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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
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The Committee on Rules (Lee) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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



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14 her answer or by motion, and the answer or motion is well
15 founded, the court shall allow alimony calculated in accordance
16 with s. 61.08 and a reasonable sum of suit money therefor.

17 Section 2. Paragraph (a) of subsection (6) and subsection
18 (10) of section 61.075, Florida Statutes, are amended to read:

19 61.075 Equitable distribution of marital assets and
20 liabilities.-

21 (6) As used in this section:

22 (a)1. "Marital assets and liabilities" include:

23 a. Assets acquired and liabilities incurred during the
24 marriage, individually by either spouse or jointly by them.

25 b. The enhancement in value and appreciation of nonmarital
26 assets resulting ~~either~~ from the efforts of either party during
27 the marriage or from the contribution to or expenditure thereon
28 of marital funds or other forms of marital assets, or both.

29 c. The paydown of principal of a note and mortgage secured
30 by nonmarital real property and a portion of any passive
31 appreciation in the property, if the note and mortgage secured
32 by the property are paid down from marital funds during the
33 marriage. The portion of passive appreciation in the property
34 characterized as marital and subject to equitable distribution
35 shall be determined by multiplying a coverture fraction by the
36 passive appreciation in the property during the marriage.

37 (I) The passive appreciation shall be determined by
38 subtracting the gross value of the property on the date of the
39 marriage or the date of acquisition of the property, whichever
40 is later, from the value of the property on the valuation date
41 in the dissolution action, less any active appreciation of the
42 property during the marriage, pursuant to sub-subparagraph b.,



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43 and less any additional encumbrances secured by the property
44 during the marriage in excess of the first note and mortgage on
45 which principal is paid from marital funds.

46 (II) The coverture fraction shall consist of a numerator,
47 defined as the total paydown of principal from marital funds of
48 all notes and mortgages secured by the property during the
49 marriage, and a denominator, defined as the value of the subject
50 real property on the date of the marriage, the date of
51 acquisition of the property, or the date the property was
52 encumbered by the first note and mortgage on which principal was
53 paid from marital funds, whichever is later.

54 (III) The passive appreciation shall be multiplied by the
55 coverture fraction to determine the marital portion of the
56 passive appreciation in the property.

57 (IV) The total marital portion of the property shall
58 consist of the marital portion of the passive appreciation,
59 pursuant to subparagraph 3., the mortgage principal paid during
60 the marriage from marital funds, and any active appreciation of
61 the property, pursuant to sub-subparagraph b., not to exceed the
62 total net equity in the property at the date of valuation.

63 (V) The court shall apply this formula unless a party shows
64 circumstances sufficient to establish that application of the
65 formula would be inequitable under the facts presented.

66 d.e. Interspousal gifts during the marriage.

67 e.d. All vested and nonvested benefits, rights, and funds
68 accrued during the marriage in retirement, pension, profit-
69 sharing, annuity, deferred compensation, and insurance plans and
70 programs.

71 2. All real property held by the parties as tenants by the



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72 entirety, whether acquired prior to or during the marriage,
73 shall be presumed to be a marital asset. If, in any case, a
74 party makes a claim to the contrary, the burden of proof shall
75 be on the party asserting the claim that the subject property,
76 or some portion thereof, is nonmarital.

77 3. All personal property titled jointly by the parties as
78 tenants by the entirety, whether acquired prior to or during
79 the marriage, shall be presumed to be a marital asset. In the
80 event a party makes a claim to the contrary, the burden of proof
81 shall be on the party asserting the claim that the subject
82 property, or some portion thereof, is nonmarital.

83 4. The burden of proof to overcome the gift presumption
84 shall be by clear and convincing evidence.

85 (10) (a) To do equity between the parties, the court may, in
86 lieu of or to supplement, facilitate, or effectuate the
87 equitable division of marital assets and liabilities, order a
88 monetary payment in a lump sum or in installments paid over a
89 fixed period of time.

90 (b) If installment payments are ordered, the court may
91 require security and a reasonable rate of interest, or otherwise
92 recognize the time value of money in determining the amount of
93 the installments. If security or interest is required, the court
94 shall make written findings relating to any deferred payments,
95 the amount of any security required, and the interest. This
96 subsection does not preclude the application of chapter 55 to
97 any subsequent default.

98 Section 3. Section 61.08, Florida Statutes, is amended to
99 read:

100 61.08 Alimony.—



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101 (1) As used in this section, the term:

102 (a) "Alimony" means a court-ordered payment of support by
103 an obligor spouse to an obligee spouse.

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

107 (c) "Mid-term marriage" means a marriage having a duration
108 of more than 12 years but less than 20 years, as measured from
109 the date of the marriage to the date of filing the petition for
110 dissolution.

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

113 (e) "Short-term marriage" means a marriage having a
114 duration equal to or less than 12 years, as measured from the
115 date of the marriage to the date of filing the petition for
116 dissolution.

