

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WITHDRAWN	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: Civil Justice Subcommittee
 2 Representative Workman offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

6 Section 1. Section 61.071, Florida Statutes, is amended to
7 read:

8 61.071 Alimony pendente lite; suit money.—In every
 9 proceeding for dissolution of the marriage, a party may claim
 10 alimony and suit money in the petition or by motion, and if the
 11 petition is well founded, the court shall allow alimony
 12 calculated in accordance with s. 61.08 and a reasonable sum of
 13 suit money ~~therefor~~. If a party in any proceeding for
 14 dissolution of marriage claims alimony or suit money in his or
 15 her answer or by motion, and the answer or motion is well
 16 founded, the court shall allow alimony calculated in accordance
 17 with s. 61.08 and a reasonable sum of suit money ~~therefor~~.

18 Section 2. Section 61.08, Florida Statutes, is amended to
19 read:

20 61.08 Alimony.—

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21 (1) For purposes of this section, the term:

22 (a) "Alimony" means a court-ordered payment of support by
23 an obligor to an obligee after the dissolution of a marriage.

24 (b) "Long-term marriage" means a marriage having a
25 duration of 20 years or more, as measured from the date of the
26 marriage to the date of filing the petition for dissolution.

27 (c) "Mid-term marriage" means a marriage having a duration
28 of more than 10 years but less than 20 years, as measured from
29 the date of the marriage to the date of filing the petition for
30 dissolution.

31 (d) "Net income" means net income as determined in
32 accordance with s. 61.30.

33 (e) "Short-term marriage" means a marriage having a
34 duration equal to or less than 10 years, as measured from the
35 date of the marriage to the date of filing the petition for
36 dissolution.

37 (2) (a) ~~(1)~~ In a proceeding for dissolution of marriage, the
38 court may grant alimony to either party in the form of, ~~which~~
39 ~~alimony may be~~ bridge-the-gap, rehabilitative, or durational
40 ~~alimony,~~ or a permanent in nature or any combination of these
41 forms of alimony, but shall prioritize an award of bridge-the-
42 gap alimony, followed by rehabilitative alimony, over any other
43 form of alimony. In an ~~any~~ award of alimony, the court may order
44 periodic payments, ~~or~~ payments in lump sum, or both. Alimony may
45 not be awarded in any other action.

46 (b) The court shall make written findings regarding the
47 basis for awarding a combination of forms of alimony, including
48 the type of alimony and length of time for which it is awarded.

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49 The court may award only a combination of forms of alimony to
50 provide greater economic assistance in order to allow the
51 recipient to achieve rehabilitation.

52 (c) The court may consider the adultery of either party
53 spouse and the circumstances thereof in determining the amount
54 of alimony, if any, to be awarded.

55 (d) In all dissolution actions, the court shall include
56 written findings of fact relative to the factors enumerated in
57 subsection (3)(2) supporting an award or denial of alimony.

58 (e) An award of alimony granted under this section
59 automatically terminates without further action of either party
60 or the court upon the earlier of:

61 1. The durational limits specified in this section; or

62 2. The obligee's normal retirement age for social security
63 retirement benefits.

64
65 If the obligee proves by clear and convincing evidence that the
66 need for alimony continues to exist and the court determines
67 that the obligor continues to have the ability to pay, the court
68 shall issue written findings justifying an extension of alimony
69 consistent with the provisions of this section.

70 (f) The clerk of the court shall, upon request, indicate
71 in writing that an alimony obligation has terminated in
72 accordance with paragraph (e), unless there is a pending motion
73 before the court disputing the fulfillment of the alimony
74 obligation.

75 (3)(2) The party seeking alimony has the burden of proof
76 of demonstrating a need for alimony in accordance with

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77 subsection (8) and that the other party has the ability to pay
78 alimony. In determining whether to award alimony ~~or maintenance~~,
79 the court shall ~~first~~ make, in writing, a specific factual
80 determination as to whether the other ~~either~~ party ~~has an actual~~
81 ~~need for alimony or maintenance and whether either party~~ has the
82 ability to pay alimony ~~or maintenance~~. If the court finds that
83 the a party seeking alimony has met its burden of proof in
84 demonstrating a need for alimony ~~or maintenance~~ and that the
85 other party has the ability to pay alimony ~~or maintenance~~, then
86 in determining the proper type and amount of alimony ~~or~~
87 ~~maintenance~~ under subsections (5)-(9) ~~(5)-(8)~~, the court shall
88 consider all relevant factors, including, ~~but not limited to:~~

89 ~~(a) The standard of living established during the~~
90 ~~marriage.~~

91 (a) ~~(b)~~ The duration of the marriage.

