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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/26/2015	.	
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The Committee on Judiciary (Stargel) 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 a reasonable sum  
therefor. If a party in any proceeding for dissolution of



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12 marriage claims alimony or suit money in his or her answer or by  
13 motion, and the answer or motion is well founded, the court  
14 shall allow a reasonable sum therefor. After determining there  
15 is a need for alimony and that there is an ability pay alimony,  
16 the court shall consider the alimony factors in s.  
17 61.08(4)(b)1.-14. and make specific written findings of fact  
18 regarding the relevant factors that justify an award of alimony  
19 under this section. The court may not use the presumptive  
20 alimony guidelines in s. 61.08 to calculate alimony under this  
21 section.

22 Section 2. Section 61.08, Florida Statutes, is amended to  
23 read:

24 (Substantial rewording of section. See  
25 s. 61.08, F.S., for present text.)

26 61.08 Alimony.—

27 (1) DEFINITIONS.—As used in this section, unless the  
28 context otherwise requires, the term:

29 (a)1. "Gross income" means recurring income from any source  
30 and includes, but is not limited to:

31 a. Income from salaries.

32 b. Wages, including tips declared by the individual for  
33 purposes of reporting to the Internal Revenue Service or tips  
34 imputed to bring the employee's gross earnings to the minimum  
35 wage for the number of hours worked, whichever is greater.

36 c. Commissions.

37 d. Payments received as an independent contractor for labor  
38 or services, which payments must be considered income from self-  
39 employment.

40 e. Bonuses.



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- 41        f. Dividends.
- 42        g. Severance pay.
- 43        h. Pension payments and retirement benefits actually
- 44 received.
- 45        i. Royalties.
- 46        j. Rental income, which is gross receipts minus ordinary
- 47 and necessary expenses required to produce the income.
- 48        k. Interest.
- 49        l. Trust income and distributions which are regularly
- 50 received, relied upon, or readily available to the beneficiary.
- 51        m. Annuity payments.
- 52        n. Capital gains.
- 53        o. Any money drawn by a self-employed individual for
- 54 personal use that is deducted as a business expense, which
- 55 moneys must be considered income from self-employment.
- 56        p. Social security benefits, including social security
- 57 benefits actually received by a party as a result of the
- 58 disability of that party.
- 59        q. Workers' compensation benefits.
- 60        r. Unemployment insurance benefits.
- 61        s. Disability insurance benefits.
- 62        t. Funds payable from any health, accident, disability, or
- 63 casualty insurance to the extent that such insurance replaces
- 64 wages or provides income in lieu of wages.
- 65        u. Continuing monetary gifts.
- 66        v. Income from general partnerships, limited partnerships,
- 67 closely held corporations, or limited liability companies;
- 68 except that if a party is a passive investor, has a minority
- 69 interest in the company, and does not have any managerial duties



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70 or input, the income to be recognized may be limited to actual  
71 cash distributions received.

72 w. Expense reimbursements or in-kind payments or benefits  
73 received by a party in the course of employment, self-  
74 employment, or operation of a business which reduces personal  
75 living expenses.

76 x. Overtime pay.

77 y. Income from royalties, trusts, or estates.

78 z. Spousal support received from a previous marriage.

79 aa. Gains derived from dealings in property, unless the  
80 gain is nonrecurring.

81 2. "Gross income" does not include:

82 a. Child support payments received.

83 b. Benefits received from public assistance programs.

84 c. Social security benefits received by a parent on behalf  
85 of a minor child as a result of the death or disability of a  
86 parent or stepparent.

87 d. Earnings or gains on retirement accounts, including  
88 individual retirement accounts; except that such earnings or  
89 gains shall be included as income if a party takes a  
90 distribution from the account. If a party is able to take a  
91 distribution from the account without being subject to a federal  
92 tax penalty for early distribution and the party chooses not to  
93 take such a distribution, the court may consider the  
94 distribution that could have been taken in determining the  
95 party's gross income.

96 3.a. For income from self-employment, rent, royalties,  
97 proprietorship of a business, or joint ownership of a  
98 partnership or closely held corporation, the term "gross income"



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99 equals gross receipts minus ordinary and necessary expenses, as  
100 defined in sub-subparagraph b., which are required to produce  
101 such income.

102 b. "Ordinary and necessary expenses," as used in sub-  
103 paragraph a., does not include amounts allowable by the  
104 Internal Revenue Service for the accelerated component of  
105 depreciation expenses or investment tax credits or any other  
106 business expenses determined by the court to be inappropriate  
107 for determining gross income for purposes of calculating  
108 alimony.