117 (2) (a) ~~(1)~~ In a proceeding for dissolution of marriage, the
118 court may grant alimony to either party in the form of, ~~which~~
119 ~~alimony may be~~ bridge-the-gap, rehabilitative, or durational
120 ~~alimony, or a permanent in nature or any~~ combination of these
121 forms of alimony, but shall prioritize an award of bridge-the-
122 gap alimony, followed by rehabilitative alimony, over any other
123 form of alimony. In an ~~any~~ award of alimony, the court may order
124 periodic payments, ~~or~~ payments in lump sum, or both.

125 (b) The court shall make written findings regarding the
126 basis for awarding a combination of forms of alimony, including
127 the type of alimony and the length of time for which it is
128 awarded. The court may award only a combination of forms of
129 alimony to provide greater economic assistance in order to allow



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130 the recipient to achieve rehabilitation.

131 (c) The court may consider the adultery of either party
132 ~~spouse~~ and the circumstances thereof in determining the amount
133 of alimony, if any, to be awarded.

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

137 (3) ~~(2)~~ The party seeking alimony has the burden of proof of
138 demonstrating a need for alimony in accordance with subsection
139 (8) and that the other party has the ability to pay alimony. In
140 determining whether to award alimony ~~or maintenance~~, the court
141 shall ~~first~~ make, in writing, a specific factual determination
142 as to whether the other ~~either~~ party ~~has an actual need for~~
143 ~~alimony or maintenance and whether either party~~ has the ability
144 to pay alimony ~~or maintenance~~. If the court finds that the a
145 party seeking alimony has met its burden of proof in
146 demonstrating a need for alimony ~~or maintenance~~ and that the
147 other party has the ability to pay alimony ~~or maintenance~~, then
148 in determining the proper type and amount of alimony ~~or~~
149 ~~maintenance~~ under subsections (5)-(9) ~~(5)-(8)~~, the court shall
150 consider all relevant factors, including, ~~but not limited to:~~

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

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

153 (b) ~~(c)~~ The age and the physical and emotional condition of
154 each party.

155 (c) ~~(d)~~ The financial resources of each party, including the
156 portion of nonmarital assets that were relied upon by the
157 parties during the marriage and the marital assets and
158 liabilities distributed to each.



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159 (d)~~(e)~~ The earning capacities, educational levels,
160 vocational skills, and employability of the parties and, when
161 applicable, the time necessary for either party to acquire
162 sufficient education or training to enable such party to find
163 appropriate employment.

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

167 (f)~~(g)~~ The responsibilities each party will have with
168 regard to any minor children that the parties ~~they~~ have in
169 common.

170 (g)~~(h)~~ The tax treatment and consequences to both parties
171 of an any alimony award, which must be consistent with
172 applicable state and federal tax laws and may include ~~including~~
173 the designation of all or a portion of the payment as a
174 nontaxable, nondeductible payment.

175 (h)~~(i)~~ All sources of income available to either party,
176 including income available to either party through investments
177 of any asset held by that party which was acquired during the
178 marriage or acquired outside the marriage and relied upon during
179 the marriage.

180 (i) The needs and necessities of life after dissolution of
181 marriage, taking into account the lifestyle of the parties
182 during the marriage but subject to the presumption in paragraph
183 (j).

184 (j) The net income and standard of living available to each
185 party after the application of the alimony award. There is a
186 rebuttable presumption that both parties will have a lower
187 standard of living after the dissolution of marriage than the



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188 standard of living they enjoyed during the marriage. This
189 presumption may be overcome by a preponderance of the evidence.

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

194 (4) ~~(3)~~ To the extent necessary to protect an award of
195 alimony, the court may order any party who is ordered to pay
196 alimony to purchase or maintain a life insurance policy that may
197 be decreasing or another form of term life insurance at the
198 option of the obligor or a bond, or to otherwise secure such
199 alimony award with any other assets that ~~which~~ may be suitable
200 for that purpose, in an amount adequate to secure the alimony
201 award. Any such security may be awarded only upon a showing of
202 special circumstances. If the court finds special circumstances
203 and awards such security, the court must make specific
204 evidentiary findings regarding the availability, cost, and
205 financial impact on the obligated party. Any security may be
206 modifiable in the event that the underlying alimony award is
207 modified and shall be reduced in an amount commensurate with any
208 reduction in the alimony award.

209 ~~(4) For purposes of determining alimony, there is a~~
210 ~~rebuttable presumption that a short-term marriage is a marriage~~
211 ~~having a duration of less than 7 years, a moderate-term marriage~~
212 ~~is a marriage having a duration of greater than 7 years but less~~
213 ~~than 17 years, and long-term marriage is a marriage having a~~
214 ~~duration of 17 years or greater. The length of a marriage is the~~
215 ~~period of time from the date of marriage until the date of~~
216 ~~filing of an action for dissolution of marriage.~~



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217 (5) Bridge-the-gap alimony may be awarded to assist a party
218 by providing support to allow the party to make a transition
219 from being married to being single. Bridge-the-gap alimony is
220 designed to assist a party with legitimate identifiable short-
221 term needs, and the length of an award may not exceed 2 years.
222 An award of bridge-the-gap alimony terminates upon the death of
223 either party or upon the remarriage of the party receiving
224 alimony. An award of bridge-the-gap alimony is ~~shall~~ not be
225 modifiable in amount or duration.

