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1 A bill to be entitled
2 An act relating to dissolution of marriage; amending
3 s. 61.071, F.S.; providing that alimony pendent lite
4 shall be calculated in accordance with s. 61.08, F.S.;
5 amending s. 61.08, F.S.; providing definitions;
6 requiring a court to make certain written findings
7 concerning alimony; providing for automatic
8 termination of awards in certain circumstances;
9 revising factors to be considered in whether to award
10 alimony or maintenance; revising provisions relating
11 to the protection of awards of alimony; revising
12 provisions for an award of durational alimony;
13 providing presumptions for or against awards based the
14 duration of a marriage; providing for overcoming the
15 presumptions; repealing provisions relating to
16 permanent alimony; requiring written findings
17 regarding the incomes and standard of living of the
18 parties after dissolution of marriage; providing for
19 an additional amount of alimony due to age or
20 disability of a party seeking alimony in certain
21 circumstances; providing for imputation of income to a
22 party in certain circumstances; providing for the
23 offset of or other consideration of an alimony
24 obligation in determining equitable distribution or
25 child support in certain circumstances; amending s.
26 61.09, F.S.; deleting provisions providing for alimony
27 unconnected with dissolution of a marriage; amending
28 s. 61.14, F.S.; providing that an alimony order shall

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29 | be modified upon a showing of a substantial change in
30 | circumstances by clear and convincing evidence;
31 | providing that an increase in an obligor's income may
32 | not be considered permanent in nature until it has
33 | been maintained for a specified period without
34 | interruption; providing a presumption relating to the
35 | retroactive effect of a modification or termination of
36 | an alimony award; providing for award of attorney fees
37 | and costs if it is determined that an obligee
38 | unnecessarily or unreasonably litigated a petition for
39 | modification or termination of an alimony award;
40 | revising provisions relating to the effect of a
41 | supportive relationship on an award of alimony;
42 | prohibiting a court from reserving jurisdiction to
43 | reinstate an alimony award; providing that income and
44 | assets of the obligor's spouse or the person with whom
45 | the obligor resides may not be considered in the
46 | redetermination in a modification action; providing
47 | that if the court orders alimony concurrent with a
48 | child support order, the alimony award may not be
49 | modified due to the later modification or termination
50 | of child support payments; providing that the
51 | attaining of retirement age is a substantial change in
52 | circumstances; providing factors the court shall
53 | consider in determining whether the obligor's
54 | retirement is reasonable; requiring a court to impute
55 | income to the obligee based on the analysis and
56 | factors set forth in specified provisions; amending s.

57 | 61.19, F.S.; allowing separate adjudication of issues
 58 | in a dissolution of marriage case in certain
 59 | circumstances; providing applicability; providing an
 60 | effective date.

61 |

62 | Be It Enacted by the Legislature of the State of Florida:

63 |

64 | Section 1. Section 61.071, Florida Statutes, is amended to
 65 | read:

66 | 61.071 Alimony pendente lite; suit money.—In every
 67 | proceeding for dissolution of the marriage, a party may claim
 68 | alimony and suit money in the petition or by motion, and if the
 69 | petition is well founded, the court shall allow alimony
 70 | calculated in accordance with s. 61.08 and a reasonable sum of
 71 | suit money ~~therefor~~. If a party in any proceeding for
 72 | dissolution of marriage claims alimony or suit money in his or
 73 | her answer or by motion, and the answer or motion is well
 74 | founded, the court shall allow alimony calculated in accordance
 75 | with s. 61.08 and a reasonable sum of suit money ~~therefor~~.

76 | Section 2. Section 61.08, Florida Statutes, is amended to
 77 | read:

78 | 61.08 Alimony.—

79 | (1) As used this section, the term:

80 | (a) "Alimony" means a payment of support by an obligor to
 81 | an obligee as ordered by a court in accordance with this
 82 | section, in the form of bridge-the-gap, rehabilitative, or
 83 | durational alimony.

84 | (b) "Long-term marriage" means a marriage having a

85 duration of 20 years or longer, as measured from the date of the
 86 marriage to the date of filing the petition for dissolution.