92 (b) ~~(e)~~ The age and the physical and emotional condition of
93 each party.

94 (c) ~~(d)~~ The financial resources of each party, including
95 the portion of nonmarital assets that were relied upon by the
96 parties during the marriage and the marital assets and
97 liabilities distributed to each.

98 (d) ~~(e)~~ The earning capacities, educational levels,
99 vocational skills, and employability of the parties and, when
100 applicable, the time necessary for either party to acquire
101 sufficient education or training to enable such party to find
102 appropriate employment.

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103 ~~(e)-(f)~~ The contribution of each party to the marriage,
104 including, but not limited to, services rendered in homemaking,
105 child care, education, and career building of the other party.

106 ~~(f)-(g)~~ The responsibilities each party will have with
107 regard to any minor children that the parties ~~they~~ have in
108 common.

109 ~~(g)-(h)~~ The tax treatment and consequences to both parties
110 of an any alimony award, which must be consistent with
111 applicable state and federal tax laws and may include ~~including~~
112 the designation of all or a portion of the payment as a
113 nontaxable, nondeductible payment.

114 ~~(h)-(i)~~ All sources of income available to either party,
115 including income available to either party through investments
116 of any asset held by that party which was acquired during the
117 marriage or acquired outside the marriage and relied upon during
118 the marriage.

119 ~~(i)~~ The net income and standard of living available to
120 each party after the application of the alimony award. There is
121 a rebuttable presumption that both parties will have a lower
122 standard of living after the dissolution of marriage than the
123 standard of living they enjoyed during the marriage. This
124 presumption may be overcome by a preponderance of the evidence.

125 (j) Any other factor necessary to do equity and justice
126 between the parties, if that factor is specifically identified
127 in the award with findings of fact justifying the application of
128 the factor.

129 ~~(4)-(3)~~ To the extent necessary to protect an award of
130 alimony, the court may order any party who is ordered to pay

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131 alimony to purchase or maintain a decreasing term life insurance
132 policy or a bond, or to otherwise secure such alimony award with
133 any other assets that ~~which~~ may be suitable for that purpose, in
134 an amount adequate to secure the alimony award. Any such
135 security may be awarded only upon a showing of special
136 circumstances. If the court finds special circumstances and
137 awards such security, the court must make specific evidentiary
138 findings regarding the availability, cost, and financial impact
139 on the obligated party. Any security may be modifiable in the
140 event that the underlying alimony award is modified and shall be
141 reduced in an amount commensurate with any reduction in the
142 alimony award.

143 ~~(4) For purposes of determining alimony, there is a~~
144 ~~rebuttable presumption that a short-term marriage is a marriage~~
145 ~~having a duration of less than 7 years, a moderate-term marriage~~
146 ~~is a marriage having a duration of greater than 7 years but less~~
147 ~~than 17 years, and long-term marriage is a marriage having a~~
148 ~~duration of 17 years or greater. The length of a marriage is the~~
149 ~~period of time from the date of marriage until the date of~~
150 ~~filing of an action for dissolution of marriage.~~

151 (5) Bridge-the-gap alimony may be awarded to assist a
152 party by providing support to allow the party to make a
153 transition from being married to being single. Bridge-the-gap
154 alimony is designed to assist a party with legitimate
155 identifiable short-term needs, and the length of an award may
156 not exceed 2 years. An award of bridge-the-gap alimony
157 terminates upon the death of either party or upon the remarriage

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158 of the party receiving alimony. An award of bridge-the-gap
159 alimony is ~~shall~~ not be modifiable in amount or duration.