109 (b) "Potential income" means income which could be earned  
110 by a party using his or her best efforts and includes potential  
111 income from employment and potential income from the investment  
112 of assets or use of property. Potential income from employment  
113 is the income which a party could reasonably expect to earn by  
114 working at a locally available, full-time job commensurate with  
115 his or her education, training, and experience. Potential income  
116 from the investment of assets or use of property is the income  
117 which a party could reasonably expect to earn from the  
118 investment of his or her assets or the use of his or her  
119 property in a financially prudent manner.

120 (c)1. "Underemployed" means a party is not working full-  
121 time in a position which is appropriate, based upon his or her  
122 educational training and experience, and available in the  
123 geographical area of his or her residence.

124 2. A party is not considered "underemployed" if he or she  
125 is enrolled in an educational program that can be reasonably  
126 expected to result in a degree or certification within a  
127 reasonable period, so long as the educational program is:



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128 a. Expected to result in higher income within the  
129 foreseeable future.

130 b. A good faith educational choice based upon the previous  
131 education, training, skills, and experience of the party and the  
132 availability of immediate employment based upon the educational  
133 program being pursued.

134 (d) "Years of marriage" means the number of whole years,  
135 beginning from the date of the parties' marriage until the date  
136 of the filing of the action for dissolution of marriage.

137 (2) INITIAL FINDINGS.—When a party has requested alimony in  
138 a dissolution of marriage proceeding, before granting or denying  
139 an award of alimony, the court shall make initial written  
140 findings as to:

141 (a) The amount of each party's monthly gross income,  
142 including, but not limited to, the actual or potential income,  
143 and also including actual or potential income from nonmarital or  
144 marital property distributed to each party.

145 (b) The years of marriage as determined from the date of  
146 marriage through the date of the filing of the action for  
147 dissolution of marriage.

148 (3) ALIMONY GUIDELINES.—After making the initial findings  
149 described in subsection (2), the court shall calculate the  
150 presumptive alimony amount range and the presumptive alimony  
151 duration range. The court shall make written findings as to the  
152 presumptive alimony amount range and presumptive alimony  
153 duration range.

154 (a) Presumptive alimony amount range.—The low end of the  
155 presumptive alimony amount range shall be calculated by using  
156 the following formula:



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(0.015 x the years of marriage) x the difference between the  
monthly gross incomes of the parties

The high end of the presumptive alimony amount range shall be  
calculated by using the following formula:

(0.020 x the years of marriage) x the difference between the  
monthly gross incomes of the parties

For purposes of calculating the presumptive alimony amount  
range, 20 years of marriage shall be used in calculating the low  
end and high end for marriages of 20 years or more. In  
calculating the difference between the parties' monthly gross  
income, the income of the party seeking alimony shall be  
subtracted from the income of the other party. If the  
application of the formulas to establish a guideline range  
results in a negative number, the presumptive alimony amount  
shall be \$0. If a court establishes the duration of the alimony  
award at 50 percent or less of the length of the marriage, the  
court shall use the actual years of the marriage, up to a  
maximum of 25 years, to calculate the high end of the  
presumptive alimony amount range.

(b) Presumptive alimony duration range.—The low end of the  
presumptive alimony duration range shall be calculated by using  
the following formula:

0.25 x the years of marriage



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186 The high end of the presumptive alimony duration range shall be  
187 calculated by using the following formula:

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189 0.75 x the years of marriage.

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191 (4) ALIMONY AWARD.—

192 (a) Marriages of 2 years or less.—For marriages of 2 years  
193 or less, there is a rebuttable presumption that no alimony shall  
194 be awarded. The court may award alimony for a marriage with a  
195 duration of 2 years or less only if the court makes written  
196 findings that there is a clear and convincing need for alimony,  
197 there is an ability to pay alimony, and that the failure to  
198 award alimony would be inequitable. The court shall then  
199 establish the alimony award in accordance with paragraph (b).

200 (b) Marriages of more than 2 years.—Absent an agreement of  
201 the parties, alimony shall presumptively be awarded in an amount  
202 within the alimony amount range calculated in paragraph (3)(a).  
203 Absent an agreement of the parties, alimony shall presumptively  
204 be awarded for a duration within the alimony duration range  
205 calculated in paragraph (3)(b). In determining the amount and  
206 duration of the alimony award, the court shall consider all of  
207 the following factors upon which evidence was presented:

208 1. The financial resources of the recipient spouse,  
209 including the actual or potential income from nonmarital or  
210 marital property or any other source and the ability of the  
211 recipient spouse to meet his or her reasonable needs  
212 independently.