87 (c) "Mid-term marriage" means a marriage having a duration
 88 longer than 10 years but less than 20 years, as measured from
 89 the date of the marriage to the date of filing the petition for
 90 dissolution.

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

93 (e) "Short-term marriage" means a marriage having a
 94 duration equal to or less than 10 years, as measured from the
 95 date of the marriage to the date of filing the petition for
 96 dissolution.

97 (2) (a) ~~(1)~~ In a proceeding for dissolution of marriage, the
 98 court may grant alimony to either party, which alimony may be
 99 bridge-the-gap, rehabilitative, or durational, or a permanent in
 100 nature ~~or any~~ combination of these forms of alimony where
 101 appropriate. In any award of alimony, the court may order
 102 periodic payments, ~~or~~ payments in lump sum, or both. Alimony may
 103 not be awarded in any other action.

104 (b) The court shall make written findings regarding the
 105 basis for awarding combinations of alimony, including the type
 106 of alimony and length of time for which it is awarded. The court
 107 may only award combinations of alimony to provide greater
 108 economic assistance to allow the recipient to achieve
 109 rehabilitation.

110 (c) The court may consider the adultery of either party
 111 ~~spouse~~ and the circumstances thereof in determining the amount
 112 of alimony, if any, to be awarded, only to the extent that the

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113 adultery caused a significant depletion in the material assets
114 or caused a significant reduction in the income of a party.

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

118 (e) An award of alimony granted under this section shall
119 automatically terminate without further action from either party
120 or the court upon the earlier of:

121 1. The expiration of the time period specified in the
122 alimony order, or

123 2. The obligee's reaching retirement age for full social
124 security retirement benefits. If the obligee proves by clear and
125 convincing evidence that a need for alimony would continue to
126 exist despite receipt of full social security benefits and that
127 the obligor's ability to pay has not been diminished, the court
128 shall award an extension of alimony consistent with this
129 section.

130 (3)-(2) The party seeking alimony has the burden of proof
131 of demonstrating a need for alimony in accordance with this
132 section. In determining whether to award alimony ~~or maintenance~~,
133 the court shall ~~first~~ make, in writing, a specific factual
134 determination as to whether the other ~~either~~ party ~~has an actual~~
135 ~~need for alimony or maintenance and whether either party~~ has the
136 ability to pay alimony ~~or maintenance~~. If the court finds that
137 the a party seeking alimony has met its burden of proof in
138 demonstrating a need for alimony ~~or maintenance~~ and that the
139 other party has the ability to pay alimony ~~or maintenance~~, then
140 in determining the proper type and amount of alimony ~~or~~

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141 ~~maintenance~~ under subsections (5) - ~~(7) - (8)~~, the court shall
142 consider all relevant factors, including, ~~but not limited to:~~

143 ~~(a) The standard of living established during the~~
144 ~~marriage.~~

145 ~~(a) - (b)~~ The duration of the marriage.

146 ~~(b) - (e)~~ The age and the physical and emotional condition of
147 each party.

148 ~~(c) - (d)~~ The financial resources of each party, including
149 the portion of nonmarital assets that were relied upon by the
150 parties during the marriage and the marital assets and
151 liabilities distributed to each.

152 ~~(d) - (e)~~ The earning capacities, educational levels,
153 vocational skills, and employability of the parties and, when
154 applicable, the time necessary for either party to acquire
155 sufficient education or training to enable such party to find
156 appropriate employment.

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

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

162 ~~(g) - (h)~~ The tax treatment and consequences to both parties
163 of an any alimony award, which must be consistent with
164 applicable state and federal tax laws ~~including the designation~~
165 ~~of all or a portion of the payment as a nontaxable,~~
166 ~~nondeductible payment.~~

167 ~~(h) - (i)~~ All sources of income available to either party,
168 including income available to either party through investments

169 of any asset held by that party that were acquired during the
170 marriage.

171 (i) The net income and standard of living available to
172 each party after the application of the alimony award. There is
173 a rebuttable presumption that both parties will necessarily have
174 a lower standard of living after the dissolution of marriage
175 than the standard of living they enjoyed during the marriage.
176 This presumption may be overcome by a preponderance of the
177 evidence.