160 (6) (a) Rehabilitative alimony may be awarded to assist a
161 party in establishing the capacity for self-support through
162 either:

- 163 1. The redevelopment of previous skills or credentials; or
- 164 2. The acquisition of education, training, or work
165 experience necessary to develop appropriate employment skills or
166 credentials.

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

170 (c) An award of rehabilitative alimony may be modified or
171 terminated only during the rehabilitative period in accordance
172 with s. 61.14 based upon a substantial change in circumstances,
173 upon noncompliance with the rehabilitative plan, or upon
174 completion of the rehabilitative plan.

175 (7) Durational alimony may be awarded ~~when permanent~~
176 ~~periodic alimony is inappropriate. The purpose of durational~~
177 ~~alimony is to provide a party with economic assistance for a set~~
178 ~~period of time following a short-term, mid-term, or long-term~~
179 ~~marriage of short or moderate duration or following a marriage~~
180 ~~of long duration if there is no ongoing need for support on a~~
181 ~~permanent basis. When awarding durational alimony, the court~~
182 ~~must make written findings that an award of another form of~~
183 ~~alimony or a combination of the other forms of alimony is not~~
184 ~~appropriate.~~ An award of durational alimony terminates upon the
185 death of either party or upon the remarriage of the party

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186 receiving alimony. The amount of an award of durational alimony
187 shall ~~may~~ be modified or terminated based upon a substantial
188 change in circumstances or upon the existence of a supportive
189 relationship in accordance with s. 61.14. ~~However,~~ The length of
190 an award of durational alimony may not ~~be modified except under~~
191 ~~exceptional circumstances and may not~~ exceed 50 percent of the
192 length of the marriage, unless the party seeking alimony proves
193 by clear and convincing evidence that exceptional circumstances
194 justify the need for a longer award of alimony, which
195 exceptional circumstances must be set out in writing by the
196 court ~~the length of the marriage.~~

197 (8) (a) There is a rebuttable presumption against awarding
198 alimony for a short-term marriage. A party seeking alimony may
199 overcome this presumption by demonstrating by clear and
200 convincing evidence a need for alimony. If the court finds that
201 the party has met its burden in demonstrating a need for alimony
202 and that the other party has the ability to pay alimony, the
203 court shall determine a monthly award of alimony that may not
204 exceed 20 percent of the obligor's monthly net income.

205 (b) There is no presumption in favor of either party to an
206 award of alimony for a mid-term marriage. A party seeking such
207 alimony must prove by a preponderance of the evidence a need for
208 alimony. If the court finds that the party has met its burden in
209 demonstrating a need for alimony and that the other party has
210 the ability to pay alimony, the court shall determine a monthly
211 alimony obligation that may not exceed 30 percent of the
212 obligor's monthly net income.

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213 (c) There is a rebuttable presumption in favor of awarding
214 alimony for a long-term marriage. A party against whom alimony
215 is sought may overcome this presumption by demonstrating by
216 clear and convincing evidence that there is no need for alimony.
217 If the court finds that the party against whom alimony is sought
218 fails to meet its burden to demonstrate that there is no need
219 for alimony and that the party has the ability to pay alimony,
220 the court shall determine a monthly alimony obligation that may
221 not exceed 33 percent of the obligor's monthly net income.

222 (9) The court may order alimony exceeding the monthly net
223 income limits established in subsection (8) if the court
224 determines, in accordance with the factors in subsection (3),
225 that there is a need for additional alimony, which determination
226 must be set out in writing. Permanent alimony may be awarded to
227 ~~provide for the needs and necessities of life as they were~~
228 ~~established during the marriage of the parties for a party who~~
229 ~~lacks the financial ability to meet his or her needs and~~
230 ~~necessities of life following a dissolution of marriage.~~
231 ~~Permanent alimony may be awarded following a marriage of long~~
232 ~~duration if such an award is appropriate upon consideration of~~
233 ~~the factors set forth in subsection (2), following a marriage of~~
234 ~~moderate duration if such an award is appropriate based upon~~
235 ~~clear and convincing evidence after consideration of the factors~~
236 ~~set forth in subsection (2), or following a marriage of short~~
237 ~~duration if there are written findings of exceptional~~
238 ~~circumstances. In awarding permanent alimony, the court shall~~
239 ~~include a finding that no other form of alimony is fair and~~
240 ~~reasonable under the circumstances of the parties. An award of~~

