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1  
2 An act relating to family law; amending s. 61.071,  
3 F.S.; requiring that alimony pendente lite be  
4 calculated in accordance with s. 61.08, F.S.; amending  
5 s. 61.075, F.S.; redefining the term "marital assets  
6 and liabilities" for purposes of equitable  
7 distribution in dissolution of marriage actions;  
8 providing that the term includes the paydown of  
9 principal of notes and mortgages secured by nonmarital  
10 real property and certain passive appreciation in such  
11 property under certain circumstances; providing  
12 formulas and guidelines for determining the amount of  
13 such passive appreciation; requiring security and  
14 interest relating to the installment payment of such  
15 assets; providing exceptions; permitting the court to  
16 provide written findings regarding any installment  
17 payments; amending s. 61.08, F.S.; defining terms;  
18 providing for the priority of bridge-the-gap alimony,  
19 followed by rehabilitative alimony, over any other  
20 form; requiring a court to make written findings  
21 regarding the basis for awarding a combination of  
22 forms of alimony, including the type of alimony and  
23 length of time for which it is awarded; providing that  
24 the party seeking alimony has the burden of proof of  
25 demonstrating a need for alimony and that the other  
26 party has the ability to pay alimony; requiring the  
27 court to consider specified relevant factors when  
28 determining the proper type and amount of alimony;  
29 revising provisions relating to the protection of

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30 awards of alimony; revising provisions for an award of  
31 durational alimony; specifying criteria related to the  
32 rebuttable presumption to award or not to award  
33 alimony; specifying criteria for awarding  
34 rehabilitative alimony; deleting a provision  
35 authorizing permanent alimony; providing for  
36 retirement of a party against whom alimony is sought;  
37 providing for imputation of income to the obligor or  
38 obligee in certain circumstances; amending s. 61.09,  
39 F.S.; providing for the calculation of alimony;  
40 amending s. 61.13, F.S.; establishing a presumption  
41 that it is in the best interest of the child for the  
42 court to order equal time-sharing for each minor  
43 child; providing exceptions; providing prospective  
44 applicability of the presumption; amending s. 61.14,  
45 F.S.; authorizing a party to apply for an order to  
46 terminate the amount of support, maintenance, or  
47 alimony; requiring that an alimony order be modified  
48 upward upon a showing by clear and convincing evidence  
49 of an increased ability to pay alimony by the other  
50 party; prohibiting an increase in an obligor's income  
51 from being considered permanent in nature until it has  
52 been maintained for a specified period without  
53 interruption; providing an exemption from the  
54 reduction or termination of an alimony award in  
55 certain circumstances; providing that there is a  
56 rebuttable presumption that any modification or  
57 termination of an alimony award is retroactive to the  
58 date of the filing of the petition; providing for an

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59 award of attorney fees and costs if it is determined  
60 that an obligee unnecessarily or unreasonably  
61 litigates a petition for modification or termination  
62 of an alimony award; prohibiting an alimony award from  
63 being modified providing that if the court orders  
64 alimony concurrent with a child support order, the  
65 alimony award may not be modified because of the later  
66 modification or termination of child support payments;  
67 providing that an obligor's subsequent remarriage or  
68 cohabitation is not a basis for modification of  
69 alimony; providing that income and assets of obligor's  
70 subsequent spouse or person with whom the obligor is  
71 residing are generally not relevant to modification;  
72 providing that the attaining of retirement age is a  
73 substantial change in circumstances; requiring the  
74 court to consider certain factors in determining  
75 whether the obligor's retirement is reasonable;  
76 requiring a court to terminate or reduce an alimony  
77 award based on certain factors; amending s. 61.19,  
78 F.S.; authorizing separate adjudication of issues in a  
79 dissolution of marriage case in certain circumstances;  
80 providing for temporary orders necessary to protect  
81 the parties and their children; amending s. 61.30,  
82 F.S.; providing for consideration of time-sharing  
83 schedules as a factor in the adjustment of awards of  
84 child support; providing for retroactive application  
85 of the act to alimony awards entered before July 1,  
86 2013; providing an exception; providing allowable  
87 dates for the modification of such awards; providing

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88 an effective date.

89

90 Be It Enacted by the Legislature of the State of Florida:

91

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

94 61.071 Alimony pendente lite; suit money.—In every  
95 proceeding for dissolution of the marriage, a party may claim  
96 alimony and suit money in the petition or by motion, and if the  
97 petition is well founded, the court shall allow alimony  
98 calculated in accordance with s. 61.08 and a reasonable sum of  
99 suit money ~~therefor~~. If a party in any proceeding for

100 dissolution of marriage claims alimony or suit money in his or  
101 her answer or by motion, ~~and the answer or motion is well~~  
102 founded, the court shall allow alimony calculated in accordance  
103 with s. 61.08 and a reasonable sum of suit money ~~therefor~~.

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

106 61.075 Equitable distribution of marital assets and  
107 liabilities.—

108 (6) As used in this section:

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

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

112 b. The enhancement in value and appreciation of nonmarital  
113 assets resulting ~~either~~ from the efforts of either party during  
114 the marriage or from the contribution to or expenditure thereon  
115 of marital funds or other forms of marital assets, or both.

116 c. The paydown of principal of a note and mortgage secured

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117 by nonmarital real property and a portion of any passive  
118 appreciation in the property, if the note and mortgage secured  
119 by the property are paid down from marital funds during the  
120 marriage. The portion of passive appreciation in the property  
121 characterized as marital and subject to equitable distribution  
122 shall be determined by multiplying a coverture fraction by the  
123 passive appreciation in the property during the marriage.