213 2. The financial resources of the payor spouse, including  
214 the actual or potential income from nonmarital or marital





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215 property or any other source and the ability of the payor spouse  
216 to meet his or her reasonable needs while paying alimony.

217 3. The standard of living of the parties during the  
218 marriage with consideration that there will be two households to  
219 maintain after the dissolution of the marriage and that neither  
220 party may be able to maintain the same standard of living after  
221 the dissolution of the marriage.

222 4. The equitable distribution of marital property,  
223 including whether an unequal distribution of marital property  
224 was made to reduce or alleviate the need for alimony.

225 5. Both parties' income, employment, and employability,  
226 obtainable through reasonable diligence and additional training  
227 or education, if necessary, and any necessary reduction in  
228 employment due to the needs of an unemancipated child of the  
229 marriage or the circumstances of the parties.

230 6. Whether a party could become better able to support  
231 himself or herself and reduce the need for ongoing alimony by  
232 pursuing additional educational or vocational training along  
233 with all of the details of such educational or vocational plan,  
234 including, but not limited to, the length of time required and  
235 the anticipated costs of such educational or vocational  
236 training.

237 7. Whether one party has historically earned higher or  
238 lower income than the income reflected at the time of trial and  
239 the duration and consistency of income from overtime or  
240 secondary employment.

241 8. Whether either party has foregone or postponed economic,  
242 educational, or employment opportunities during the course of  
243 the marriage.



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244 9. Whether either party has caused the unreasonable  
245 depletion or dissipation of marital assets.

246 10. The amount of temporary alimony and the number of  
247 months that temporary alimony was paid to the recipient spouse.

248 11. The age, health, and physical and mental condition of  
249 the parties, including consideration of significant health care  
250 needs or uninsured or unreimbursed health care expenses.

251 12. Significant economic or noneconomic contributions to  
252 the marriage or to the economic, educational, or occupational  
253 advancement of a party, including, but not limited to, services  
254 rendered in homemaking, child care, education, and career  
255 building of the other party, payment by one spouse of the other  
256 spouse's separate debts, or enhancement of the other spouse's  
257 personal or real property.

258 13. The tax consequence of the alimony award.

259 14. Any other factor necessary to do equity and justice  
260 between the parties.

261 (c) Deviation from guidelines.—The court may establish an  
262 award of alimony that is outside the presumptive alimony amount  
263 or alimony duration ranges only if the court considers all of  
264 the factors in paragraph (b) and makes specific written findings  
265 concerning the relevant factors justifying that the application  
266 of the presumptive alimony amount or alimony duration ranges, as  
267 applicable, is inappropriate or inequitable.

268 (d) Order establishing alimony award.—After consideration  
269 of the presumptive alimony amount and duration ranges in  
270 accordance with paragraphs (3) (a) and (b) and the factors upon  
271 which evidence was presented in accordance with paragraph (b),  
272 the court may establish an alimony award. An order establishing



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273 an alimony award must clearly set forth both the amount and the  
274 duration of the award. The court shall also make a written  
275 finding that the payor has the financial ability to pay the  
276 award.

277 (5) IMPUTATION OF INCOME.—If a party is voluntarily  
278 unemployed or underemployed, alimony shall be calculated based  
279 on a determination of potential income unless the court makes  
280 specific written findings regarding the circumstances that make  
281 it inequitable to impute income.

282 (6) NOMINAL ALIMONY.—Notwithstanding subsections (1), (3),  
283 and (4), the court may make an award of nominal alimony in the  
284 amount of \$1 per year if, at the time of trial, a party who has  
285 traditionally provided the primary source of financial support  
286 to the family temporarily lacks the ability to pay support but  
287 is reasonably anticipated to have the ability to pay support in  
288 the future. The court may also award nominal alimony for an  
289 alimony recipient who is presently able to work but for whom a  
290 medical condition with a reasonable degree of medical certainty  
291 may inhibit or prevent his or her ability to work during the  
292 duration of the alimony period. The duration of the nominal  
293 alimony shall be established within the presumptive durational  
294 range based upon the length of the marriage subject to the  
295 alimony factors in paragraph (4) (b). Before the expiration of  
296 the durational period, nominal alimony may be modified in  
297 accordance with s. 61.14 as to amount to a full alimony award  
298 using the alimony guidelines and factors in accordance with s.  
299 61.08.