178 (j) Any other factor necessary to do equity and justice
179 between the parties, if that factor is specifically identified
180 in the award with findings of fact justifying the application of
181 the factor.

182 (4) ~~(3)~~ To the extent necessary to protect an award of
183 alimony, the court may order any party who is ordered to pay
184 alimony to purchase or maintain a decreasing term life insurance
185 policy or a bond, or to otherwise secure such alimony award with
186 any other assets which may be suitable for that purpose in an
187 amount adequate to secure the alimony award. Any such security
188 may only be awarded upon a showing of special circumstances. If
189 the court finds special circumstances and awards such security,
190 the court must make specific evidentiary findings regarding the
191 availability, cost, and financial impact on the obligated party.
192 Any security may be modifiable in the event the underlying
193 alimony award is modified and shall be reduced in an amount
194 commensurate with any reduction in the alimony award.

195 ~~(4) For purposes of determining alimony, there is a~~
196 ~~rebuttable presumption that a short-term marriage is a marriage~~

197 | ~~having a duration of less than 7 years, a moderate-term~~
 198 | ~~marriage is a marriage having a duration of greater than 7 years~~
 199 | ~~but less than 17 years, and long-term marriage is a marriage~~
 200 | ~~having a duration of 17 years or greater. The length of a~~
 201 | ~~marriage is the period of time from the date of marriage until~~
 202 | ~~the date of filing of an action for dissolution of marriage.~~

203 | (5) Bridge-the-gap alimony may be awarded to assist a
 204 | party by providing support to allow the party to make a
 205 | transition from being married to being single. Bridge-the-gap
 206 | alimony is designed to assist a party with legitimate
 207 | identifiable short-term needs, and the length of an award may
 208 | not exceed 2 years. An award of bridge-the-gap alimony
 209 | terminates upon the death of either party or upon the remarriage
 210 | of the party receiving alimony. An award of bridge-the-gap
 211 | alimony shall not be modifiable in amount or duration.

212 | (6) (a) Rehabilitative alimony may be awarded to assist a
 213 | party in establishing the capacity for self-support through
 214 | either:

- 215 | 1. The redevelopment of previous skills or credentials; or
- 216 | 2. The acquisition of education, training, or work
- 217 | experience necessary to develop appropriate employment skills or
- 218 | credentials.

219 | (b) In order to award rehabilitative alimony, there must
 220 | be a specific and defined rehabilitative plan which shall be
 221 | included as a part of any order awarding rehabilitative alimony.

222 | (c) An award of rehabilitative alimony may be modified or
 223 | terminated in accordance with s. 61.14 based upon a substantial
 224 | change in circumstances, upon noncompliance with the

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225 rehabilitative plan, or upon completion of the rehabilitative
226 plan.

227 (7) Durational alimony may be awarded ~~when permanent~~
228 ~~periodic alimony is inappropriate. The purpose of durational~~
229 ~~alimony is to provide a party with economic assistance for a set~~
230 ~~period of time after following a short-term, mid-term, or long-~~
231 ~~term marriage of short or moderate duration or following a~~
232 ~~marriage of long duration if there is no ongoing need for~~
233 ~~support on a permanent basis. When awarding durational alimony,~~
234 ~~the court must make written findings that an award of any other~~
235 ~~form of alimony or a combination thereof is not appropriate. An~~
236 ~~award of durational alimony terminates upon the death of either~~
237 ~~party or upon the remarriage of the party receiving alimony. The~~
238 ~~amount of an award of durational alimony shall may be modified~~
239 ~~or terminated based upon a substantial change in circumstances~~
240 ~~or upon the existence of a supportive relationship in accordance~~
241 ~~with s. 61.14. However,~~ The length of an award of durational
242 alimony may not ~~be modified except under exceptional~~
243 ~~circumstances and may not exceed 50 percent of the length of the~~
244 ~~marriage, unless the party seeking alimony proves by clear and~~
245 ~~convincing evidence the need for an award of alimony for a~~
246 ~~greater period the length of the marriage.~~