124 (I) The passive appreciation shall be determined by  
125 subtracting the gross value of the property on the date of the  
126 marriage or the date of acquisition of the property, whichever  
127 is later, from the value of the property on the valuation date  
128 in the dissolution action, less any active appreciation of the  
129 property during the marriage, pursuant to sub-subparagraph b.,  
130 and less any additional encumbrances secured by the property  
131 during the marriage in excess of the first note and mortgage on  
132 which principal is paid from marital funds.

133 (II) The coverture fraction shall consist of a numerator,  
134 defined as the total paydown of principal from marital funds of  
135 all notes and mortgages secured by the property during the  
136 marriage, and a denominator, defined as the value of the subject  
137 real property on the date of the marriage, the date of  
138 acquisition of the property, or the date the property was  
139 encumbered by the first note and mortgage on which principal was  
140 paid from marital funds, whichever is later.

141 (III) The passive appreciation shall be multiplied by the  
142 coverture fraction to determine the marital portion of the  
143 passive appreciation in the property.

144 (IV) The total marital portion of the property shall  
145 consist of the marital portion of the passive appreciation,

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146 pursuant to subparagraph 3., the mortgage principal paid during  
147 the marriage from marital funds, and any active appreciation of  
148 the property, pursuant to sub-subparagraph b., not to exceed the  
149 total net equity in the property at the date of valuation.

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

153 d.e. Interspousal gifts during the marriage.

154 e.d. All vested and nonvested benefits, rights, and funds  
155 accrued during the marriage in retirement, pension, profit-  
156 sharing, annuity, deferred compensation, and insurance plans and  
157 programs.

158 2. All real property held by the parties as tenants by the  
159 entirety, whether acquired prior to or during the marriage,  
160 shall be presumed to be a marital asset. If, in any case, a  
161 party makes a claim to the contrary, the burden of proof shall  
162 be on the party asserting the claim that the subject property,  
163 or some portion thereof, is nonmarital.

164 3. All personal property titled jointly by the parties as  
165 tenants by the entirety, whether acquired prior to or during  
166 the marriage, shall be presumed to be a marital asset. In the  
167 event a party makes a claim to the contrary, the burden of proof  
168 shall be on the party asserting the claim that the subject  
169 property, or some portion thereof, is nonmarital.

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

172 (10) (a) To do equity between the parties, the court may, in  
173 lieu of or to supplement, facilitate, or effectuate the  
174 equitable division of marital assets and liabilities, order a

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175 monetary payment in a lump sum or in installments paid over a  
176 fixed period of time.

177 (b) If installment payments are ordered, the court may  
178 require security and a reasonable rate of interest, or otherwise  
179 recognize the time value of money in determining the amount of  
180 the installments. If security or interest is required, the court  
181 shall make written findings relating to any deferred payments,  
182 the amount of any security required, and the interest. This  
183 subsection does not preclude the application of chapter 55 to  
184 any subsequent default.

185 Section 3. Section 61.08, Florida Statutes, is amended to  
186 read:

187 61.08 Alimony.—

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

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

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

194 (c) "Mid-term marriage" means a marriage having a duration  
195 of more than 11 years but less than 20 years, as measured from  
196 the date of marriage to the date of filing the petition for  
197 dissolution.

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

200 (e) "Short term marriage" means a marriage having a  
201 duration equal to or less than 11 years, as measured from the  
202 date of the marriage to the date of filing the petition for  
203 dissolution.

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204        (2) (a) ~~(1)~~ In a proceeding for dissolution of marriage, the  
205 court may grant alimony to either party in the form of, ~~which~~  
206 ~~alimony may be~~ bridge-the-gap, rehabilitative, or durational  
207 alimony, or a permanent in nature or any combination of these  
208 forms of alimony, but shall prioritize an award of bridge-the-  
209 gap alimony, followed by rehabilitative alimony, over any other  
210 form of alimony. In an any award of alimony, the court may order  
211 periodic payments, or payments in lump sum, or both.

212        (b) The court shall make written findings regarding the  
213 basis for awarding a combination of forms of alimony, including  
214 the type of alimony and the length of time for which it is  
215 awarded. The court may award only a combination of forms of  
216 alimony to provide greater economic assistance in order to allow  
217 the recipient to achieve rehabilitation.

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

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

224        (3) ~~(2)~~ The party seeking alimony has the burden of proof of  
225 demonstrating a need for alimony in accordance with subsection  
226 (8) and that the other party has the ability to pay alimony. In  
227 determining whether to award alimony ~~or maintenance~~, the court  
228 shall ~~first~~ make, in writing, a specific factual determination  
229 as to whether the other ~~either party has an actual need for~~  
230 ~~alimony or maintenance~~ and whether ~~either party~~ has the ability  
231 to pay alimony ~~or maintenance~~. If the court finds that the a  
232 party seeking alimony has met its burden of proof in



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233 demonstrating a need for alimony ~~or maintenance~~ and that the  
234 other party has the ability to pay alimony ~~or maintenance~~, then  
235 in determining the proper type and amount of alimony ~~or~~  
236 ~~maintenance~~ under subsections (5)-(9) ~~(5)-(8)~~, the court shall  
237 consider all relevant factors, including, ~~but not limited to:~~

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

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

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

242 (c) ~~(d)~~ The financial resources of each party, including the  
243 portion of nonmarital assets that were relied upon by the  
244 parties during the marriage and the marital assets and  
245 liabilities distributed to each.

246 (d) ~~(e)~~ The earning capacities, educational levels,  
247 vocational skills, and employability of the parties and, when  
248 applicable, the time necessary for either party to acquire  
249 sufficient education or training to enable such party to find  
250 appropriate employment.