226 (6) (a) Rehabilitative alimony may be awarded to assist a
227 party in establishing the capacity for self-support through
228 either:

- 229 1. The redevelopment of previous skills or credentials; or
230 2. The acquisition of education, training, or work
231 experience necessary to develop appropriate employment skills or
232 credentials.

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

236 (c) An award of rehabilitative alimony may be modified or
237 terminated only during the rehabilitative period in accordance
238 with s. 61.14 based upon a substantial change in circumstances,
239 upon noncompliance with the rehabilitative plan, or upon
240 completion of the rehabilitative plan.

241 (7) Durational alimony may be awarded ~~when permanent~~
242 ~~periodic alimony is inappropriate. The purpose of durational~~
243 ~~alimony is~~ to provide a party with economic assistance for a set
244 period of time following a short-term, mid-term, or long-term
245 ~~marriage of short or moderate duration or following a marriage~~



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246 ~~of long duration if there is no ongoing need for support on a~~
247 ~~permanent basis. When awarding durational alimony, the court~~
248 ~~must make written findings that an award of another form of~~
249 ~~alimony or a combination of the other forms of alimony is not~~
250 ~~appropriate. An award of durational alimony terminates upon the~~
251 ~~death of either party or upon the remarriage of the party~~
252 ~~receiving alimony. The amount of an award of durational alimony~~
253 ~~shall ~~may~~ be modified or terminated based upon a substantial~~
254 ~~change in circumstances or upon the existence of a supportive~~
255 ~~relationship in accordance with s. 61.14. ~~However,~~ The length of~~
256 ~~an award of durational alimony may not ~~be modified except under~~~~
257 ~~exceptional circumstances and may not exceed 50 percent of the~~
258 ~~length of the marriage, unless the party seeking alimony proves~~
259 ~~by a preponderance of the evidence the circumstances justifying~~
260 ~~the need for a longer award of alimony, which circumstances must~~
261 ~~be set out in writing by the court ~~the length of the marriage.~~~~

262 (8) (a) There is a rebuttable presumption against awarding
263 alimony for a short-term marriage. A party seeking bridge-the-
264 gap or rehabilitative alimony may overcome this presumption by
265 demonstrating by a preponderance of the evidence a need for
266 alimony. A party seeking durational alimony may overcome this
267 presumption by demonstrating by clear and convincing evidence a
268 need for alimony. If the court finds that the party has met its
269 burden in demonstrating a need for alimony and that the other
270 party has the ability to pay alimony, the court shall determine
271 a monthly award of alimony that may not exceed 20 percent of the
272 obligor's monthly income.

273 (b) There is no presumption in favor of either party to an
274 award of alimony for a mid-term marriage. A party seeking such



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275 alimony must prove by a preponderance of the evidence a need for
276 alimony. If the court finds that the party has met its burden in
277 demonstrating a need for alimony and that the other party has
278 the ability to pay alimony, the court shall determine a monthly
279 alimony obligation that may not exceed 30 percent of the
280 obligor's monthly income.

281 (c) There is a rebuttable presumption in favor of awarding
282 alimony for a long-term marriage. A party against whom alimony
283 is sought may overcome this presumption by demonstrating by
284 clear and convincing evidence that there is no need for alimony.
285 If the court finds that the party against whom alimony is sought
286 fails to meet its burden to demonstrate that there is no need
287 for alimony and that the party has the ability to pay alimony,
288 the court shall determine a monthly alimony obligation that may
289 not exceed 33 percent of the obligor's monthly income.

290 (9) The court may order alimony exceeding the monthly
291 income limits established in subsection (8) if the court
292 determines, in accordance with the factors in subsection (3),
293 that there is a need for additional alimony, which determination
294 must be set out in writing ~~Permanent alimony may be awarded to~~
295 ~~provide for the needs and necessities of life as they were~~
296 ~~established during the marriage of the parties for a party who~~
297 ~~lacks the financial ability to meet his or her needs and~~
298 ~~necessities of life following a dissolution of marriage.~~
299 ~~Permanent alimony may be awarded following a marriage of long~~
300 ~~duration if such an award is appropriate upon consideration of~~
301 ~~the factors set forth in subsection (2), following a marriage of~~
302 ~~moderate duration if such an award is appropriate based upon~~
303 ~~clear and convincing evidence after consideration of the factors~~



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304 ~~set forth in subsection (2), or following a marriage of short~~
305 ~~duration if there are written findings of exceptional~~
306 ~~circumstances. In awarding permanent alimony, the court shall~~
307 ~~include a finding that no other form of alimony is fair and~~
308 ~~reasonable under the circumstances of the parties. An award of~~
309 ~~permanent alimony terminates upon the death of either party or~~
310 ~~upon the remarriage of the party receiving alimony. An award may~~
311 ~~be modified or terminated based upon a substantial change in~~
312 ~~circumstances or upon the existence of a supportive relationship~~
313 ~~in accordance with s. 61.14.~~

314 (10) A party against whom alimony is sought who has met the
315 requirements for retirement in accordance with s. 61.14(12)
316 before the filing of the petition for dissolution is not
317 required to pay alimony unless the party seeking alimony proves
318 by clear and convincing evidence the other party has the ability
319 to pay alimony, in addition to all other requirements of this
320 section.