247 (8) (a) There is a presumption against awarding alimony for
248 a short-term marriage. A party seeking alimony for such a
249 marriage may overcome this presumption by demonstrating by clear
250 and convincing evidence a need for alimony. If the court finds
251 that the party has met its burden in demonstrating a need for
252 alimony, the court shall determine a monthly alimony obligation

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253 that may not exceed the lesser of 50 percent of the difference
254 between the obligor's monthly net income and the obligee's
255 monthly net income or 20 percent of the obligor's monthly net
256 income.

257 (b) There is no presumption in favor of either party in
258 awarding alimony for a mid-term marriage. A party seeking
259 alimony shall prove by a preponderance of the evidence a need
260 for alimony. If the court finds that the party has met its
261 burden in demonstrating a need for alimony, the court shall
262 determine a monthly alimony obligation that may not exceed the
263 lesser of 50 percent of the difference between the obligor's
264 monthly net income and the obligee's monthly net income or the
265 following:

266 1. For a marriage of more than 10 years but less than 11
267 years, 20 percent of the monthly net income of the obligor.

268 2. For a marriage of at least 11 years but less than 12
269 years, 22 percent of the monthly net income of the obligor.

270 3. For a marriage of at least 12 years but less than 13
271 years, 23 percent of the monthly net income of the obligor.

272 4. For a marriage of at least 13 years but less than 14
273 years, 24 percent of the monthly net income of the obligor.

274 5. For a marriage of at least 14 years but less than 15
275 years, 25 percent of the monthly net income of the obligor.

276 6. For a marriage of at least 15 years but less than 16
277 years, 26 percent of the monthly net income of the obligor.

278 7. For a marriage of at least 16 years but less than 17
279 years, 27 percent of the monthly net income of the obligor.

280 8. For a marriage of at least 17 years but less than 18

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281 years, 28 percent of the monthly net income of the obligor.

282 9. For a marriage of at least 18 years but less than 19
283 years, 29 percent of the monthly net income of the obligor.

284 10. For a marriage of at least 19 years but less than 20
285 years, 30 percent of the monthly net income of the obligor.

286 (c) There is a presumption in favor of awarding alimony
287 for a long-term marriage. A party against whom alimony is sought
288 for such a marriage may overcome this presumption by
289 demonstrating by clear and convincing evidence that there is no
290 need for alimony. If the court finds that the party against whom
291 alimony is sought fails to meet its burden in demonstrating no
292 need for alimony, the court shall determine a monthly alimony
293 obligation that shall not exceed the lesser of 50 percent of the
294 difference between the obligor's monthly net income and the
295 obligee's monthly net income or the following:

296 1. For a marriage of at least 20 years but less than 21
297 years, 31 percent of the monthly net income of the obligor.

298 2. For a marriage of at least 21 years but less than 22
299 years, 32 percent of the monthly net income of the obligor.

300 3. For a marriage of at least 22 years, 33 percent of the
301 monthly net income of the obligor.

302 (9) Notwithstanding subsection (8), the court may increase
303 the percentage of monthly net income for purposes of determining
304 alimony by up to an additional 10 percentage points, to a
305 maximum of 43 percent of the monthly net income of the obligor,
306 if the party seeking alimony proves by clear and convincing
307 evidence that he or she is disabled or 65 years of age or older.
308 For purposes of this subsection:

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309 (a) Disability may be proved only by a social security
310 total disability benefit entitlement letter.

