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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/20/2013	.	
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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



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



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.

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

755           1. The obligor did not execute the agreement voluntarily;  
756           2. The agreement was the product of fraud, duress,  
757 coercion, or overreaching; or

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

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

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

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



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768           (b) For such orders, the amendments to chapter 61, Florida  
769 Statutes, shall constitute a substantial change in circumstances  
770 for which an obligor may seek, in accordance with s. 61.14,  
771 Florida Statutes, a modification of the amount or duration of  
772 alimony.

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

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

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

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

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

785  
786 ===== T I T L E   A M E N D M E N T =====

787 And the title is amended as follows:

788           Delete everything before the enacting clause  
789 and insert:

790                                   A bill to be entitled  
791           An act relating to family law; amending s. 61.071,  
792           F.S.; requiring that alimony pendente lite be  
793           calculated in accordance with s. 61.08, F.S.; amending  
794           s. 61.075, F.S.; redefining the term "marital assets  
795           and liabilities" for purposes of equitable  
796           distribution in dissolution of marriage actions;



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



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



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