300 (7) TAXABILITY AND DEDUCTIBILITY OF ALIMONY.—

301 (a) Unless otherwise stated in the judgment or order for



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302 alimony or in an agreement incorporated thereby, alimony shall  
303 be deductible from income by the payor under s. 215 of the  
304 Internal Revenue Code and includable in the income of the payee  
305 under s. 71 of the Internal Revenue Code.

306 (b) When making a judgment or order for alimony, the court  
307 may, in its discretion after weighing the equities and tax  
308 efficiencies, order alimony be nondeductible from income by the  
309 payor and nonincludable in the income of the payee.

310 (c) The parties may, in a marital settlement agreement,  
311 separation agreement, or related agreement, specifically agree  
312 in writing that alimony be nondeductible from income by the  
313 payor and nonincludable in the income of the payee.

314 (8) MAXIMUM COMBINED AWARD.—In no event shall a combined  
315 award of alimony and child support constitute more than 55  
316 percent of the payor's net income, calculated without any  
317 consideration of alimony or child support obligations.

318 (9) SECURITY OF AWARD.—To the extent necessary to protect  
319 an award of alimony, the court may order any party who is  
320 ordered to pay alimony to purchase or maintain a decreasing term  
321 life insurance policy or a bond, or to otherwise secure such  
322 alimony award with any other assets that may be suitable for  
323 that purpose, in an amount adequate to secure the alimony award.  
324 Any such security may be awarded only upon a showing of special  
325 circumstances. If the court finds special circumstances and  
326 awards such security, the court must make specific evidentiary  
327 findings regarding the availability, cost, and financial impact  
328 on the obligated party. Any security may be modifiable in the  
329 event the underlying alimony award is modified and shall be  
330 reduced in an amount commensurate with any reduction in the



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331 alimony award.

332 (10) TERMINATION OF AWARD.—An alimony award shall terminate  
333 upon the death of either party or the remarriage of the obligee.

334 (11) MODIFICATION OF AWARD.—A court may subsequently modify  
335 or terminate the amount of an award of alimony initially  
336 established under this section in accordance with s. 61.14.  
337 However, a court may not modify the duration of an award of  
338 alimony initially established under this section.

339 (12) PAYMENT OF AWARD.—

340 (a) With respect to an order requiring the payment of  
341 alimony entered on or after January 1, 1985, unless paragraph  
342 (c) or paragraph (d) applies, the court shall direct in the  
343 order that the payments of alimony be made through the  
344 appropriate depository as provided in s. 61.181.

345 (b) With respect to an order requiring the payment of  
346 alimony entered before January 1, 1985, upon the subsequent  
347 appearance, on or after that date, of one or both parties before  
348 the court having jurisdiction for the purpose of modifying or  
349 enforcing the order or in any other proceeding related to the  
350 order, or upon the application of either party, unless paragraph  
351 (c) or paragraph (d) applies, the court shall modify the terms  
352 of the order as necessary to direct that payments of alimony be  
353 made through the appropriate depository as provided in s.  
354 61.181.

355 (c) If there is no minor child, alimony payments do not  
356 need to be directed through the depository.

357 (d)1. If there is a minor child of the parties and both  
358 parties so request, the court may order that alimony payments do  
359 not need to be directed through the depository. In this case,



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360 the order of support shall provide, or be deemed to provide,  
361 that either party may subsequently apply to the depository to  
362 require that payments be made through the depository. The court  
363 shall provide a copy of the order to the depository.

364 2. If subparagraph 1. applies, either party may  
365 subsequently file with the clerk of the court a verified motion  
366 alleging a default or arrearages in payment stating that the  
367 party wishes to initiate participation in the depository  
368 program. The moving party shall copy the other party with the  
369 motion. No later than 15 days after filing the motion, the court  
370 shall conduct an evidentiary hearing establishing the default  
371 and arrearages, if any, and issue an order directing the clerk  
372 of the circuit court to establish, or amend an existing, family  
373 law case history account, and further advising the parties that  
374 future payments must thereafter be directed through the  
375 depository.

376 3. In IV-D cases, the Title IV-D agency shall have the same  
377 rights as the obligee in requesting that payments be made  
378 through the depository.