311 (b) Age may be proved only by an original birth
312 certificate or a Florida driver license ~~Permanent alimony may be~~
313 ~~awarded to provide for the needs and necessities of life as they~~
314 ~~were established during the marriage of the parties for a party~~
315 ~~who lacks the financial ability to meet his or her needs and~~
316 ~~necessities of life following a dissolution of marriage.~~
317 ~~Permanent alimony may be awarded following a marriage of long~~
318 ~~duration if such an award is appropriate upon consideration of~~
319 ~~the factors set forth in subsection (2), following a marriage of~~
320 ~~moderate duration if such an award is appropriate based upon~~
321 ~~clear and convincing evidence after consideration of the factors~~
322 ~~set forth in subsection (2), or following a marriage of short~~
323 ~~duration if there are written findings of exceptional~~
324 ~~circumstances. In awarding permanent alimony, the court shall~~
325 ~~include a finding that no other form of alimony is fair and~~
326 ~~reasonable under the circumstances of the parties. An award of~~
327 ~~permanent alimony terminates upon the death of either party, or~~
328 ~~upon the remarriage of the party receiving alimony. An award may~~
329 ~~be modified or terminated based upon a substantial change in~~
330 ~~circumstances or upon the existence of a supportive relationship~~
331 ~~in accordance with s. 61.14.~~

332 (10)-(9) Notwithstanding any other law, alimony may not be
333 awarded to a party who has a monthly net income that is equal to
334 or greater than the other party. Except in the case of a long-
335 term marriage, the court, in awarding alimony, shall impute
336 income to the obligor and obligee as follows, based solely on

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337 federal tax returns:

338 (a) Obligor.—Social security retirement benefits shall not
339 be imputed to an obligor, as demonstrated by a social security
340 retirement benefits entitlement letter.

341 (b) Obligee.—

342 1. If an obligee is unemployed at the time the petition is
343 filed and has been unemployed for less than 1 year before the
344 time of the filing of the petition, an obligee's monthly net
345 income shall be imputed at 90 percent of the obligee's previous
346 monthly net income.

347 2. If an obligee is unemployed at the time the petition is
348 filed and has been unemployed for at least 1 year but less than
349 2 years before the time of the filing of the petition, an
350 obligee's monthly net income shall be imputed at 80 percent of
351 the obligee's previous monthly net income.

352 3. If an obligee is unemployed at the time the petition is
353 filed and has been unemployed for at least 2 years but less than
354 3 years before the time of the filing of the petition, an
355 obligee's monthly net income shall be imputed at 70 percent of
356 the obligee's previous monthly net income.

357 4. If an obligee is unemployed at the time the petition is
358 filed and has been unemployed for at least 3 years but less than
359 4 years before the time of the filing of the petition, an
360 obligee's monthly net income shall be imputed at 60 percent of
361 the obligee's previous monthly net income.

362 5. If an obligee is unemployed at the time the petition is
363 filed and has been unemployed for at least 4 years but less than
364 5 years before the time of the filing of the petition, an

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365 obligee's monthly net income shall be imputed at 50 percent of
366 the obligee's previous monthly net income.

367 6. If an obligee is unemployed at the time the petition is
368 filed and has been unemployed for 5 years or greater before the
369 time of the filing of the petition, an obligee's monthly net
370 income shall be imputed at 40 percent of the obligee's previous
371 monthly net income, or the monthly net income of a minimum wage
372 earner at the time of the filing of the petition, whichever is
373 greater.

374 7. The court shall reduce the imputation of income
375 specified in this paragraph if the obligee proves by a
376 preponderance of the evidence that he or she does not have the
377 ability to earn the imputed income through reasonable means ~~The~~
378 ~~award of alimony may not leave the payor with significantly less~~
379 ~~net income than the net income of the recipient unless there are~~
380 ~~written findings of exceptional circumstances.~~

381 ~~(11)-(10)~~(a) With respect to any order requiring the
382 payment of alimony entered on or after January 1, 1985, unless
383 ~~the provisions of~~ paragraph (c) or paragraph (d) applies ~~apply~~,
384 the court shall direct in the order that the payments of alimony
385 be made through the appropriate depository as provided in s.
386 61.181.

387 (b) With respect to any order requiring the payment of
388 alimony entered before January 1, 1985, upon the subsequent
389 appearance, on or after that date, of one or both parties before
390 the court having jurisdiction for the purpose of modifying or
391 enforcing the order or in any other proceeding related to the
392 order, or upon the application of either party, unless ~~the~~

393 ~~provisions of~~ paragraph (c) or paragraph (d) applies ~~apply~~, the
 394 court shall modify the terms of the order as necessary to direct
 395 that payments of alimony be made through the appropriate
 396 depository as provided in s. 61.181.