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

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

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

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262        (h)~~(i)~~ All sources of income available to either party,  
263 including income available to either party through investments  
264 of any asset held by that party which was acquired during the  
265 marriage or acquired outside the marriage and relied upon during  
266 the marriage.

267        (i) The needs and necessities of life after dissolution of  
268 marriage, taking into account the lifestyle of the parties  
269 during the marriage but subject to the presumption in paragraph  
270 (j).

271        (j) The net income and standard of living available to each  
272 party after the application of the alimony award. There is a  
273 rebuttable presumption that both parties will have a lower  
274 standard of living after the dissolution of marriage than the  
275 standard of living they enjoyed during the marriage. This  
276 presumption may be overcome by a preponderance of the evidence.

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

281        (4)~~(3)~~ To the extent necessary to protect an award of  
282 alimony, the court may order any party who is ordered to pay  
283 alimony to purchase or maintain a life insurance policy that may  
284 be decreasing or another form of term life insurance at the  
285 option of the obligor or a bond, or to otherwise secure such  
286 alimony award with any other assets that ~~which~~ may be suitable  
287 for that purpose, in an amount adequate to secure the alimony  
288 award. Any such security may be awarded only upon a showing of  
289 special circumstances. If the court finds special circumstances  
290 and awards such security, the court must make specific

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291 evidentiary findings regarding the availability, cost, and  
292 financial impact on the obligated party. Any security may be  
293 modifiable in the event that the underlying alimony award is  
294 modified and shall be reduced in an amount commensurate with any  
295 reduction in the alimony award.

296 ~~(4) For purposes of determining alimony, there is a~~  
297 ~~rebuttable presumption that a short-term marriage is a marriage~~  
298 ~~having a duration of less than 7 years, a moderate-term marriage~~  
299 ~~is a marriage having a duration of greater than 7 years but less~~  
300 ~~than 17 years, and long-term marriage is a marriage having a~~  
301 ~~duration of 17 years or greater. The length of a marriage is the~~  
302 ~~period of time from the date of marriage until the date of~~  
303 ~~filing of an action for dissolution of marriage.~~

304 (5) Bridge-the-gap alimony may be awarded to assist a party  
305 by providing support to allow the party to make a transition  
306 from being married to being single. Bridge-the-gap alimony is  
307 designed to assist a party with legitimate identifiable short-  
308 term needs, and the length of an award may not exceed 2 years.  
309 An award of bridge-the-gap alimony terminates upon the death of  
310 either party or upon the remarriage of the party receiving  
311 alimony. An award of bridge-the-gap alimony is ~~shall~~ not be  
312 modifiable in amount or duration.

313 (6) (a) Rehabilitative alimony may be awarded to assist a  
314 party in establishing the capacity for self-support through  
315 either:

- 316 1. The redevelopment of previous skills or credentials; or  
317 2. The acquisition of education, training, or work  
318 experience necessary to develop appropriate employment skills or  
319 credentials.

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

323 (c) An award of rehabilitative alimony may be modified or  
324 terminated only during the rehabilitative period in accordance  
325 with s. 61.14 based upon a substantial change in circumstances,  
326 upon noncompliance with the rehabilitative plan, or upon  
327 completion of the rehabilitative plan.

328 (7) Durational alimony may be awarded ~~when permanent~~  
329 ~~periodic alimony is inappropriate. The purpose of durational~~  
330 ~~alimony is~~ to provide a party with economic assistance for a set  
331 period of time following a short-term, mid-term, or long-term  
332 ~~marriage of short or moderate duration or following a marriage~~  
333 ~~of long duration if there is no ongoing need for support on a~~  
334 ~~permanent basis. When awarding durational alimony, the court~~  
335 ~~must make written findings that an award of another form of~~  
336 ~~alimony or a combination of the other forms of alimony is not~~  
337 ~~appropriate. An award of durational alimony terminates upon the~~  
338 ~~death of either party or upon the remarriage of the party~~  
339 ~~receiving alimony. The amount of an award of durational alimony~~  
340 ~~shall~~ may be modified or terminated based upon a substantial  
341 change in circumstances or upon the existence of a supportive  
342 relationship in accordance with s. 61.14. ~~However,~~ The length of  
343 an award of durational alimony may not ~~be modified except under~~  
344 ~~exceptional circumstances and may not~~ exceed 50 percent of the  
345 length of the marriage, unless the party seeking alimony proves  
346 by a preponderance of the evidence the circumstances justifying  
347 the need for a longer award of alimony, which circumstances must  
348 be set out in writing by the court ~~the length of the marriage.~~

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349           (8) (a) There is a rebuttable presumption against awarding  
350 alimony for a short-term marriage. A party seeking bridge-the-  
351 gap or rehabilitative alimony may overcome this presumption by  
352 demonstrating by a preponderance of the evidence a need for  
353 alimony. A party seeking durational alimony may overcome this  
354 presumption by demonstrating by clear and convincing evidence a  
355 need for alimony. If the court finds that the party has met its  
356 burden in demonstrating a need for alimony and that the other  
357 party has the ability to pay alimony, the court shall determine  
358 a monthly award of alimony that may not exceed 25 percent of the  
359 obligor's gross monthly income, as calculated under s.  
360 61.30(2) (a), with the exception that gross income does not  
361 include, consistent with paragraph (3) (h), sources of income  
362 acquired outside of the marriage which were not relied upon  
363 during the marriage.