379 Section 3. Subsection (3) of section 61.13, Florida  
380 Statutes, is amended to read:

381 61.13 Support of children; parenting and time-sharing;  
382 powers of court.—

383 (3) For purposes of establishing or modifying parental  
384 responsibility and creating, developing, approving, or modifying  
385 a parenting plan, including a time-sharing schedule, which  
386 governs each parent's relationship with his or her minor child  
387 and the relationship between each parent with regard to his or  
388 her minor child, the best interest of the child shall be the



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389 primary consideration.

390 (a) Approximately equal time-sharing with a minor child by  
391 both parents is presumed to be in the best interest of the  
392 child. In determining whether the presumption is overcome, the  
393 court shall evaluate the evidence based on ~~A determination of~~  
394 ~~parental responsibility, a parenting plan, or a time-sharing~~  
395 ~~schedule may not be modified without a showing of a substantial,~~  
396 ~~material, and unanticipated change in circumstances and a~~  
397 ~~determination that the modification is in the best interests of~~  
398 ~~the child. Determination of the best interests of the child~~  
399 ~~shall be made by evaluating all of the factors affecting the~~  
400 welfare and interests of the particular minor child and the  
401 circumstances of that family, including, ~~but not limited to:~~

402 1.(a) The demonstrated capacity or ~~and~~ disposition of each  
403 parent to facilitate and encourage a close and continuing  
404 parent-child relationship, to honor the time-sharing schedule,  
405 and to be reasonable when changes are required.

406 2.(b) The anticipated division of parental responsibilities  
407 after the litigation, including the extent to which parental  
408 responsibilities will be delegated to third parties.

409 3.(c) The demonstrated capacity and disposition of each  
410 parent to determine, consider, and act upon the needs of the  
411 child as opposed to the needs or desires of the parent.

412 4.(d) The length of time the child has lived in a stable,  
413 satisfactory environment and the desirability of maintaining  
414 continuity.

415 5.(e) The geographic viability of the parenting plan, with  
416 special attention paid to the needs of school-age children and  
417 the amount of time to be spent traveling to carry out ~~effectuate~~



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418 the parenting plan. This factor does not create a presumption  
419 for or against relocation of either parent with a child.

420 6.~~(f)~~ The moral fitness of the parents.

421 7.~~(g)~~ The mental and physical health of the parents.

422 8.~~(h)~~ The home, school, and community record of the child.

423 9.~~(i)~~ The reasonable preference of the child, if the court  
424 deems the child to be of sufficient intelligence, understanding,  
425 and experience to express a preference.

426 10.~~(j)~~ The demonstrated knowledge, capacity, or ~~and~~  
427 disposition of each parent to be informed of the circumstances  
428 of the minor child, including, but not limited to, the child's  
429 friends, teachers, medical care providers, daily activities, and  
430 favorite things.

431 11.~~(k)~~ The demonstrated capacity or ~~and~~ disposition of each  
432 parent to provide a consistent routine for the child, such as  
433 discipline, and daily schedules for homework, meals, and  
434 bedtime.

435 12.~~(l)~~ The demonstrated capacity of each parent to  
436 communicate with the other parent and keep the other parent  
437 informed of issues and activities regarding the minor child, and  
438 the willingness of each parent to adopt a unified front on all  
439 major issues when dealing with the child.

440 13.~~(m)~~ Evidence of domestic violence, sexual violence,  
441 child abuse, child abandonment, or child neglect, regardless of  
442 whether a prior or pending action relating to those issues has  
443 been brought. If the court accepts evidence of prior or pending  
444 actions regarding domestic violence, sexual violence, child  
445 abuse, child abandonment, or child neglect, the court must  
446 specifically acknowledge in writing that such evidence was





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447 considered when evaluating the best interests of the child.

448 14.~~(n)~~ Evidence that either parent has knowingly provided  
449 false information to the court regarding any prior or pending  
450 action regarding domestic violence, sexual violence, child  
451 abuse, child abandonment, or child neglect.

452 15.~~(o)~~ The demonstrated capacity or disposition of each  
453 parent to perform or ensure the performance of particular  
454 parenting tasks customarily performed by the other ~~each~~ parent  
455 and the division of parental responsibilities before the  
456 institution of litigation and during the pending litigation,  
457 including the extent to which parenting responsibilities were  
458 undertaken by third parties.

459 16.~~(p)~~ The demonstrated capacity and disposition of each  
460 parent to participate and be involved in the child's school and  
461 extracurricular activities.