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

399 (d)1. If there is a minor child of the parties and both
 400 parties so request, the court may order that alimony payments
 401 need not be directed through the depository. In this case, the
 402 order of support shall provide, or be deemed to provide, that
 403 either party may subsequently apply to the depository to require
 404 that payments be made through the depository. The court shall
 405 provide a copy of the order to the depository.

406 2. If ~~the provisions of~~ subparagraph 1. applies ~~apply~~,
 407 either party may subsequently file with the depository an
 408 affidavit alleging default or arrearages in payment and stating
 409 that the party wishes to initiate participation in the
 410 depository program. The party shall provide copies of the
 411 affidavit to the court and the other party or parties. Fifteen
 412 days after receipt of the affidavit, the depository shall notify
 413 all parties that future payments shall be directed to the
 414 depository.

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

418 (12) Notwithstanding any other law, to the extent that the
 419 determination of equitable distribution or child support may
 420 affect an obligee's need for alimony or an obligor's ability to

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421 pay alimony, the court may offset or otherwise consider an
422 alimony obligation in determining equitable distribution or
423 child support under this chapter.

424 Section 3. Section 61.09, Florida Statutes, is amended to
425 read:

426 61.09 ~~Alimony and~~ Child support unconnected with
427 dissolution.—If a person having the ability to contribute to the
428 ~~maintenance of his or her spouse and~~ support of his or her minor
429 child fails to do so, the spouse who is not receiving support
430 may apply to the court for ~~alimony and for~~ support for the child
431 without seeking dissolution of marriage, and the court shall
432 enter an order as it deems just and proper.

433 Section 4. Paragraph (b) of subsection (1) and paragraph
434 (a) of subsection (5) of section 61.14, Florida Statutes, are
435 amended, paragraphs (c) and (d) are added to subsection (11) of
436 that section, and subsection (12) is added to that section, to
437 read:

438 61.14 Enforcement and modification of support,
439 maintenance, or alimony agreements or orders.—

440 (1)

441 (b)1. An alimony order shall be modified upon a showing of
442 a substantial change in circumstances by clear and convincing
443 evidence. Clear and convincing evidence shall include, but is
444 not limited to, federal income tax returns. An increase in an
445 obligor's income may not be considered permanent in nature
446 unless the increase has been maintained without interruption for
447 at least 2 years, taking into account the obligor's ability to
448 sustain his or her income.

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449 2.1. Notwithstanding subparagraph 1., the court ~~must~~ may
450 reduce or terminate an award of alimony upon specific written
451 findings by the court that since the granting of a divorce and
452 the award of alimony a supportive relationship has existed
453 between the obligee and another a person ~~with whom the obligee~~
454 ~~resides,~~ except upon a showing by clear and convincing evidence
455 by the obligee that his or her long-term need for alimony,
456 taking into account the totality of the circumstance, has not
457 been reduced by the supportive relationship. On the issue of
458 whether alimony should be reduced or terminated under this
459 paragraph, the burden is on the obligor to prove by a
460 preponderance of the evidence that a supportive relationship
461 exists.

462 3.2. In determining whether an existing award of alimony
463 should be reduced or terminated because of an alleged supportive
464 relationship between an obligee and a person who is not related
465 by consanguinity or affinity and with whom the obligee resides,
466 the court shall elicit the nature and extent of the relationship
467 in question. The court shall give consideration, without
468 limitation, to circumstances, including, but not limited to, the
469 following~~7~~ in determining the relationship of an obligee to
470 another person:

471 a. The extent to which the obligee and the other person
472 have held themselves out as a married couple by engaging in
473 conduct such as using the same last name, using a common mailing
474 address, referring to each other in terms such as "my husband"
475 or "my wife," or otherwise conducting themselves in a manner
476 that evidences a permanent supportive relationship.

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

479 c. The extent to which the obligee and the other person
480 have pooled their assets or income or otherwise exhibited
481 financial interdependence.