364           (b) There is no presumption in favor of either party to an  
365 award of alimony for a mid-term marriage. A party seeking such  
366 alimony must prove by a preponderance of the evidence a need for  
367 alimony. If the court finds that the party has met its burden in  
368 demonstrating a need for alimony and that the other party has  
369 the ability to pay alimony, the court shall determine a monthly  
370 award of alimony that may not exceed 35 percent of the obligor's  
371 gross monthly income, as calculated under s. 61.30(2) (a), with  
372 the exception that gross income does not include, consistent  
373 with paragraph (3) (h), sources of income acquired outside of the  
374 marriage which were not relied upon during the marriage.

375           (c) There is a rebuttable presumption in favor of awarding  
376 alimony for a long-term marriage. A party against whom alimony  
377 is sought may overcome this presumption by demonstrating by

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378 clear and convincing evidence that there is no need for alimony.  
379 If the court finds that the party against whom alimony is sought  
380 fails to meet its burden to demonstrate that there is no need  
381 for alimony and that the party has the ability to pay alimony,  
382 the court shall determine a monthly award of alimony which may  
383 not exceed 38 percent of the obligor's gross monthly income, as  
384 calculated under s. 61.30(2) (a), with the exception that gross  
385 income does not include, consistent with paragraph (3) (h),  
386 sources of income acquired outside of the marriage which were  
387 not relied upon during the marriage.

388 (d) Notwithstanding subsections (8) and (9), the  
389 combination of an award of rehabilitative alimony and another  
390 form of alimony may be awarded up to a maximum of 40 percent of  
391 the obligor's gross monthly income during the temporary period  
392 in which rehabilitative alimony has been awarded, as calculated  
393 under s. 61.30(2) (a), with the exception that gross income does  
394 not include, consistent with paragraph (3) (h), sources of income  
395 acquired outside of the marriage which were not relied upon  
396 during the marriage.

397 (9) The court may order alimony exceeding the monthly  
398 income limits established in subsection (8) if the court  
399 determines, in accordance with the factors in subsection (3),  
400 that there is a need for additional alimony, which determination  
401 must be set out in writing ~~Permanent alimony may be awarded to~~  
402 ~~provide for the needs and necessities of life as they were~~  
403 ~~established during the marriage of the parties for a party who~~  
404 ~~lacks the financial ability to meet his or her needs and~~  
405 ~~necessities of life following a dissolution of marriage.~~  
406 ~~Permanent alimony may be awarded following a marriage of long~~

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407 ~~duration if such an award is appropriate upon consideration of~~  
408 ~~the factors set forth in subsection (2), following a marriage of~~  
409 ~~moderate duration if such an award is appropriate based upon~~  
410 ~~clear and convincing evidence after consideration of the factors~~  
411 ~~set forth in subsection (2), or following a marriage of short~~  
412 ~~duration if there are written findings of exceptional~~  
413 ~~circumstances. In awarding permanent alimony, the court shall~~  
414 ~~include a finding that no other form of alimony is fair and~~  
415 ~~reasonable under the circumstances of the parties. An award of~~  
416 ~~permanent alimony terminates upon the death of either party or~~  
417 ~~upon the remarriage of the party receiving alimony. An award may~~  
418 ~~be modified or terminated based upon a substantial change in~~  
419 ~~circumstances or upon the existence of a supportive relationship~~  
420 ~~in accordance with s. 61.14.~~

421 (10) A party against whom alimony is sought who has met the  
422 requirements for retirement in accordance with s. 61.14(12)  
423 before the filing of the petition for dissolution is not  
424 required to pay alimony unless the party seeking alimony proves  
425 by clear and convincing evidence the other party has the ability  
426 to pay alimony, in addition to all other requirements of this  
427 section.

428 (11)-(9) Notwithstanding any other provision of law, alimony  
429 may not be awarded to a party who has a monthly net income that  
430 is equal to or more than the other party. Except in the case of  
431 a long-term marriage, in awarding alimony, the court shall  
432 impute income to the obligor and obligee as follows:

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

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- 436        (b) In the case of the obligee, if the obligee:
- 437            1. Is unemployed at the time the petition is filed and has  
438 been unemployed for less than 1 year before the time of the  
439 filing of the petition, the obligee's monthly net income shall  
440 be imputed at 90 percent of the obligee's prior monthly net  
441 income.
- 442            2. Is unemployed at the time the petition is filed and has  
443 been unemployed for at least 1 year but less than 2 years before  
444 the time of the filing of the petition, the obligee's monthly  
445 net income shall be imputed at 80 percent of the obligee's prior  
446 monthly net income.
- 447            3. Is unemployed at the time the petition is filed and has  
448 been unemployed for at least 2 years but less than 3 years  
449 before the time of the filing of the petition, the obligee's  
450 monthly net income shall be imputed at 70 percent of the  
451 obligee's prior monthly net income.
- 452            4. Is unemployed at the time the petition is filed and has  
453 been unemployed for at least 3 years but less than 4 years  
454 before the time of the filing of the petition, the obligee's  
455 monthly net income shall be imputed at 60 percent of the  
456 obligee's prior monthly net income.
- 457            5. Is unemployed at the time the petition is filed and has  
458 been unemployed for at least 4 years but less than 5 years  
459 before the time of the filing of the petition, the obligee's  
460 monthly net income shall be imputed at 50 percent of the  
461 obligee's prior monthly net income.
- 462            6. Is unemployed at the time the petition is filed and has  
463 been unemployed for at least 5 years before the time of the  
464 filing of the petition, the obligee's monthly net income shall



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465 be imputed at 40 percent of the obligee's prior monthly net  
466 income, or the monthly net income of a minimum wage earner at  
467 the time of the filing of the petition, whichever is greater.