321 (11) ~~(9)~~ Notwithstanding any other provision of law, alimony
322 may not be awarded to a party who has a monthly net income that
323 is equal to or more than the other party. Except in the case of
324 a long-term marriage, in awarding alimony, the court shall
325 impute income to the obligor and obligee as follows:

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

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

330 1. Is unemployed at the time the petition is filed and has
331 been unemployed for less than 1 year before the time of the
332 filing of the petition, the obligee's monthly net income shall



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333 be imputed at 90 percent of the obligee's prior monthly net
334 income.

335 2. Is unemployed at the time the petition is filed and has
336 been unemployed for at least 1 year but less than 2 years before
337 the time of the filing of the petition, the obligee's monthly
338 net income shall be imputed at 80 percent of the obligee's prior
339 monthly net income.

340 3. Is unemployed at the time the petition is filed and has
341 been unemployed for at least 2 years but less than 3 years
342 before the time of the filing of the petition, the obligee's
343 monthly net income shall be imputed at 70 percent of the
344 obligee's prior monthly net income.

345 4. Is unemployed at the time the petition is filed and has
346 been unemployed for at least 3 years but less than 4 years
347 before the time of the filing of the petition, the obligee's
348 monthly net income shall be imputed at 60 percent of the
349 obligee's prior monthly net income.

350 5. Is unemployed at the time the petition is filed and has
351 been unemployed for at least 4 years but less than 5 years
352 before the time of the filing of the petition, the obligee's
353 monthly net income shall be imputed at 50 percent of the
354 obligee's prior monthly net income.

355 6. Is unemployed at the time the petition is filed and has
356 been unemployed for at least 5 years before the time of the
357 filing of the petition, the obligee's monthly net income shall
358 be imputed at 40 percent of the obligee's prior monthly net
359 income, or the monthly net income of a minimum wage earner at
360 the time of the filing of the petition, whichever is greater.

361 7. Proves by a preponderance of the evidence that he or she



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362 does not have the ability to earn the imputed income through
363 reasonable means, the court shall reduce the imputation of
364 income specified in this paragraph. If the obligee alleges that
365 a physical disability has impaired his or her ability to earn
366 the imputed income, such disability must meet the definition of
367 disability as determined by the Social Security Administration.
368 ~~The award of alimony may not leave the payor with significantly~~
369 ~~less net income than the net income of the recipient unless~~
370 ~~there are written findings of exceptional circumstances.~~

371 (12) (a) (10) (a) With respect to any order requiring the
372 payment of alimony entered on or after January 1, 1985, unless
373 ~~the provisions of~~ paragraph (c) or paragraph (d) applies apply,
374 the court shall direct in the order that the payments of alimony
375 be made through the appropriate depository as provided in s.
376 61.181.

377 (b) With respect to any order requiring the payment of
378 alimony entered before January 1, 1985, upon the subsequent
379 appearance, on or after that date, of one or both parties before
380 the court having jurisdiction for the purpose of modifying or
381 enforcing the order or in any other proceeding related to the
382 order, or upon the application of either party, unless ~~the~~
383 ~~provisions of~~ paragraph (c) or paragraph (d) applies apply, the
384 court shall modify the terms of the order as necessary to direct
385 that payments of alimony be made through the appropriate
386 depository as provided in s. 61.181.

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

389 (d)1. If there is a minor child of the parties and both
390 parties so request, the court may order that alimony payments



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391 need not be directed through the depository. In this case, the
392 order of support must ~~shall~~ provide, or be deemed to provide,
393 that either party may subsequently apply to the depository to
394 require that payments be made through the depository. The court
395 shall provide a copy of the order to the depository.

396 2. If ~~the provisions of~~ subparagraph 1. applies ~~apply~~,
397 either party may subsequently file with the depository an
398 affidavit alleging default or arrearages in payment and stating
399 that the party wishes to initiate participation in the
400 depository program. The party shall provide copies of the
401 affidavit to the court and the other party or parties. Fifteen
402 days after receipt of the affidavit, the depository shall notify
403 all parties that future payments shall be directed to the
404 depository.

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

408 Section 4. Section 61.09, Florida Statutes, is amended to
409 read:

410 61.09 Alimony and child support unconnected with
411 dissolution.—If a person having the ability to contribute to the
412 maintenance of his or her spouse and support of his or her minor
413 child fails to do so, the spouse who is not receiving support
414 may apply to the court for alimony and for support for the child
415 without seeking dissolution of marriage, and the court shall
416 enter an order as it deems just and proper. Alimony awarded
417 under this section shall be calculated in accordance with s.
418 61.08.