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

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

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

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

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

492 i. Evidence in support of a claim that the obligee and the
493 other person have an express agreement regarding property
494 sharing or support.

495 j. Evidence in support of a claim that the obligee and the
496 other person have an implied agreement regarding property
497 sharing or support.

498 k. Whether the obligee and the other person have provided
499 support to the children of one another, regardless of any legal
500 duty to do so.

501 ~~4.3.~~ This paragraph does not abrogate the requirement that
502 every marriage in this state be solemnized under a license, does
503 not recognize a common law marriage as valid, and does not
504 recognize a de facto marriage. This paragraph recognizes only

505 that relationships do exist that provide economic support
506 equivalent to a marriage and that alimony terminable on
507 remarriage may be reduced or terminated upon the establishment
508 of equivalent equitable circumstances as described in this
509 paragraph. The existence of a conjugal relationship, though it
510 may be relevant to the nature and extent of the relationship, is
511 not necessary for the application of ~~the provisions of this~~
512 paragraph.

513 5. There shall be a rebuttable presumption that any
514 modification or termination of an alimony award is retroactive
515 to the date of the filing of the petition. In an action under
516 this section, if it is determined that the obligee unnecessarily
517 or unreasonably litigated the underlying petition for
518 modification or termination, the court may award the obligor his
519 or her reasonable attorney fees and costs pursuant to s. 61.16
520 and applicable case law.

521 6. A court terminating an alimony award based on the
522 existence of a supportive relationship may not reserve
523 jurisdiction to later reinstate alimony.

524 (5) (a) When a court of competent jurisdiction enters an
525 order for the payment of alimony or child support or both, the
526 court shall make a finding of the obligor's imputed or actual
527 present ability to comply with the order. If the obligor
528 subsequently fails to pay alimony or support and a contempt
529 hearing is held, the original order of the court creates a
530 presumption that the obligor has the present ability to pay the
531 alimony or support and to purge himself or herself from the
532 contempt. At the contempt hearing, the obligor shall have the

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533 | burden of proof to show that he or she lacks the ability to
534 | purge himself or herself from the contempt. This presumption is
535 | adopted as a presumption under s. 90.302(2) to implement the
536 | public policy of this state that children shall be maintained
537 | from the resources of their parents and as provided for in s.
538 | 409.2551, and that spouses be maintained as provided for in s.
539 | 61.08. The court shall state in its order the reasons for
540 | granting or denying the contempt. A monetary award granted by
541 | the court pursuant to a contempt hearing pursuant to this
542 | paragraph may not exceed the monthly alimony obligation of the
543 | obligor for the number of months in which the obligor is
544 | delinquent. A court may award attorney fees to a prevailing
545 | party in an action to enforce an alimony order.

546 | (11)

547 | (c) If the obligor remarries or resides with another
548 | person, the income and assets of the obligor's spouse or the
549 | person with whom the obligor resides may not be considered in a
550 | modification action regarding such obligor, except for purposes
551 | of discovery to determine the obligor's income or assets within
552 | the pooled income and assets.

553 | (d) If the court orders alimony payable concurrent with a
554 | child support order, the alimony award may not be modified
555 | solely because of a later reduction or termination of child
556 | support payments.

557 | (12) (a) The fact that an obligor has reached a reasonable
558 | retirement age for his or her profession, has retired, and has
559 | no intent to return to work, or has reached the retirement age
560 | for full social security benefits, shall be considered a

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561 substantial change in circumstances as a matter of law. An
562 obligor who has reached the retirement age for full social
563 security benefits is considered to have reached a reasonable
564 retirement age. With regard to an obligor that has retired
565 before the retirement age for full social security benefits, the
566 court shall consider the following in determining whether the
567 obligor's retirement age is reasonable:

- 568 1. Age.
- 569 2. Health.
- 570 3. Type of work.
- 571 4. Normal retirement age for that type of work.