468 7. Proves by a preponderance of the evidence that he or she  
469 does not have the ability to earn the imputed income through  
470 reasonable means, the court shall reduce the imputation of  
471 income specified in this paragraph. If the obligee alleges that  
472 a physical disability has impaired his or her ability to earn  
473 the imputed income, such disability must meet the definition of  
474 disability as determined by the Social Security Administration.  
475 ~~The award of alimony may not leave the payor with significantly~~  
476 ~~less net income than the net income of the recipient unless~~  
477 ~~there are written findings of exceptional circumstances.~~

478 (12) (a) ~~(10) (a)~~ With respect to any order requiring the  
479 payment of alimony entered on or after January 1, 1985, unless  
480 the provisions of paragraph (c) or paragraph (d) applies ~~apply~~,  
481 the court shall direct in the order that the payments of alimony  
482 be made through the appropriate depository as provided in s.  
483 61.181.

484 (b) With respect to any order requiring the payment of  
485 alimony entered before January 1, 1985, upon the subsequent  
486 appearance, on or after that date, of one or both parties before  
487 the court having jurisdiction for the purpose of modifying or  
488 enforcing the order or in any other proceeding related to the  
489 order, or upon the application of either party, unless ~~the~~  
490 ~~provisions of~~ paragraph (c) or paragraph (d) applies ~~apply~~, the  
491 court shall modify the terms of the order as necessary to direct  
492 that payments of alimony be made through the appropriate  
493 depository as provided in s. 61.181.

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

496 (d)1. If there is a minor child of the parties and both  
497 parties so request, the court may order that alimony payments  
498 need not be directed through the depository. In this case, the  
499 order of support must ~~shall~~ provide, or be deemed to provide,  
500 that either party may subsequently apply to the depository to  
501 require that payments be made through the depository. The court  
502 shall provide a copy of the order to the depository.

503 2. If ~~the provisions of~~ subparagraph 1. applies ~~apply~~,  
504 either party may subsequently file with the depository an  
505 affidavit alleging default or arrearages in payment and stating  
506 that the party wishes to initiate participation in the  
507 depository program. The party shall provide copies of the  
508 affidavit to the court and the other party or parties. Fifteen  
509 days after receipt of the affidavit, the depository shall notify  
510 all parties that future payments shall be directed to the  
511 depository.

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

515 Section 4. Section 61.09, Florida Statutes, is amended to  
516 read:

517 61.09 Alimony and child support unconnected with  
518 dissolution.—If a person having the ability to contribute to the  
519 maintenance of his or her spouse and support of his or her minor  
520 child fails to do so, the spouse who is not receiving support  
521 may apply to the court for alimony and for support for the child  
522 without seeking dissolution of marriage, and the court shall

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523 enter an order as it deems just and proper. Alimony awarded  
524 under this section shall be calculated in accordance with s.  
525 61.08.

526 Section 5. Paragraph (c) of subsection (2) of section  
527 61.13, Florida Statutes, is amended to read:

528 61.13 Support of children; parenting and time-sharing;  
529 powers of court.—

530 (2)

531 (c) The court shall determine all matters relating to  
532 parenting and time-sharing of each minor child of the parties in  
533 accordance with the best interests of the child and in  
534 accordance with the Uniform Child Custody Jurisdiction and  
535 Enforcement Act, except that modification of a parenting plan  
536 and time-sharing schedule requires a showing of a substantial,  
537 material, and unanticipated change of circumstances.

538 1. It is the public policy of this state that each minor  
539 child has frequent and continuing contact with both parents  
540 after the parents separate or the marriage of the parties is  
541 dissolved and to encourage parents to share the rights and  
542 responsibilities, and joys, of childrearing. There is no  
543 presumption for or against the father or mother of the child or  
544 for or against any specific time-sharing schedule when creating  
545 or modifying the parenting plan of the child. Equal time-sharing  
546 with a minor child by both parents is in the best interest of  
547 the child unless the court finds that:

548 a. The safety, well-being, and physical, mental, and  
549 emotional health of the child would be endangered by equal time-  
550 sharing, that visitation would be presumed detrimental  
551 consistent with s. 39.0139(3), or that supervised visitation is

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552 appropriate, if any is appropriate;

553 b. Clear and convincing evidence of extenuating  
554 circumstances justify a departure from equal time-sharing and  
555 the court makes written findings justifying the departure from  
556 equal time-sharing;

557 c. A parent is incarcerated;

558 d. The distance between parental residences makes equal  
559 time-sharing impracticable;

560 e. A parent does not request at least 50-percent time-  
561 sharing;

562 f. A permanent injunction has been entered or is warranted  
563 against a parent or household member relating to contact between  
564 the subject of the injunction and the parent or household  
565 member; or

566 g. Domestic violence, as defined in s. 741.28, has  
567 occurred.

568 2. The court shall order that the parental responsibility  
569 for a minor child be shared by both parents unless the court  
570 finds that shared parental responsibility would be detrimental  
571 to the child. Evidence that a parent has been convicted of a  
572 misdemeanor of the first degree or higher involving domestic  
573 violence, as defined in s. 741.28 and chapter 775, or meets the  
574 criteria of s. 39.806(1)(d), creates a rebuttable presumption of  
575 detriment to the child. If the presumption is not rebutted after  
576 the convicted parent is advised by the court that the  
577 presumption exists, shared parental responsibility, including  
578 time-sharing with the child, and decisions made regarding the  
579 child, may not be granted to the convicted parent. However, the  
580 convicted parent is not relieved of any obligation to provide

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581 financial support. If the court determines that shared parental  
582 responsibility would be detrimental to the child, it may order  
583 sole parental responsibility and make such arrangements for  
584 time-sharing as specified in the parenting plan as will best  
585 protect the child or abused spouse from further harm. Whether or  
586 not there is a conviction of any offense of domestic violence or  
587 child abuse or the existence of an injunction for protection  
588 against domestic violence, the court shall consider evidence of  
589 domestic violence or child abuse as evidence of detriment to the  
590 child.