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241 ~~permanent alimony terminates upon the death of either party or~~
242 ~~upon the remarriage of the party receiving alimony. An award may~~
243 ~~be modified or terminated based upon a substantial change in~~
244 ~~circumstances or upon the existence of a supportive relationship~~
245 ~~in accordance with s. 61.14.~~

246 (10) A party against whom alimony is sought who has met
247 the requirements for retirement in accordance with s. 61.14(12)
248 before the filing of the petition for dissolution is not
249 required to pay alimony unless the party seeking alimony proves
250 by clear and convincing evidence the other party has the ability
251 to pay alimony, in addition to all other requirements of this
252 section.

253 (11)-(9) Notwithstanding any other law, alimony may not be
254 awarded to a party who has a monthly net income that is equal to
255 or more than the other party. Except in the case of a long-term
256 marriage, in awarding alimony, the court shall impute income to
257 the obligor and obligee as follows:

258 (a) In the case of the obligor, social security retirement
259 benefits may not be imputed to the obligor, as demonstrated by a
260 social security retirement benefits entitlement letter.

261 (b) In the case of the obligee, if the obligee:

262 1. Is unemployed at the time the petition is filed and has
263 been unemployed for less than 1 year before the time of the
264 filing of the petition, the obligee's monthly net income shall
265 be imputed at 90 percent of the obligee's prior monthly net
266 income.

267 2. Is unemployed at the time the petition is filed and has
268 been unemployed for at least 1 year but less than 2 years before

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269 the time of the filing of the petition, the obligee's monthly
270 net income shall be imputed at 80 percent of the obligee's prior
271 monthly net income.

272 3. Is unemployed at the time the petition is filed and has
273 been unemployed for at least 2 years but less than 3 years
274 before the time of the filing of the petition, the obligee's
275 monthly net income shall be imputed at 70 percent of the
276 obligee's prior monthly net income.

277 4. Is unemployed at the time the petition is filed and has
278 been unemployed for at least 3 years but less than 4 years
279 before the time of the filing of the petition, the obligee's
280 monthly net income shall be imputed at 60 percent of the
281 obligee's prior monthly net income.

282 5. Is unemployed at the time the petition is filed and has
283 been unemployed for at least 4 years but less than 5 years
284 before the time of the filing of the petition, the obligee's
285 monthly net income shall be imputed at 50 percent of the
286 obligee's prior monthly net income.

287 6. Is unemployed at the time the petition is filed and has
288 been unemployed for at least 5 years before the time of the
289 filing of the petition, the obligee's monthly net income shall
290 be imputed at 40 percent of the obligee's prior monthly net
291 income, or the monthly net income of a minimum wage earner at
292 the time of the filing of the petition, whichever is greater.

293 7. Proves by a preponderance of the evidence that he or
294 she does not have the ability to earn the imputed income through
295 reasonable means, the court shall reduce the imputation of
296 income specified in this paragraph. If the obligee alleges that

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297 a physical disability has impaired his or her ability to earn
298 the imputed income, such disability must meet the definition of
299 disability as determined by the Social Security Administration.

300 ~~The award of alimony may not leave the payor with significantly~~
301 ~~less net income than the net income of the recipient unless~~
302 ~~there are written findings of exceptional circumstances.~~

303 (12) (a) (10) (a) With respect to any order requiring the
304 payment of alimony entered on or after January 1, 1985, unless
305 ~~the provisions of~~ paragraph (c) or paragraph (d) applies apply,
306 the court shall direct in the order that the payments of alimony
307 be made through the appropriate depository as provided in s.
308 61.181.

309 (b) With respect to any order requiring the payment of
310 alimony entered before January 1, 1985, upon the subsequent
311 appearance, on or after that date, of one or both parties before
312 the court having jurisdiction for the purpose of modifying or
313 enforcing the order or in any other proceeding related to the
314 order, or upon the application of either party, unless ~~the~~
315 ~~provisions of~~ paragraph (c) or paragraph (d) applies apply, the
316 court shall modify the terms of the order as necessary to direct
317 that payments of alimony be made through the appropriate
318 depository as provided in s. 61.181.

