copies of the
208 affidavit to the court and the other party or parties. Fifteen
209 days after receipt of the affidavit, the depository shall notify
210 all parties that future payments shall be directed to the
211 depository.

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

941873 - h0549-strike.docx

Published On: 2/15/2012 7:02:13 PM

Amendment No. 1

215 Section 2. Paragraphs (a) and (b) of subsection (1) of
216 section 61.14, Florida Statutes, are ~~is~~ amended, paragraphs (c)
217 and (d) are added to subsection (11) of that section, and
218 subsections (12) and (13) are added to that section, to read:

219 61.14 Enforcement and modification of support,
220 maintenance, or alimony agreements or orders.—

221 (1) (a) When the parties enter into an agreement for
222 payments for, or instead of, support, maintenance, or alimony,
223 whether in connection with a proceeding for dissolution or
224 separate maintenance or with any voluntary property settlement,
225 or when a party is required by court order to make any payments,
226 and the circumstances or the financial ability of either party
227 changes or the child who is a beneficiary of an agreement or
228 court order as described herein reaches majority after the
229 execution of the agreement or the rendition of the order, either
230 party may apply to the circuit court of the circuit in which the
231 parties, or either of them, resided at the date of the execution
232 of the agreement or reside at the date of the application, or in
233 which the agreement was executed or in which the order was
234 rendered, for an order decreasing or increasing the amount of
235 support, maintenance, or alimony, and the court has jurisdiction
236 to make orders as equity requires, with due regard to the
237 changed circumstances or the financial ability of the parties or
238 the child, decreasing, increasing, or confirming the amount of
239 separate support, maintenance, or alimony provided for in the
240 agreement or order. For purposes of considering a petition for
241 modification of an alimony award, an increase in an obligor's
242 income shall not be considered permanent in nature unless the

Amendment No. 1

243 increase has been maintained without interruption for at least
244 one year. A finding that medical insurance is reasonably
245 available or the child support guidelines schedule in s. 61.30
246 may constitute changed circumstances. Except as otherwise
247 provided in s. 61.30(11)(c), the court may modify an order of
248 support, maintenance, or alimony by increasing or decreasing the
249 support, maintenance, or alimony retroactively to the date of
250 the filing of the action or supplemental action for modification
251 as equity requires, giving due regard to the changed
252 circumstances or the financial ability of the parties or the
253 child.

254 (b)1. The court must, except upon a written finding of
255 exceptional circumstances, ~~may~~ reduce or terminate an award of
256 alimony upon specific written findings by the court that since
257 the granting of a divorce and the award of alimony a supportive
258 relationship has existed between the obligee and a person with
259 whom the obligee resides. On the issue of whether alimony should
260 be reduced or terminated under this paragraph, the burden is on
261 the obligor to prove by a preponderance of the evidence that a
262 supportive relationship exists.

263 2. In determining whether an existing award of alimony
264 should be reduced or terminated because of an alleged supportive
265 relationship between an obligee and a person who is not related
266 by consanguinity or affinity and with whom the obligee resides,
267 the court shall elicit the nature and extent of the relationship
268 in question. The court shall give consideration, without
269 limitation, to circumstances, including, but not limited to, the

Amendment No. 1

270 following~~7~~ in determining the relationship of an obligee to
271 another person:

272 a. The extent to which the obligee and the other person
273 have held themselves out as a married couple by engaging in
274 conduct such as using the same last name, using a common mailing
275 address, referring to each other in terms such as "my husband"
276 or "my wife," or otherwise conducting themselves in a manner
277 that evidences a permanent supportive relationship.

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

280 c. The extent to which the obligee and the other person
281 have pooled their assets or income or otherwise exhibited
282 financial interdependence.

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

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

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

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

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

293 i. Evidence in support of a claim that the obligee and the
294 other person have an express agreement regarding property
295 sharing or support.

Amendment No. 1

296 j. Evidence in support of a claim that the obligee and the
297 other person have an implied agreement regarding property
298 sharing or support.