572 (b) In anticipation of retirement, the obligor may file a
573 petition for termination or modification of the alimony award
574 effective upon the earlier of the retirement date or the date
575 the obligor reaches the retirement age for full social security
576 benefits. The court shall either terminate the award or reduce
577 the award based on the circumstances of the parties after
578 retirement and based on the factors in s. 61.08(3), unless the
579 obligee proves by clear and convincing evidence that the need
580 for alimony at the present level continues to exist and that the
581 obligor's ability to pay has not been diminished.

582 Section 5. Section 61.19, Florida Statutes, is amended to
583 read:

584 61.19 Entry of judgment of dissolution of marriage; ~~7~~ delay
585 period; separate adjudication of issues.—

586 (1) A ~~No~~ final judgment of dissolution of marriage may not
587 be entered until at least 20 days have elapsed from the date of
588 filing the original petition for dissolution of marriage, ~~7~~ but

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589 the court, on a showing that injustice would result from this
590 delay, may enter a final judgment of dissolution of marriage at
591 an earlier date.

592 (2) (a) During the first 180 days after the date of service
593 of the original petition for dissolution of marriage, the court
594 may not grant a final dissolution of marriage with a reservation
595 of jurisdiction to subsequently determine all other substantive
596 issues unless the court makes written findings that there are
597 exceptional circumstances that make the use of this process
598 clearly necessary to protect the parties or their children and
599 that granting a final dissolution will not cause irreparable
600 harm to either party or the children. Before granting a final
601 dissolution of marriage with a reservation of jurisdiction to
602 subsequently determine all other substantive issues, the court
603 shall enter appropriate temporary orders necessary to protect
604 the parties and their children, which orders shall remain
605 effective until all other issues can be adjudicated by the
606 court. The desire of one of the parties to remarry does not
607 justify the use of this process.

608 (b) If more than 180 days have elapsed after the date of
609 service of the original petition for dissolution of marriage,
610 the court may grant a final dissolution of marriage with a
611 reservation of jurisdiction to subsequently determine all other
612 substantive issues only if the court enters appropriate
613 temporary orders necessary to protect the parties and their
614 children, which orders shall remain effective until such time as
615 all other issues can be adjudicated by the court, and makes a
616 written finding that no irreparable harm will result from

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617 granting a final dissolution.

618 (c) If more than 365 days have elapsed after the date of
619 service of the original petition for dissolution of marriage,
620 absent a showing by either party that irreparable harm will
621 result from granting a final dissolution, the court shall, upon
622 request of either party, immediately grant a final dissolution
623 of marriage with a reservation of jurisdiction to subsequently
624 determine all other substantive issues. Before granting a final
625 dissolution of marriage with a reservation of jurisdiction to
626 subsequently determine all other substantive issues, the court
627 shall enter appropriate temporary orders necessary to protect
628 the parties and their children, which orders shall remain
629 effective until all other issues can be adjudicated by the
630 court.

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

- 635 1. Restrict the sale or disposition of property.
636 2. Protect and preserve the marital assets.
637 3. Establish temporary support.
638 4. Provide for maintenance of health insurance.
639 5. Provide for maintenance of life insurance.

640 (e) The court is not required to enter temporary orders to
641 protect the parties and their children if the court enters a
642 final judgment of dissolution of marriage that adjudicates
643 substantially all of the substantive issues between the parties
644 but reserves jurisdiction to address ancillary issues such as

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645 the entry of a qualified domestic relations order or the
646 adjudication of attorney fees and costs.

647 Section 6. (1) The amendments made by this act to chapter
648 61, Florida Statutes, apply to all initial awards of alimony
649 entered on or after July 1, 2013, and to all modifications of
650 alimony of such awards made after July 1, 2013. Such amendments
651 may serve as a basis to modify awards entered before July 1,
652 2013, or as a basis to change amounts or duration of awards
653 existing before July 1, 2013.

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

657 (a) An obligor who was married to the alimony recipient 8
658 years or less may file a modification action on or after July 1,
659 2013.

660 (b) An obligor who was married to the alimony recipient 15
661 years or less, but more than 8 years, may file a modification
662 action on or after July 1, 2014.

663 (c) An obligor who was married to the alimony recipient
664 more than 15 years may file a modification action on or after
665 July 1, 2015.

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