419 Section 5. Paragraph (c) of subsection (2) of section



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420 61.13, Florida Statutes, is amended to read:

421 61.13 Support of children; parenting and time-sharing;
422 powers of court.—

423 (2)

424 (c) The court shall determine all matters relating to
425 parenting and time-sharing of each minor child of the parties in
426 accordance with the best interests of the child and in
427 accordance with the Uniform Child Custody Jurisdiction and
428 Enforcement Act, except that modification of a parenting plan
429 and time-sharing schedule requires a showing of a substantial,
430 material, and unanticipated change of circumstances.

431 1. It is the public policy of this state that each minor
432 child has frequent and continuing contact with both parents
433 after the parents separate or the marriage of the parties is
434 dissolved and to encourage parents to share the rights and
435 responsibilities, and joys, of childrearing. There is no
436 presumption for or against the father or mother of the child or
437 for or against any specific time-sharing schedule when creating
438 or modifying the parenting plan of the child. Equal time-sharing
439 with a minor child by both parents is in the best interest of
440 the child unless the court finds that:

441 a. The safety, well-being, and physical, mental, and
442 emotional health of the child would be endangered by equal time-
443 sharing, that visitation would be presumed detrimental
444 consistent with s. 39.0139(3), or that supervised visitation is
445 appropriate, if any is appropriate;

446 b. Clear and convincing evidence of extenuating
447 circumstances justify a departure from equal time-sharing and
448 the court makes written findings justifying the departure from



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449 equal time-sharing;
450 c. A parent is incarcerated;
451 d. The distance between parental residences makes equal
452 time-sharing impracticable;
453 e. A parent does not request at least 50-percent time-
454 sharing;
455 f. A permanent injunction has been entered or is warranted
456 against a parent or household member relating to contact between
457 the subject of the injunction and the parent or household
458 member; or
459 g. Domestic violence, as defined in s. 741.28, has
460 occurred.
461 2. The court shall order that the parental responsibility
462 for a minor child be shared by both parents unless the court
463 finds that shared parental responsibility would be detrimental
464 to the child. Evidence that a parent has been convicted of a
465 misdemeanor of the first degree or higher involving domestic
466 violence, as defined in s. 741.28 and chapter 775, or meets the
467 criteria of s. 39.806(1)(d), creates a rebuttable presumption of
468 detriment to the child. If the presumption is not rebutted after
469 the convicted parent is advised by the court that the
470 presumption exists, shared parental responsibility, including
471 time-sharing with the child, and decisions made regarding the
472 child, may not be granted to the convicted parent. However, the
473 convicted parent is not relieved of any obligation to provide
474 financial support. If the court determines that shared parental
475 responsibility would be detrimental to the child, it may order
476 sole parental responsibility and make such arrangements for
477 time-sharing as specified in the parenting plan as will best



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478 protect the child or abused spouse from further harm. Whether or
479 not there is a conviction of any offense of domestic violence or
480 child abuse or the existence of an injunction for protection
481 against domestic violence, the court shall consider evidence of
482 domestic violence or child abuse as evidence of detriment to the
483 child.

484 a. In ordering shared parental responsibility, the court
485 may consider the expressed desires of the parents and may grant
486 to one party the ultimate responsibility over specific aspects
487 of the child's welfare or may divide those responsibilities
488 between the parties based on the best interests of the child.
489 Areas of responsibility may include education, health care, and
490 any other responsibilities that the court finds unique to a
491 particular family.

492 b. The court shall order sole parental responsibility for a
493 minor child to one parent, with or without time-sharing with the
494 other parent if it is in the best interests of the minor child.

495 3. Access to records and information pertaining to a minor
496 child, including, but not limited to, medical, dental, and
497 school records, may not be denied to either parent. Full rights
498 under this subparagraph apply to either parent unless a court
499 order specifically revokes these rights, including any
500 restrictions on these rights as provided in a domestic violence
501 injunction. A parent having rights under this subparagraph has
502 the same rights upon request as to form, substance, and manner
503 of access as are available to the other parent of a child,
504 including, without limitation, the right to in-person
505 communication with medical, dental, and education providers.

506 Section 6. The amendments made by this act to s. 61.13,



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507 Florida Statutes, providing for equal time-sharing, apply
508 prospectively to initial final custody orders made on or after
509 July 1, 2013. The amendments do not constitute a substantial
510 change in circumstances that warrant the modification of a final
511 custody order entered before July 1, 2013.

512 Section 7. Subsection (1) of section 61.14, Florida
513 Statutes, is amended, paragraphs (c) and (d) are added to
514 subsection (11) of that section, and subsection (12) is added to
515 that section, to read:

516 61.14 Enforcement and modification of support, maintenance,
517 or alimony agreements or orders.-

518 (1) (a) When the parties enter into an agreement for
519 payments for, or instead of, support, maintenance, or alimony,
520 whether in connection with a proceeding for dissolution or
521 separate maintenance or with any voluntary property settlement,
522 or when a party is required by court order to make any payments,
523 and the circumstances or the financial ability of either party
524 changes or the child who is a beneficiary of an agreement or
525 court order as described herein reaches majority after the
526 execution of the agreement or the rendition of the order, either
527 party may apply to the circuit court of the circuit in which the
528 parties, or either of them, resided at the date of the execution
529 of the agreement or reside at the date of the application, or in
530 which the agreement was executed or in which the order was
531 rendered, for an order terminating, decreasing, or increasing
532 the amount of support, maintenance, or alimony, and the court
533 has jurisdiction to make orders as equity requires, with due
534 regard to the changed circumstances or the financial ability of
535 the parties or the child, decreasing, increasing, or confirming