299 k. Whether the obligee and the other person have provided
300 support to the children of one another, regardless of any legal
301 duty to do so.

302 3. This paragraph does not abrogate the requirement that
303 every marriage in this state be solemnized under a license, does
304 not recognize a common law marriage as valid, and does not
305 recognize a de facto marriage. This paragraph recognizes only
306 that relationships do exist that provide economic support
307 equivalent to a marriage and that alimony terminable on
308 remarriage may be reduced or terminated upon the establishment
309 of equivalent equitable circumstances as described in this
310 paragraph. The existence of a conjugal relationship, though it
311 may be relevant to the nature and extent of the relationship, is
312 not necessary for the application of ~~the provisions of~~ this
313 paragraph.

314 4. There shall be a rebuttable presumption that any
315 modification or termination of an alimony award is retroactive
316 to the date of the filing of the petition. In an action under
317 this section, if it is determined that the obligee unnecessarily
318 or unreasonably litigated the underlying petition for
319 modification or termination, the court may award the obligor his
320 or her reasonable attorney's fees and costs pursuant to s. 61.16
321 and applicable case law.

Amendment No. 1

322 5. A court terminating an alimony award based on the
323 existence of a supportive relationship may not reserve
324 jurisdiction to later reinstate alimony.

325 (11)

326 (c) If the obligor remarries or resides with another
327 person, the income and assets of the obligor's spouse or the
328 person with whom the obligor resides may not be considered in a
329 modification action regarding such obligor, except for purposes
330 of discovery to determine the obligor's income or assets within
331 the pooled income and assets.

332 (d) If the court orders alimony payable concurrent with a
333 child support order, the alimony award may not be modified
334 solely because of a later modification or termination of child
335 support payments.

336 (12) The fact that an obligor has reached a reasonable
337 retirement age shall be considered a substantial change in
338 circumstances as a matter of law. There is a rebuttable
339 presumption that a reasonable retirement age for purposes of
340 this subsection is 67 years of age. In anticipation of
341 retirement, the obligor may file a petition for termination or
342 modification of the alimony award effective upon the retirement
343 date. The court shall terminate or modify the alimony award
344 based on the circumstances of the parties after retirement of
345 the obligor and based on the factors in subsection (2), unless
346 the court makes findings of fact that a termination or
347 modification of an alimony award is not warranted. In
348 determining whether the obligor's retirement age is reasonable,
349 the court shall consider the following factors:

941873 - h0549-strike.docx

Published On: 2/15/2012 7:02:13 PM

Amendment No. 1

350 (a) Age.

351 (b) Health.

352 (c) Motivation for retirement.

353 (d) Type of work.

354 (e) Normal retirement age for that type of work.

355 (13) Except in cases of marriages of long duration, in any
356 alimony award, the court shall impute income to the obligee
357 based on the analysis and factors set forth in s. 61.30(2)(b),
358 F.S.

359 Section 3. Section 61.19, Florida Statutes, is amended to
360 read:

361 61.19 Entry of judgment of dissolution of marriage; ~~7~~ delay
362 period; bifurcation.-

363 (1) A ~~Ne~~ final judgment of dissolution of marriage may not
364 be entered until at least 20 days have elapsed from the date of
365 filing the original petition for dissolution of marriage, ~~7~~ but
366 the court, on a showing that injustice would result from this
367 delay, may enter a final judgment of dissolution of marriage at
368 an earlier date.

369 (2) (a) During the first 180 days after the date of service
370 of the original petition for dissolution of marriage, the court
371 shall not grant a final dissolution of marriage with a
372 reservation of jurisdiction to subsequently determine all other
373 substantive issues unless the court makes written findings that
374 there are exceptional circumstances which make the use of this
375 process clearly necessary to protect the parties or their
376 children and that granting a final dissolution will not cause
377 irreparable harm to either party or the children. Before

941873 - h0549-strike.docx

Published On: 2/15/2012 7:02:13 PM

Amendment No. 1

378 granting a final dissolution of marriage with a reservation of
379 jurisdiction to subsequently determine all other substantive
380 issues, the court shall enter appropriate temporary orders
381 necessary to protect the parties and their children, which
382 orders shall remain effective until such time as all other
383 issues can be adjudicated by the court. The desire of one of the
384 parties to remarry does not justify the use of this process.