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

321 (d)1. If there is a minor child of the parties and both
322 parties so request, the court may order that alimony payments
323 need not be directed through the depository. In this case, the
324 order of support must ~~shall~~ provide, or be deemed to provide,

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325 that either party may subsequently apply to the depository to
326 require that payments be made through the depository. The court
327 shall provide a copy of the order to the depository.

328 2. If ~~the provisions of~~ subparagraph 1. applies apply,
329 either party may subsequently file with the depository an
330 affidavit alleging default or arrearages in payment and stating
331 that the party wishes to initiate participation in the
332 depository program. The party shall provide copies of the
333 affidavit to the court and the other party or parties. Fifteen
334 days after receipt of the affidavit, the depository shall notify
335 all parties that future payments shall be directed to the
336 depository.

337 3. In IV-D cases, the IV-D agency has ~~shall have~~ the same
338 rights as the obligee in requesting that payments be made
339 through the depository.

340 Section 3. Section 61.09, Florida Statutes, is amended to
341 read:

342 61.09 Alimony and child support unconnected with
343 dissolution.—If a person having the ability to contribute to the
344 maintenance of his or her spouse and support of his or her minor
345 child fails to do so, the spouse who is not receiving support
346 may apply to the court for alimony and for support for the child
347 without seeking dissolution of marriage, and the court shall
348 enter an order as it deems just and proper. Alimony awarded
349 under this section shall be calculated in accordance with s.
350 61.08.

351 Section 4. Subsection (1) of section 61.14, Florida
352 Statutes, is amended, paragraph (c) is added to subsection (11)

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353 of that section, and subsection (12) is added to that section,
354 to read:

355 61.14 Enforcement and modification of support,
356 maintenance, or alimony agreements or orders.—

357 (1) (a) When the parties enter into an agreement for
358 payments for, or instead of, support, maintenance, or alimony,
359 whether in connection with a proceeding for dissolution or
360 separate maintenance or with any voluntary property settlement,
361 or when a party is required by court order to make any payments,
362 and the circumstances or the financial ability of either party
363 changes or the child who is a beneficiary of an agreement or
364 court order as described herein reaches majority after the
365 execution of the agreement or the rendition of the order, either
366 party may apply to the circuit court of the circuit in which the
367 parties, or either of them, resided at the date of the execution
368 of the agreement or reside at the date of the application, or in
369 which the agreement was executed or in which the order was
370 rendered, for an order terminating, decreasing, or increasing
371 the amount of support, maintenance, or alimony, and the court
372 has jurisdiction to make orders as equity requires, with due
373 regard to the changed circumstances or the financial ability of
374 the parties or the child, decreasing, increasing, or confirming
375 the amount of separate support, maintenance, or alimony provided
376 for in the agreement or order. A finding that medical insurance
377 is reasonably available or the child support guidelines schedule
378 in s. 61.30 may constitute changed circumstances. Except as
379 otherwise provided in s. 61.30(11)(c), the court may modify an
380 order of support, maintenance, or alimony by terminating,

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381 increasing, or decreasing the support, maintenance, or alimony
382 retroactively to the date of the filing of the action or
383 supplemental action for modification as equity requires, giving
384 due regard to the changed circumstances or the financial ability
385 of the parties or the child.

386 (b)1. If the court has determined that an existing alimony
387 award as determined by the court at the time of dissolution is
388 insufficient to meet the needs of the obligee, and that such
389 need continues to exist, an alimony order shall be modified
390 upward upon a showing by clear and convincing evidence of a
391 permanently increased ability to pay alimony. Clear and
392 convincing evidence must include, but need not limited to,
393 federal tax returns. An increase in an obligor's income may not
394 be considered permanent in nature unless the increase has been
395 maintained without interruption for at least 2 years, taking
396 into account the obligor's ability to sustain his or her income.