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536 the amount of separate support, maintenance, or alimony provided
537 for in the agreement or order. A finding that medical insurance
538 is reasonably available or the child support guidelines schedule
539 in s. 61.30 may constitute changed circumstances. Except as
540 otherwise provided in s. 61.30(11)(c), the court may modify an
541 order of support, maintenance, or alimony by terminating,
542 increasing, or decreasing the support, maintenance, or alimony
543 retroactively to the date of the filing of the action or
544 supplemental action for modification as equity requires, giving
545 due regard to the changed circumstances or the financial ability
546 of the parties or the child.

547 (b)1. If the court has determined that an existing alimony
548 award as determined by the court at the time of dissolution is
549 insufficient to meet the needs of the obligee, and that such
550 need continues to exist, an alimony order shall be modified
551 upward upon a showing by clear and convincing evidence of a
552 permanently increased ability to pay alimony. Clear and
553 convincing evidence must include, but need not be limited to,
554 federal tax returns. An increase in an obligor's income may not
555 be considered permanent in nature unless the increase has been
556 maintained without interruption for at least 2 years, taking
557 into account the obligor's ability to sustain his or her income.

558 2.1- Notwithstanding subparagraph 1., the court shall ~~may~~
559 reduce or terminate an award of alimony upon specific written
560 findings by the court that since the granting of a divorce and
561 the award of alimony, a supportive relationship has existed
562 between the obligee and another a person, except upon a showing
563 by clear and convincing evidence by the obligee that his or her
564 long-term need for alimony, taking into account the totality of



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565 the circumstances, has not been reduced by the supportive
566 relationship with whom the obligee resides. On the issue of
567 whether alimony should be reduced or terminated under this
568 paragraph, the burden is on the obligor to prove by a
569 preponderance of the evidence that a supportive relationship
570 exists.

571 3.2- In determining whether an existing award of alimony
572 should be reduced or terminated because of an alleged supportive
573 relationship between an obligee and a person who is not related
574 by consanguinity or affinity and with whom the obligee resides,
575 the court shall elicit the nature and extent of the relationship
576 in question. The court shall give consideration, without
577 limitation, to circumstances, including, but not limited to, the
578 following, in determining the relationship of an obligee to
579 another person:

580 a. The extent to which the obligee and the other person
581 have held themselves out as a married couple by engaging in
582 conduct such as using the same last name, using a common mailing
583 address, referring to each other in terms such as "my husband"
584 or "my wife," or otherwise conducting themselves in a manner
585 that evidences a permanent supportive relationship.

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

588 c. The extent to which the obligee and the other person
589 have pooled their assets or income or otherwise exhibited
590 financial interdependence.

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

593 e. The extent to which the obligee or the other person has



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594 performed valuable services for the other.

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

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

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

601 i. Evidence in support of a claim that the obligee and the
602 other person have an express agreement regarding property
603 sharing or support.

604 j. Evidence in support of a claim that the obligee and the
605 other person have an implied agreement regarding property
606 sharing or support.

607 k. Whether the obligee and the other person have provided
608 support to the children of one another, regardless of any legal
609 duty to do so.

610 ~~4.3-~~ This paragraph does not abrogate the requirement that
611 every marriage in this state be solemnized under a license, does
612 not recognize a common law marriage as valid, and does not
613 recognize a de facto marriage. This paragraph recognizes only
614 that relationships do exist that provide economic support
615 equivalent to a marriage and that alimony terminable on
616 remarriage may be reduced or terminated upon the establishment
617 of equivalent equitable circumstances as described in this
618 paragraph. The existence of a conjugal relationship, though it
619 may be relevant to the nature and extent of the relationship, is
620 not necessary for the application of ~~the provisions of~~ this
621 paragraph.

622 5. There is a rebuttable presumption that any modification



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623 or termination of an alimony award is retroactive to the date of
624 the filing of the petition. In an action under this section, if
625 it is determined that the obligee unnecessarily or unreasonably
626 litigated the underlying petition for modification or
627 termination, the court may award the obligor his or her
628 reasonable attorney fees and costs pursuant to s. 61.16 and
629 applicable case law.

630 (c) For each support order reviewed by the department as
631 required by s. 409.2564(11), if the amount of the child support
632 award under the order differs by at least 10 percent but not
633 less than \$25 from the amount that would be awarded under s.
634 61.30, the department shall seek to have the order modified and
635 any modification shall be made without a requirement for proof
636 or showing of a change in circumstances.

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

639 (11)

640 (c) If the court orders alimony payable concurrent with a
641 child support order, the alimony award may not be modified
642 solely because of a later reduction or termination of child
643 support payments, unless the court finds the obligor has the
644 ability to pay the modified alimony award, the existing alimony
645 award as determined by the court at the time of dissolution is
646 insufficient to meet the needs of the obligee, and such need
647 continues to exist.