462 17.~~(q)~~ The demonstrated capacity and disposition of each  
463 parent to maintain an environment for the child which is free  
464 from substance abuse.

465 18.~~(r)~~ The capacity and disposition of each parent to  
466 protect the child from the ongoing litigation as demonstrated by  
467 not discussing the litigation with the child, not sharing  
468 documents or electronic media related to the litigation with the  
469 child, and refraining from disparaging comments about the other  
470 parent to the child.

471 19.~~(s)~~ The developmental stages and needs of the child and  
472 the demonstrated capacity and disposition of each parent to meet  
473 the child's developmental needs.

474 20. The amount of time-sharing requested by each parent.

475 21. The frequency that a parent would likely leave the



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476 child in the care of a nonrelative on evenings and weekends when  
477 the other parent would be available and willing to provide care.

478 22.~~(t)~~ Any other factor that is relevant to the  
479 determination of a specific parenting plan, including the time-  
480 sharing schedule.

481 (b) A court order must be supported by written findings of  
482 fact if the order establishes an initial permanent time-sharing  
483 schedule that does not provide for approximately equal time-  
484 sharing.

485 (c) A determination of parental responsibility, a parenting  
486 plan, or a time-sharing schedule may not be modified without a  
487 determination that such modification is in the best interest of  
488 the child and upon a showing of a substantial, material, and  
489 unanticipated change in circumstances.

490 Section 4. Subsection (1) of section 61.14, Florida  
491 Statutes, is amended to read:

492 61.14 Enforcement and modification of support, maintenance,  
493 or alimony agreements or orders.—

494 (1) (a) When the parties enter into an agreement for  
495 payments for, or instead of, support, maintenance, or alimony,  
496 whether in connection with a proceeding for dissolution or  
497 separate maintenance or with any voluntary property settlement,  
498 or when a party is required by court order to make any payments,  
499 and the circumstances or the financial ability of either party  
500 changes or the child who is a beneficiary of an agreement or  
501 court order as described herein reaches majority after the  
502 execution of the agreement or the rendition of the order, either  
503 party may apply to the circuit court of the circuit in which the  
504 parties, or either of them, resided at the date of the execution



505 of the agreement or reside at the date of the application, or in  
506 which the agreement was executed or in which the order was  
507 rendered, for an order decreasing or increasing the amount of  
508 support, maintenance, or alimony, and the court has jurisdiction  
509 to make orders as equity requires, with due regard to the  
510 changed circumstances or the financial ability of the parties or  
511 the child, decreasing, increasing, or confirming the amount of  
512 separate support, maintenance, or alimony provided for in the  
513 agreement or order. However, a court may not decrease or  
514 increase the duration of alimony provided for in the agreement  
515 or order. A party is entitled to pursue an immediate  
516 modification of alimony if the actual income earned by the other  
517 party exceeds by at least 10 percent the amount imputed to that  
518 party at the time the existing alimony award was determined and  
519 such circumstance shall constitute a substantial change in  
520 circumstances sufficient to support a modification of alimony.  
521 However, an increase in an alimony obligor's income alone does  
522 not constitute a basis for a modification to increase alimony  
523 unless at the time the alimony award was established it was  
524 determined that the obligor was underemployed or unemployed and  
525 the court did not impute income to that party at his or her  
526 maximum potential income. If an alimony obligor becomes  
527 involuntarily underemployed or unemployed for a period of 6  
528 months following the entry of the last order requiring the  
529 payment of alimony, the obligor is entitled to pursue an  
530 immediate modification of his or her existing alimony  
531 obligations and such circumstance shall constitute a substantial  
532 change in circumstance sufficient to support a modification of  
533 alimony. A finding that medical insurance is reasonably



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534 available or the child support guidelines schedule in s. 61.30  
535 may constitute changed circumstances. Except as otherwise  
536 provided in s. 61.30(11)(c), the court may modify an order of  
537 support, maintenance, or alimony by increasing or decreasing the  
538 support, maintenance, or alimony retroactively to the date of  
539 the filing of the action or supplemental action for modification  
540 as equity requires, giving due regard to the changed  
541 circumstances or the financial ability of the parties or the  
542 child.