591 a. In ordering shared parental responsibility, the court  
592 may consider the expressed desires of the parents and may grant  
593 to one party the ultimate responsibility over specific aspects  
594 of the child's welfare or may divide those responsibilities  
595 between the parties based on the best interests of the child.  
596 Areas of responsibility may include education, health care, and  
597 any other responsibilities that the court finds unique to a  
598 particular family.

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

602 3. Access to records and information pertaining to a minor  
603 child, including, but not limited to, medical, dental, and  
604 school records, may not be denied to either parent. Full rights  
605 under this subparagraph apply to either parent unless a court  
606 order specifically revokes these rights, including any  
607 restrictions on these rights as provided in a domestic violence  
608 injunction. A parent having rights under this subparagraph has  
609 the same rights upon request as to form, substance, and manner

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610 of access as are available to the other parent of a child,  
611 including, without limitation, the right to in-person  
612 communication with medical, dental, and education providers.

613 Section 6. The amendments made by this act to s. 61.13,  
614 Florida Statutes, providing for equal time-sharing, apply  
615 prospectively to initial final custody orders made on or after  
616 July 1, 2013. The amendments do not constitute a substantial  
617 change in circumstances that warrant the modification of a final  
618 custody order entered before July 1, 2013.

619 Section 7. Subsection (1) of section 61.14, Florida  
620 Statutes, is amended, paragraphs (c) and (d) are added to  
621 subsection (11) of that section, and subsection (12) is added to  
622 that section, to read:

623 61.14 Enforcement and modification of support, maintenance,  
624 or alimony agreements or orders.—

625 (1) (a) When the parties enter into an agreement for  
626 payments for, or instead of, support, maintenance, or alimony,  
627 whether in connection with a proceeding for dissolution or  
628 separate maintenance or with any voluntary property settlement,  
629 or when a party is required by court order to make any payments,  
630 and the circumstances or the financial ability of either party  
631 changes or the child who is a beneficiary of an agreement or  
632 court order as described herein reaches majority after the  
633 execution of the agreement or the rendition of the order, either  
634 party may apply to the circuit court of the circuit in which the  
635 parties, or either of them, resided at the date of the execution  
636 of the agreement or reside at the date of the application, or in  
637 which the agreement was executed or in which the order was  
638 rendered, for an order terminating, decreasing, or increasing

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639 the amount of support, maintenance, or alimony, and the court  
640 has jurisdiction to make orders as equity requires, with due  
641 regard to the changed circumstances or the financial ability of  
642 the parties or the child, decreasing, increasing, or confirming  
643 the amount of separate support, maintenance, or alimony provided  
644 for in the agreement or order. A finding that medical insurance  
645 is reasonably available or the child support guidelines schedule  
646 in s. 61.30 may constitute changed circumstances. Except as  
647 otherwise provided in s. 61.30(11)(c), the court may modify an  
648 order of support, maintenance, or alimony by terminating,  
649 increasing, or decreasing the support, maintenance, or alimony  
650 retroactively to the date of the filing of the action or  
651 supplemental action for modification as equity requires, giving  
652 due regard to the changed circumstances or the financial ability  
653 of the parties or the child.

654 (b) 1. If the court has determined that an existing alimony  
655 award as determined by the court at the time of dissolution is  
656 insufficient to meet the needs of the obligee, and that such  
657 need continues to exist, an alimony order shall be modified  
658 upward and upon a showing by a preponderance of the evidence of  
659 increased ability to pay alimony. Absent a finding of fraud, an  
660 increase in an obligor's income may not be considered permanent  
661 in nature unless the increase has been maintained without  
662 interruption for at least 1 year, taking into account the  
663 obligor's ability to sustain his or her income.

664 ~~2.1.~~ Notwithstanding subparagraph 1., the court shall ~~may~~  
665 reduce or terminate an award of alimony upon specific written  
666 findings by the court that since the granting of a divorce and  
667 the award of alimony, a supportive relationship has existed

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668 between the obligee and another a person, except upon a showing  
669 by clear and convincing evidence by the obligee that his or her  
670 long-term need for alimony, taking into account the totality of  
671 the circumstances, has not been reduced by the supportive  
672 relationship with whom the obligee resides. On the issue of  
673 whether alimony should be reduced or terminated under this  
674 paragraph, the burden is on the obligor to prove by a  
675 preponderance of the evidence that a supportive relationship  
676 exists.

677 3.2- In determining whether an existing award of alimony  
678 should be reduced or terminated because of an alleged supportive  
679 relationship between an obligee and a person who is not related  
680 by consanguinity or affinity and with whom the obligee resides,  
681 the court shall elicit the nature and extent of the relationship  
682 in question. The court shall give consideration, without  
683 limitation, to circumstances, including, but not limited to, the  
684 following, in determining the relationship of an obligee to  
685 another person:

686 a. The extent to which the obligee and the other person  
687 have held themselves out as a married couple by engaging in  
688 conduct such as using the same last name, using a common mailing  
689 address, referring to each other in terms such as "my husband"  
690 or "my wife," or otherwise conducting themselves in a manner  
691 that evidences a permanent supportive relationship.

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

694 c. The extent to which the obligee and the other person  
695 have pooled their assets or income or otherwise exhibited  
696 financial interdependence.