648 (d) An obligor's subsequent remarriage or cohabitation does
649 not constitute a basis for a modification of alimony. The income
650 and assets of the obligor's subsequent spouse or person with
651 whom the obligor resides is not relevant in a modification



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652 action except under exceptional circumstances.

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

659 (a) Age.

660 (b) Health.

661 (c) Motivation for retirement.

662 (d) Type of work.

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

664
665 In anticipation of retirement, the obligor may file a petition
666 for termination or modification of the alimony award effective
667 upon the retirement date. The court shall terminate or modify
668 the alimony award based on the circumstances of the parties
669 after retirement of the obligor and based on the factors in s.
670 61.08(2), unless the court makes findings of fact that a
671 termination or modification of an alimony award is not
672 warranted.

673 Section 8. Section 61.19, Florida Statutes, is amended to
674 read:

675 61.19 Entry of judgment of dissolution of marriage; ~~7~~ delay
676 period; separate adjudication of issues.-

677 (1) A ~~Ne~~ final judgment of dissolution of marriage may not
678 be entered until at least 20 days have elapsed from the date of
679 filing the original petition for dissolution of marriage, ~~7~~ but
680 the court, on a showing that injustice would result from this



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681 delay, may enter a final judgment of dissolution of marriage at
682 an earlier date.

683 (2) (a) During the first 180 days after the date of service
684 of the original petition for dissolution of marriage, the court
685 may not grant a final dissolution of marriage with a reservation
686 of jurisdiction to subsequently determine all other substantive
687 issues unless the court makes written findings that there are
688 exceptional circumstances that make the use of this process
689 clearly necessary to protect the parties or their children and
690 that granting a final dissolution will not cause irreparable
691 harm to either party or the children. Before granting a final
692 dissolution of marriage with a reservation of jurisdiction to
693 subsequently determine all other substantive issues, the court
694 shall enter temporary orders necessary to protect the parties
695 and their children, which orders remain effective until all
696 other issues can be adjudicated by the court. The desire of one
697 party to remarry does not justify the use of this process.

698 (b) If more than 180 days have elapsed after the date of
699 service of the original petition for dissolution of marriage,
700 the court may grant a final dissolution of marriage with a
701 reservation of jurisdiction to subsequently determine all other
702 substantive issues only if the court enters temporary orders
703 necessary to protect the parties and their children, which
704 orders remain effective until such time as all other issues can
705 be adjudicated by the court, and makes a written finding that no
706 irreparable harm will result from granting a final dissolution.

707 (c) If more than 365 days have elapsed after the date of
708 service of the original petition for dissolution of marriage,
709 absent a showing by either party that irreparable harm will



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710 result from granting a final dissolution, the court shall, upon
711 request of either party, immediately grant a final dissolution
712 of marriage with a reservation of jurisdiction to subsequently
713 determine all other substantive issues. Before granting a final
714 dissolution of marriage with a reservation of jurisdiction to
715 subsequently determine all other substantive issues, the court
716 shall enter temporary orders necessary to protect the parties
717 and their children, which orders remain effective until all
718 other issues can be adjudicated by the court.

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

- 723 1. Restrict the sale or disposition of property.
724 2. Protect and preserve the marital assets.
725 3. Establish temporary support.
726 4. Provide for maintenance of health insurance.
727 5. Provide for maintenance of life insurance.

728 (e) The court is not required to enter temporary orders to
729 protect the parties and their children if the court enters a
730 final judgment of dissolution of marriage that adjudicates
731 substantially all of the substantive issues between the parties
732 but reserves jurisdiction to address ancillary issues such as
733 the entry of a qualified domestic relations order or the
734 adjudication of attorney fees and costs.

735 Section 9. (1) (a) The amendments to chapter 61, Florida
736 Statutes, made by this act apply to:

- 737 1. Final judgments of alimony awards entered before July 1,
738 2013.



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739 2. Final orders entered before July 1, 2013, that
740 incorporate an agreement between the parties for alimony, if the
741 duration of the marriage was equal to or less than 15 years and
742 the duration of the alimony agreement exceeds the duration of
743 the marriage.

744 (b) For such judgments or orders, the amendments to chapter
745 61, Florida Statutes, shall constitute a substantial change in
746 circumstances for which an obligor may seek, in accordance with
747 s. 61.14, Florida Statutes, a modification of the amount or
748 duration of alimony, except for an order incorporating an
749 agreement that is expressly nonmodifiable.

750 (2) (a) For final orders entered before July 1, 2013 that
751 incorporate an agreement between the parties for alimony, but
752 otherwise do not meet the criteria set forth in subparagraph
753 (1) (a) 2., the amendments to chapter 61, Florida Statutes, made
754 by this act shall apply if the obligor proves, by clear and
755 convincing evidence, that:

756 1. The obligor did not execute the agreement voluntarily;

757 2. The agreement was the product of fraud, duress,
758 coercion, or overreaching; or

759 3. The agreement was unconscionable when it was executed
760 and, before execution of the agreement, the obligor:

761 a. Was not provided a fair and reasonable disclosure of the
762 property or financial obligations of the other party.