543 (b)1. The court may reduce or terminate an award of alimony  
544 upon specific written findings by the court that since the  
545 granting of a divorce and the award of alimony a supportive  
546 relationship exists or has existed within the previous year  
547 before the date of the filing of the petition for modification  
548 or termination between the obligee and another ~~a person with~~  
549 ~~whom the obligee resides. On the issue of whether alimony should~~  
550 ~~be reduced or terminated under this paragraph, the burden is on~~  
551 ~~the obligor to prove by a preponderance of the evidence that a~~  
552 ~~supportive relationship exists.~~

553 2. In determining whether an existing award of alimony  
554 should be reduced or terminated because of an alleged supportive  
555 relationship between an obligee and a person who is not related  
556 by consanguinity or affinity ~~and with whom the obligee resides,~~  
557 the court shall elicit the nature and extent of the relationship  
558 in question. The court shall give consideration, without  
559 limitation, to circumstances, including, but not limited to, the  
560 following, in determining the relationship of an obligee to  
561 another person:

562 a. The extent to which the obligee and the other person



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563 have held themselves out as a married couple by engaging in  
564 conduct such as using the same last name, using a common mailing  
565 address, referring to each other ~~in terms such as "my husband"~~  
566 ~~or "my wife,"~~ "my spouse" or otherwise conducting themselves in  
567 a manner that evidences a permanent supportive relationship.

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

570       c. The extent to which the obligee and the other person  
571 have pooled their assets or income or otherwise exhibited  
572 financial interdependence.

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

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

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

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

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

583       i. Evidence in support of a claim that the obligee and the  
584 other person have an express agreement regarding property  
585 sharing or support.

586       j. Evidence in support of a claim that the obligee and the  
587 other person have an implied agreement regarding property  
588 sharing or support.

589       k. Whether the obligee and the other person have provided  
590 support to the children of one another, regardless of any legal  
591 duty to do so.



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592       1. Whether the obligor's failure, in whole or in part, to  
593 comply with all court-ordered financial obligations to the  
594 obligee constituted a significant factor in the establishment of  
595 the supportive relationship.

596       3. In any proceeding to modify an alimony award based upon  
597 a supportive relationship, the obligor has the burden of proof  
598 to establish, by a preponderance of the evidence, that a  
599 supportive relationship exists or has existed within the  
600 previous year before the date of the filing of the petition for  
601 modification or termination. The obligor is not required to  
602 prove cohabitation of the obligee and the third party.

603       4. Notwithstanding paragraph (f), if a reduction or  
604 termination is granted under this paragraph, the reduction or  
605 termination is retroactive to the date of filing of the petition  
606 for reduction or termination.

607       ~~5.3.~~ This paragraph does not abrogate the requirement that  
608 every marriage in this state be solemnized under a license, does  
609 not recognize a common law marriage as valid, and does not  
610 recognize a de facto marriage. This paragraph recognizes only  
611 that relationships do exist that provide economic support  
612 equivalent to a marriage and that alimony terminable on  
613 remarriage may be reduced or terminated upon the establishment  
614 of equivalent equitable circumstances as described in this  
615 paragraph. The existence of a conjugal relationship, though it  
616 may be relevant to the nature and extent of the relationship, is  
617 not necessary for the application of the provisions of this  
618 paragraph.

619       (c)1. For purposes of this section, the remarriage of an  
620 alimony obligor does not constitute a substantial change in



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621 circumstance or a basis for a modification of alimony.

622 2. The financial information, including, but not limited  
623 to, information related to assets and income, of a subsequent  
624 spouse of a party paying or receiving alimony is inadmissible  
625 and may not be considered as a part of any modification action  
626 unless a party is claiming that his or her income has decreased  
627 since the marriage. If a party makes such a claim, the financial  
628 information of the subsequent spouse is discoverable and  
629 admissible only to the extent necessary to establish whether the  
630 party claiming that his or her income has decreased is diverting  
631 income or assets to the subsequent spouse that might otherwise  
632 be available for the payment of alimony. However, this  
633 subparagraph may not be used to prevent the discovery of or  
634 admissibility in evidence of the income or assets of a party  
635 when those assets are held jointly with a subsequent spouse.  
636 This subparagraph is not intended to prohibit the discovery or  
637 admissibility of a joint tax return filed by a party and his or  
638 her subsequent spouse in connection with a modification of  
639 alimony.

640 (d)1. An obligor may file a petition for modification or  
641 termination of an alimony award based upon his or her actual  
642 retirement.

643 a. A substantial change in circumstance is deemed to exist  
644 if:

645 (I) The obligor has reached the age for eligibility to  
646 receive full retirement benefits under s. 216 of the Social  
647 Security Act, 42 U.S.C. s. 416, and has retired; or

648 (II) The obligor has reached the customary retirement age  
649 for his or her occupation and has retired from that occupation.