397 ~~2.1.~~ Notwithstanding subparagraph 1., the court shall may
398 reduce or terminate an award of alimony upon specific written
399 findings by the court that since the granting of a divorce and
400 the award of alimony, a supportive relationship has existed
401 between the obligee and another a person, except upon a showing
402 by clear and convincing evidence by the obligee that his or her
403 long-term need for alimony, taking into account the totality of
404 the circumstances, has not been reduced by the supportive
405 relationship with whom the obligee resides. On the issue of
406 whether alimony should be reduced or terminated under this
407 paragraph, the burden is on the obligor to prove by a

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408 preponderance of the evidence that a supportive relationship
409 exists.

410 ~~3.2.~~ In determining whether an existing award of alimony
411 should be reduced or terminated because of an alleged supportive
412 relationship between an obligee and a person who is not related
413 by consanguinity or affinity and with whom the obligee resides,
414 the court shall elicit the nature and extent of the relationship
415 in question. The court shall give consideration, without
416 limitation, to circumstances, including, but not limited to, the
417 following, in determining the relationship of an obligee to
418 another person:

419 a. The extent to which the obligee and the other person
420 have held themselves out as a married couple by engaging in
421 conduct such as using the same last name, using a common mailing
422 address, referring to each other in terms such as "my husband"
423 or "my wife," or otherwise conducting themselves in a manner
424 that evidences a permanent supportive relationship.

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

427 c. The extent to which the obligee and the other person
428 have pooled their assets or income or otherwise exhibited
429 financial interdependence.

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

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

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

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

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

440 i. Evidence in support of a claim that the obligee and the
441 other person have an express agreement regarding property
442 sharing or support.

443 j. Evidence in support of a claim that the obligee and the
444 other person have an implied agreement regarding property
445 sharing or support.

446 k. Whether the obligee and the other person have provided
447 support to the children of one another, regardless of any legal
448 duty to do so.

449 ~~4.3.~~ This paragraph does not abrogate the requirement that
450 every marriage in this state be solemnized under a license, does
451 not recognize a common law marriage as valid, and does not
452 recognize a de facto marriage. This paragraph recognizes only
453 that relationships do exist that provide economic support
454 equivalent to a marriage and that alimony terminable on
455 remarriage may be reduced or terminated upon the establishment
456 of equivalent equitable circumstances as described in this
457 paragraph. The existence of a conjugal relationship, though it
458 may be relevant to the nature and extent of the relationship, is
459 not necessary for the application of the provisions of this
460 paragraph.

461 5. There is a rebuttable presumption that any modification
462 or termination of an alimony award is retroactive to the date of
463 the filing of the petition. In an action under this section, if

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464 it is determined that the obligee unnecessarily or unreasonably
465 litigated the underlying petition for modification or
466 termination, the court may award the obligor his or her
467 reasonable attorney fees and costs pursuant to s. 61.16 and
468 applicable case law.

469 (c) For each support order reviewed by the department as
470 required by s. 409.2564(11), if the amount of the child support
471 award under the order differs by at least 10 percent but not
472 less than \$25 from the amount that would be awarded under s.
473 61.30, the department shall seek to have the order modified and
474 any modification shall be made without a requirement for proof
475 or showing of a change in circumstances.

476 (d) The department may ~~shall have authority to~~ adopt rules
477 to administer ~~implement~~ this section.

478 (11)

479 (c) If the court orders alimony payable concurrent with a
480 child support order, the alimony award may not be modified
481 solely because of a later reduction or termination of child
482 support payments, unless the court finds the obligor has the
483 ability to pay the modified alimony award, the existing alimony
484 award as determined by the court at the time of dissolution is
485 insufficient to meet the needs of the obligee, and such need
486 continues to exist.

487 (12) (a) The fact that an obligor has reached a reasonable
488 retirement age for his or her profession, has retired, and has
489 no intent to return to work, or has reached the normal
490 retirement age for social security benefits, is considered a
491 substantial change in circumstances as a matter of law. An

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492 obligor who has reached the normal retirement age for social
493 security benefits shall be considered to have reached a
494 reasonable retirement age. With regard to an obligor who has
495 retired before the normal retirement age for social security
496 benefits, the court shall consider the following in determining
497 whether the obligor's retirement age is reasonable:

498 1. Age.

499 2. Health.

500 3. Type of work.

501 4. Normal retirement age for that type of work.