763 b. Did not voluntarily and expressly waive, in writing, any
764 right to disclosure of the property or financial obligations of
765 the other party beyond disclosure provided.

766 c. Did not have or reasonably could not have had an
767 adequate knowledge of the property or financial obligations of



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768 the other party.

769 (b) For such orders, the amendments to chapter 61, Florida
770 Statutes, shall constitute a substantial change in circumstances
771 for which an obligor may seek, in accordance with s. 61.14,
772 Florida Statutes, a modification of the amount or duration of
773 alimony, except for an order incorporating an agreement that is
774 expressly nonmodifiable.

775 (3) Final judgments and orders for which the amendments to
776 chapter 61, Florida Statutes, constitute a substantial change in
777 circumstances under subsection (1) and (2) may be the subject of
778 a modification action according to the following schedule:

779 (a) An obligor who is subject to alimony of 15 years or
780 more may file a modification action on or after July 1, 2013.

781 (b) An obligor who is subject to alimony of 8 years of
782 more, but less than 15 years, may file a modification action on
783 or after July 1, 2014.

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

786 Section 10. This act shall take effect July 1, 2013.

787
788 ===== T I T L E A M E N D M E N T =====

789 And the title is amended as follows:

790 Delete everything before the enacting clause
791 and insert:

792 A bill to be entitled
793 An act relating to family law; amending s. 61.071,
794 F.S.; requiring that alimony pendente lite be
795 calculated in accordance with s. 61.08, F.S.; amending
796 s. 61.075, F.S.; redefining the term "marital assets



797 and liabilities" for purposes of equitable
798 distribution in dissolution of marriage actions;
799 providing that the term includes the paydown of
800 principal of notes and mortgages secured by nonmarital
801 real property and certain passive appreciation in such
802 property under certain circumstances; providing
803 formulas and guidelines for determining the amount of
804 such passive appreciation; requiring security and
805 interest relating to the installment payment of such
806 assets; providing exceptions; permitting the court to
807 provide written findings regarding any installment
808 payments; amending s. 61.08, F.S.; defining terms;
809 providing for the priority of bridge-the-gap alimony,
810 followed by rehabilitative alimony, over any other
811 form; requiring a court to make written findings
812 regarding the basis for awarding a combination of
813 forms of alimony, including the type of alimony and
814 length of time for which it is awarded; providing that
815 the party seeking alimony has the burden of proof of
816 demonstrating a need for alimony and that the other
817 party has the ability to pay alimony; requiring the
818 court to consider specified relevant factors when
819 determining the proper type and amount of alimony;
820 revising provisions relating to the protection of
821 awards of alimony; revising provisions for an award of
822 durational alimony; specifying criteria related to the
823 rebuttable presumption to award or not to award
824 alimony; deleting a provision authorizing permanent
825 alimony; providing for retirement of a party against



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826 whom alimony is sought; providing for imputation of
827 income to the obligor or obligee in certain
828 circumstances; amending s. 61.09, F.S.; providing for
829 the calculation of alimony; amending s. 61.13, F.S.;
830 establishing a presumption that it is in the best
831 interest of the child for the court to order equal
832 time-sharing for each minor child; providing
833 exceptions; providing prospective applicability of the
834 presumption; amending s. 61.14, F.S.; authorizing a
835 party to apply for an order to terminate the amount of
836 support, maintenance, or alimony; requiring that an
837 alimony order be modified upward upon a showing by
838 clear and convincing evidence of an increased ability
839 to pay alimony by the other party; prohibiting an
840 increase in an obligor's income from being considered
841 permanent in nature until it has been maintained for a
842 specified period without interruption; providing an
843 exemption from the reduction or termination of an
844 alimony award in certain circumstances; providing that
845 there is a rebuttable presumption that any
846 modification or termination of an alimony award is
847 retroactive to the date of the filing of the petition;
848 providing for an award of attorney fees and costs if
849 it is determined that an obligee unnecessarily or
850 unreasonably litigates a petition for modification or
851 termination of an alimony award; prohibiting an
852 alimony award from being modified providing that if
853 the court orders alimony concurrent with a child
854 support order, the alimony award may not be modified



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855 because of the later modification or termination of
856 child support payments; providing that an obligor's
857 subsequent remarriage or cohabitation is not a basis
858 for modification of alimony; providing that income and
859 assets of obligor's subsequent spouse or person with
860 whom the obligor is residing are generally not
861 relevant to modification; providing that the attaining
862 of retirement age is a substantial change in
863 circumstances; requiring the court to consider certain
864 factors in determining whether the obligor's
865 retirement is reasonable; requiring a court to
866 terminate or reduce an alimony award based on certain
867 factors; amending s. 61.19, F.S.; authorizing separate
868 adjudication of issues in a dissolution of marriage
869 case in certain circumstances; providing for temporary
870 orders necessary to protect the parties and their
871 children; providing for retroactive application of the
872 act to alimony awards entered before July 1, 2013;
873 providing an exception; providing allowable dates for
874 the modification of such awards; providing an
875 effective date.