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

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

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

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

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

707 i. Evidence in support of a claim that the obligee and the  
708 other person have an express agreement regarding property  
709 sharing or support.

710 j. Evidence in support of a claim that the obligee and the  
711 other person have an implied agreement regarding property  
712 sharing or support.

713 k. Whether the obligee and the other person have provided  
714 support to the children of one another, regardless of any legal  
715 duty to do so.

716 ~~4.3.~~ This paragraph does not abrogate the requirement that  
717 every marriage in this state be solemnized under a license, does  
718 not recognize a common law marriage as valid, and does not  
719 recognize a de facto marriage. This paragraph recognizes only  
720 that relationships do exist that provide economic support  
721 equivalent to a marriage and that alimony terminable on  
722 remarriage may be reduced or terminated upon the establishment  
723 of equivalent equitable circumstances as described in this  
724 paragraph. The existence of a conjugal relationship, though it  
725 may be relevant to the nature and extent of the relationship, is

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726 not necessary for the application of ~~the provisions of~~ this  
727 paragraph.

728 5. There is a rebuttable presumption that any modification  
729 or termination of an alimony award is retroactive to the date of  
730 the filing of the petition. In an action under this section, if  
731 it is determined that the obligee or obligor unnecessarily or  
732 unreasonably litigated the underlying petition for modification  
733 or termination, the court may award the other party his or her  
734 reasonable attorney fees and costs pursuant to s. 61.16 and  
735 applicable case law.

736 (c) For each support order reviewed by the department as  
737 required by s. 409.2564(11), if the amount of the child support  
738 award under the order differs by at least 10 percent but not  
739 less than \$25 from the amount that would be awarded under s.  
740 61.30, the department shall seek to have the order modified and  
741 any modification shall be made without a requirement for proof  
742 or showing of a change in circumstances.

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

745 (11)

746 (c) If the court orders alimony payable concurrent with a  
747 child support order, the alimony award may not be modified  
748 solely because of a later reduction or termination of child  
749 support payments, unless the court finds the obligor has the  
750 ability to pay the modified alimony award, the existing alimony  
751 award as determined by the court at the time of dissolution is  
752 insufficient to meet the needs of the obligee, and such need  
753 continues to exist.

754 (d) An obligor's subsequent remarriage or cohabitation does

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755 not constitute a basis for a modification of alimony. The income  
756 and assets of the obligor's subsequent spouse or person with  
757 whom the obligor resides is not relevant in a modification  
758 action except under exceptional circumstances.

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

765 (a) Age.

766 (b) Health.

767 (c) Motivation for retirement.

768 (d) Type of work.

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

770

771 In anticipation of retirement, the obligor may file a petition  
772 for termination or modification of the alimony award effective  
773 upon the retirement date. The court shall terminate or modify  
774 the alimony award based on the circumstances of the parties  
775 after retirement of the obligor and based on the factors in s.  
776 61.08(3), unless the court makes findings of fact that a  
777 termination or modification of an alimony award is not  
778 warranted.

779 Section 8. Paragraphs (a) and (b) of subsection (11) of  
780 section 61.30, Florida Statutes, are amended to read:

781 61.30 Child support guidelines; retroactive child support.-

782 (11) (a) The court may adjust the total minimum child  
783 support award, or either or both parents' share of the total

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784 minimum child support award, based upon the following deviation  
785 factors:

786 1. Extraordinary medical, psychological, educational, or  
787 dental expenses.

788 2. Independent income of the child, not to include moneys  
789 received by a child from supplemental security income.

790 3. The payment of support for a parent which has been  
791 regularly paid and for which there is a demonstrated need.

792 4. Seasonal variations in one or both parents' incomes or  
793 expenses.

794 5. The age of the child, taking into account the greater  
795 needs of older children.

796 6. Special needs, such as costs that may be associated with  
797 the disability of a child, that have traditionally been met  
798 within the family budget even though fulfilling those needs will  
799 cause the support to exceed the presumptive amount established  
800 by the guidelines.

801 7. Total available assets of the obligee, obligor, and the  
802 child.

803 8. The impact of the Internal Revenue Service Child &  
804 Dependent Care Tax Credit, Earned Income Tax Credit, and  
805 dependency exemption and waiver of that exemption. The court may  
806 order a parent to execute a waiver of the Internal Revenue  
807 Service dependency exemption if the paying parent is current in  
808 support payments.

809 9. An application of the child support guidelines schedule  
810 that requires a person to pay another person more than 55  
811 percent of his or her gross income for a child support  
812 obligation for current support resulting from a single support

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813 order.

814       10. The particular parenting plan, court-ordered time-  
815 sharing schedule, or particular time-sharing schedule exercised  
816 by agreement of the parties, such as where the child spends a  
817 significant amount of time, but less than 20 percent of the  
818 overnights, with one parent, thereby reducing the financial  
819 expenditures incurred by the other parent; or the refusal of a  
820 parent to become involved in the activities of the child.

821       11. Any other adjustment that is needed to achieve an  
822 equitable result which may include, but not be limited to, a  
823 reasonable and necessary existing expense or debt. Such expense  
824 or debt may include, but is not limited to, a reasonable and  
825 necessary expense or debt that the parties jointly incurred  
826 during the marriage.

827       (b) Whenever a particular parenting plan, court-ordered  
828 time-sharing schedule, or particular time-sharing schedule  
829 exercised by agreement of the parties provides that each child  
830 spend a substantial amount of time with each parent, the court  
831 shall adjust any award of child support, as follows:

832           1. In accordance with subsections (9) and (10), calculate  
833 the amount of support obligation apportioned to each parent  
834 without including day care and health insurance costs in the  
835 calculation and multiply the amount by 1.5.