502 (b) In anticipation of retirement, the obligor may file a
503 petition for termination or modification of the alimony award
504 effective upon the earlier of the retirement date or the date
505 the obligor reaches the normal retirement age for social
506 security benefits. The court shall terminate the award or reduce
507 the award based on the circumstances of the parties after
508 retirement and based on the factors in s. 61.08, unless the
509 obligee proves by clear and convincing evidence that the need
510 for alimony at the present level continues to exist and that the
511 obligor's ability to pay has not been diminished.

512 Section 5. Section 61.19, Florida Statutes, is amended to
513 read:

514 61.19 Entry of judgment of dissolution of marriage; ~~7~~ delay
515 period; separate adjudication of issues.-

516 (1) A ~~No~~ final judgment of dissolution of marriage may not
517 be entered until at least 20 days have elapsed from the date of
518 filing the original petition for dissolution of marriage, ~~7~~ but
519 the court, on a showing that injustice would result from this

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520 delay, may enter a final judgment of dissolution of marriage at
521 an earlier date.

522 (2) (a) During the first 180 days after the date of service
523 of the original petition for dissolution of marriage, the court
524 may not grant a final dissolution of marriage with a reservation
525 of jurisdiction to subsequently determine all other substantive
526 issues unless the court makes written findings that there are
527 exceptional circumstances that make the use of this process
528 clearly necessary to protect the parties or their children and
529 that granting a final dissolution will not cause irreparable
530 harm to either party or the children. Before granting a final
531 dissolution of marriage with a reservation of jurisdiction to
532 subsequently determine all other substantive issues, the court
533 shall enter temporary orders necessary to protect the parties
534 and their children, which orders remain effective until all
535 other issues can be adjudicated by the court. The desire of one
536 party to remarry does not justify the use of this process.

537 (b) If more than 180 days have elapsed after the date of
538 service of the original petition for dissolution of marriage,
539 the court may grant a final dissolution of marriage with a
540 reservation of jurisdiction to subsequently determine all other
541 substantive issues only if the court enters temporary orders
542 necessary to protect the parties and their children, which
543 orders remain effective until such time as all other issues can
544 be adjudicated by the court, and makes a written finding that no
545 irreparable harm will result from granting a final dissolution.

546 (c) If more than 365 days have elapsed after the date of
547 service of the original petition for dissolution of marriage,

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548 absent a showing by either party that irreparable harm will
549 result from granting a final dissolution, the court shall, upon
550 request of either party, immediately grant a final dissolution
551 of marriage with a reservation of jurisdiction to subsequently
552 determine all other substantive issues. Before granting a final
553 dissolution of marriage with a reservation of jurisdiction to
554 subsequently determine all other substantive issues, the court
555 shall enter temporary orders necessary to protect the parties
556 and their children, which orders remain effective until all
557 other issues can be adjudicated by the court.

558 (d) The temporary orders necessary to protect the parties
559 and their children entered before granting a dissolution of
560 marriage without an adjudication of all substantive issues may
561 include, but are not limited to, temporary orders that:

- 562 1. Restrict the sale or disposition of property.
- 563 2. Protect and preserve the marital assets.
- 564 3. Establish temporary support.
- 565 4. Provide for maintenance of health insurance.
- 566 5. Provide for maintenance of life insurance.

567 (e) The court is not required to enter temporary orders to
568 protect the parties and their children if the court enters a
569 final judgment of dissolution of marriage which adjudicates
570 substantially all of the substantive issues between the parties
571 but reserves jurisdiction to address ancillary issues such as
572 the entry of a qualified domestic relations order or the
573 adjudication of attorney fees and costs.

574 Section 6. (1) The amendments to chapter 61, Florida
575 Statutes, made by this act apply to all initial awards of, and

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576 agreements for, alimony entered before July 1, 2013, and to all
577 modifications of such awards or agreements made before July 1,
578 2013, with the exception of agreements that are expressly
579 nonmodifiable. Such amendments may serve as a basis to modify
580 the amount or duration of an award existing before July 1, 2013.
581 Such amendments may also serve as a basis to modify an agreement
582 for alimony if the agreement is 25 percent or more in duration
583 or amount than an alimony award calculated under the amendments
584 made by this act.