385 (b) If more than 180 days have elapsed after the date of
386 service of the original petition for dissolution of marriage,
387 the court may grant a final dissolution of marriage with a
388 reservation of jurisdiction to subsequently determine all other
389 substantive issues only if the court: enters appropriate
390 temporary orders necessary to protect the parties and their
391 children, which orders shall remain effective until such time as
392 all other issues can be adjudicated by the court, and makes a
393 written finding that no irreparable harm will result from
394 granting a final dissolution.

395 (c) If more than 365 days have elapsed after the date of
396 service of the original petition for dissolution of marriage,
397 absent a showing by either party that irreparable harm will
398 result from granting a final dissolution, the court shall, upon
399 request of either party, immediately grant a final dissolution
400 of marriage with a reservation of jurisdiction to subsequently
401 determine all other substantive issues. Before granting a final
402 dissolution of marriage with a reservation of jurisdiction to
403 subsequently determine all other substantive issues, the court
404 shall enter appropriate temporary orders necessary to protect
405 the parties and their children, which orders shall remain

941873 - h0549-strike.docx

Published On: 2/15/2012 7:02:13 PM

Amendment No. 1

406 effective until such time as all other issues can be adjudicated
407 by the court.

408 (d) The temporary orders necessary to protect the parties
409 and their children entered prior to granting a dissolution of
410 marriage without an adjudication of all substantive issues may
411 include, but shall not be limited to, temporary orders that:

- 412 1. Restrict the sale or disposition of property.
- 413 2. Protect and preserve the marital assets.
- 414 3. Establish temporary support.
- 415 4. Provide for maintenance of health insurance.
- 416 5. Provide for maintenance of life insurance.

417 (e) The court is not required to enter temporary orders to
418 protect the parties and their children if the court enters a
419 final judgment of marriage which adjudicates substantially all
420 of the substantive issues between the parties but reserves
421 jurisdiction to address ancillary issues such as the entry of a
422 qualified domestic relations order or the adjudication of
423 attorney's fees and costs.

424 Section 4. This act shall take effect July 1, 2012.

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426

427

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

429 Remove the entire title and insert:

430 An act relating to dissolution of marriage; amending s. 61.08,
431 F.S.; revising factors to be considered for alimony awards;
432 requiring a court to make certain written findings concerning
433 alimony; revising factors to be considered in whether to award

941873 - h0549-strike.docx

Published On: 2/15/2012 7:02:13 PM

Amendment No. 1

434 alimony or maintenance; revising provisions relating to the
435 protection of awards of alimony; revising provisions for an
436 award of durational alimony; redesignating permanent alimony as
437 long-term alimony and revising provisions relating to its award;
438 requiring written findings regarding the standard of living of
439 the parties after dissolution of marriage; amending s. 61.14,
440 F.S.; revising provisions relating to the effect of a supportive
441 relationship on an award of alimony; prohibiting a court from
442 reserving jurisdiction to reinstate an alimony award if the
443 supportive relationship ends; providing that income and assets
444 of the obligor's spouse or the person with whom the obligor
445 resides may not be considered in the redetermination in a
446 modification action; providing that if the court orders alimony
447 concurrent with a child support order, the alimony award may not
448 be modified due to the later modification or termination of
449 child support payments; providing that the attaining of
450 retirement age is a substantial change in circumstances;
451 creating a rebuttable presumption that the normal retirement age
452 for purposes of the subsection is 67; providing a list of
453 factors the court shall consider in determining whether the
454 obligor's retirement is reasonable; requiring a court to impute
455 income to the obligee based on the analysis and factors set
456 forth in s. 61.20(2)(b), F.S.; amending s. 61.19, F.S.; allowing
457 bifurcation of a dissolution of marriage case in certain
458 circumstances; providing an effective date.