836           2. Calculate the percentage of overnight stays the child  
837 spends with each parent.

838           3. Multiply each parent's support obligation as calculated  
839 in subparagraph 1. by the percentage of the other parent's  
840 overnight stays with the child as calculated in subparagraph 2.

841           4. The difference between the amounts calculated in

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842 subparagraph 3. shall be the monetary transfer necessary between  
843 the parents for the care of the child, subject to an adjustment  
844 for day care and health insurance expenses.

845 5. Pursuant to subsections (7) and (8), calculate the net  
846 amounts owed by each parent for the expenses incurred for day  
847 care and health insurance coverage for the child.

848 6. Adjust the support obligation owed by each parent  
849 pursuant to subparagraph 4. by crediting or debiting the amount  
850 calculated in subparagraph 5. This amount represents the child  
851 support which must be exchanged between the parents.

852 7. The court may deviate from the child support amount  
853 calculated pursuant to subparagraph 6. based upon the deviation  
854 factors in paragraph (a), as well as the obligee parent's low  
855 income and ability to maintain the basic necessities of the home  
856 for the child, the likelihood that either parent will actually  
857 exercise the time-sharing schedule set forth in the parenting  
858 plan granted by the court, and whether all of the children are  
859 exercising the same time-sharing schedule.

860 8. For purposes of adjusting any award of child support  
861 under this paragraph, "substantial amount of time" means that a  
862 parent exercises time-sharing at least 20 percent of the  
863 overnights of the year.

864 Section 9. Section 61.19, Florida Statutes, is amended to  
865 read:

866 61.19 Entry of judgment of dissolution of marriage; ~~7~~ delay  
867 period; separate adjudication of issues.—

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

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

874 (2) (a) During the first 180 days after the date of service  
875 of the original petition for dissolution of marriage, the court  
876 may not grant a final dissolution of marriage with a reservation  
877 of jurisdiction to subsequently determine all other substantive  
878 issues unless the court makes written findings that there are  
879 exceptional circumstances that make the use of this process  
880 clearly necessary to protect the parties or their children and  
881 that granting a final dissolution will not cause irreparable  
882 harm to either party or the children. Before granting a final  
883 dissolution of marriage with a reservation of jurisdiction to  
884 subsequently determine all other substantive issues, the court  
885 shall enter temporary orders necessary to protect the parties  
886 and their children, which orders remain effective until all  
887 other issues can be adjudicated by the court. The desire of one  
888 party to remarry does not justify the use of this process.

889 (b) If more than 180 days have elapsed after the date of  
890 service of the original petition for dissolution of marriage,  
891 the court may grant a final dissolution of marriage with a  
892 reservation of jurisdiction to subsequently determine all other  
893 substantive issues only if the court enters temporary orders  
894 necessary to protect the parties and their children, which  
895 orders remain effective until such time as all other issues can  
896 be adjudicated by the court, and makes a written finding that no  
897 irreparable harm will result from granting a final dissolution.

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

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900 absent a showing by either party that irreparable harm will  
901 result from granting a final dissolution, the court shall, upon  
902 request of either party, immediately grant a final dissolution  
903 of marriage with a reservation of jurisdiction to subsequently  
904 determine all other substantive issues. Before granting a final  
905 dissolution of marriage with a reservation of jurisdiction to  
906 subsequently determine all other substantive issues, the court  
907 shall enter temporary orders necessary to protect the parties  
908 and their children, which orders remain effective until all  
909 other issues can be adjudicated by the court.

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

- 914 1. Restrict the sale or disposition of property.  
915 2. Protect and preserve the marital assets.  
916 3. Establish temporary support.  
917 4. Provide for maintenance of health insurance.  
918 5. Provide for maintenance of life insurance.

919 (e) The court is not required to enter temporary orders to  
920 protect the parties and their children if the court enters a  
921 final judgment of dissolution of marriage that adjudicates  
922 substantially all of the substantive issues between the parties  
923 but reserves jurisdiction to address ancillary issues such as  
924 the entry of a qualified domestic relations order or the  
925 adjudication of attorney fees and costs.

926 Section 10. (1) (a) The amendments to chapter 61, Florida  
927 Statutes, made by this act apply to:

- 928 1. Final judgments of alimony awards entered before July 1,



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929 2013.

930 2. Final orders entered before July 1, 2013, that  
931 incorporate an agreement between the parties for alimony, if the  
932 duration of the marriage was equal to or less than 15 years and  
933 the duration of the alimony agreement exceeds the duration of  
934 the marriage.

935 (b) For such judgments or orders, the amendments to chapter  
936 61, Florida Statutes, shall constitute a substantial change in  
937 circumstances for which an obligor may seek, in accordance with  
938 s. 61.14, Florida Statutes, a modification of the amount or  
939 duration of alimony, except for an order incorporating an  
940 agreement that is expressly nonmodifiable.

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

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

948 2. The agreement was the product of fraud, duress,  
949 coercion, or overreaching; or

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

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

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

957 c. Did not have or reasonably could not have had an

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958 adequate knowledge of the property or financial obligations of  
959 the other party.

960 (b) For such orders, the amendments to chapter 61, Florida  
961 Statutes, shall constitute a substantial change in circumstances  
962 for which an obligor may seek, in accordance with s. 61.14,  
963 Florida Statutes, a modification of the amount or duration of  
964 alimony, except for an order incorporating an agreement that is  
965 expressly nonmodifiable.

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

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

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

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

977 Section 11. This act shall take effect July 1, 2013.