585 (2) An obligor whose initial award or modification of such
586 award was made before July 1, 2013, may file a modification
587 action according to the following schedule:

588 (a) An obligor who is subject to an alimony award of 15
589 years or more may file a modification action on or after July 1,
590 2013.

591 (b) An obligor who is subject to an alimony award of 8
592 years or more, but less than 15 years, may file a modification
593 action on or after July 1, 2014.

594 (c) An obligor who is subject to an alimony award of less
595 than 8 years may file a modification action on or after July 1,
596 2015.

597 (3) An obligor whose initial agreement or modification of
598 such agreement was made before July 1, 2013, may file a
599 modification action according to the following schedule:

600 (a) An obligor who has agreed to permanent alimony may
601 file a modification action on or after July 1, 2013.

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602 (b) An obligor who has agreed to durational alimony of 10
603 years or more may file a modification action on or after July 1,
604 2014.

605 (c) An obligor who has agreed to durational alimony of
606 more than 5 years but less than 10 years may file a modification
607 action on or after July 1, 2015.

608 Section 7. This act shall take effect July 1, 2013.

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

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Remove everything before the enacting clause and insert:

614

An act relating to dissolution of marriage; amending

615

s. 61.071, F.S.; requiring that alimony pendente lite

616

be calculated in accordance with s. 61.08, F.S.;

617

amending s. 61.08, F.S.; defining terms; revising

618

factors to be considered for alimony awards; requiring

619

a court to make written findings regarding the basis

620

for awarding a combination of forms of alimony,

621

including the type of alimony and length of time for

622

which it is awarded; revising factors to be considered

623

when deciding whether to award alimony; providing that

624

an award of alimony granted automatically terminates

625

without further action under certain circumstances;

626

providing that the party seeking alimony has the

627

burden of proof of demonstrating a need for alimony

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and that the other party has the ability to pay

629

alimony; requiring the court to consider specified

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630 relevant factors when determining the proper type and
631 amount of alimony; revising provisions relating to the
632 protection of awards of alimony; revising provisions
633 for an award of durational alimony; specifying
634 criteria related to the rebuttable presumption to
635 award or not to award alimony; deleting a provision
636 authorizing permanent alimony; requiring written
637 findings regarding the incomes and standard of living
638 of the parties after dissolution of marriage; amending
639 s. 61.09, F.S.; providing for the calculation of
640 alimony; amending s. 61.14, F.S.; authorizing a party
641 to apply for an order to terminate the amount of
642 support, maintenance, or alimony; requiring that an
643 alimony order be modified upward upon a showing by
644 clear and convincing evidence of an increased ability
645 to pay alimony by the other party; prohibiting an
646 increase in an obligor's income from being considered
647 permanent in nature until it has been maintained for a
648 specified period without interruption; providing an
649 exemption from the reduction or termination of an
650 alimony award in certain circumstances; providing that
651 there is a rebuttable presumption that any
652 modification or termination of an alimony award is
653 retroactive to the date of the filing of the petition;
654 providing for an award of attorney fees and costs if
655 it is determined that an obligee unnecessarily or
656 unreasonably litigates a petition for modification or
657 termination of an alimony award; revising provisions

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658 relating to the effect of a supportive relationship on
659 an award of alimony; providing that income and assets
660 of the obligor's spouse or the person with whom the
661 obligor resides may not be considered in the
662 redetermination in a modification action; prohibiting
663 an alimony award from being modified providing that if
664 the court orders alimony concurrent with a child
665 support order, the alimony award may not be modified
666 because of the later modification or termination of
667 child support payments; providing that the attaining
668 of retirement age is a substantial change in
669 circumstances; requiring the court to consider certain
670 factors in determining whether the obligor's
671 retirement is reasonable; requiring a court to
672 terminate or reduce an alimony award based on certain
673 factors; amending s. 61.19, F.S.; authorizing separate
674 adjudication of issues in a dissolution of marriage
675 case in certain circumstances; providing for
676 retroactive application of the act to alimony awards
677 entered before July 1, 2013; providing allowable dates
678 for the modification of such awards; providing an
679 effective date.

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