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650 An obligor may file an action within 1 year of his or her  
651 anticipated retirement date and the court shall determine the  
652 customary retirement date for the obligor's profession. However,  
653 a determination of the customary retirement age is not an  
654 adjudication of a petition for a modification of an alimony  
655 award.

656 b. If an obligor voluntarily retires before reaching any of  
657 the ages described in sub-subparagraph a., the court shall  
658 determine whether the obligor's retirement is reasonable upon  
659 consideration of the obligor's age, health, and motivation for  
660 retirement and the financial impact on the obligee. A finding of  
661 reasonableness by the court shall constitute a substantial  
662 change in circumstance.

663 2. Upon a finding of a substantial change in circumstance,  
664 there is a rebuttable presumption that an obligor's existing  
665 alimony obligation shall be modified or terminated. The court  
666 shall modify or terminate the alimony obligation, or make a  
667 determination regarding whether the rebuttable presumption has  
668 been overcome, based upon the following factors applied to the  
669 current circumstances of the obligor and obligee:

670 a. The age of the parties.

671 b. The health of the parties.

672 c. The assets and liabilities of the parties.

673 d. The earned or imputed income of the parties as provided  
674 in s. 61.08(1)(a) and (5).

675 e. The ability of the parties to maintain part-time or  
676 full-time employment.

677 f. Any other factor deemed relevant by the court.

678 3. The court may temporarily reduce or suspend the





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679 obligor's payment of alimony while his or her petition for  
680 modification or termination under this paragraph is pending.

681 (e) A party who unreasonably pursues or defends an action  
682 for modification of alimony shall be required to pay the  
683 reasonable attorney fees and costs of the prevailing party.

684 Further, a party obligated to pay prevailing party attorney fees  
685 and costs in connection with unreasonably pursuing or defending  
686 an action for modification is not entitled to an award of  
687 attorney fees and cost in accordance with s. 61.16.

688 (f) There is a rebuttable presumption that a modification  
689 or termination of an alimony award is retroactive to the date of  
690 the filing of the petition, unless the obligee demonstrates that  
691 the result is inequitable.

692 (g)~~(e)~~ For each support order reviewed by the department as  
693 required by s. 409.2564(11), if the amount of the child support  
694 award under the order differs by at least 10 percent but not  
695 less than \$25 from the amount that would be awarded under s.  
696 61.30, the department shall seek to have the order modified and  
697 any modification shall be made without a requirement for proof  
698 or showing of a change in circumstances.

699 (h)~~(d)~~ The department ~~may~~ shall have authority to adopt  
700 rules to implement this section.

701 Section 5. Paragraph (d) is added to subsection (11) of  
702 section 61.30, Florida Statutes, to read:

703 61.30 Child support guidelines; retroactive child support.-  
704 (11)

705 (d) Whenever a combined alimony and child support award  
706 constitutes more than 55 percent of the payor's net income,  
707 calculated without any consideration of alimony or child support



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708 obligations, the court shall adjust the award of child support  
709 to ensure that the 55 percent cap is not exceeded.

710 Section 6. Section 61.192, Florida Statutes, is created to  
711 read:

712 61.192 Advancing trial.—In an action brought pursuant to  
713 this chapter, if more than 2 years have passed since the initial  
714 petition was served on the respondent, either party may move the  
715 court to advance the trial of their action on the docket. This  
716 motion may be made at any time after 2 years have passed since  
717 the petition was served, and once made the court must give the  
718 case priority on the court's calendar.

719 Section 7. The amendments made by this act to chapter 61,  
720 Florida Statutes, apply to all initial determinations of alimony  
721 and all alimony modification actions that are pending as of the  
722 effective date of this act, and to all initial determinations of  
723 alimony and all alimony modification actions brought on or after  
724 the effective date of this act. The enacting of this act may not  
725 serve as the sole basis for a party to seek a modification of an  
726 alimony award existing before the effective date of this act.

727 Section 8. This act shall take effect October 1, 2015.  
728

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

730 And the title is amended as follows:

731 Delete everything before the enacting clause  
732 and insert:

733 A bill to be entitled  
734 An act relating to family law; amending s. 61.071,  
735 F.S.; requiring a court to consider certain alimony  
736 factors and make specific written findings of fact



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737 after making specified determinations; prohibiting a  
738 court from using certain presumptive alimony  
739 guidelines in calculating alimony pendente lite;  
740 amending s. 61.08, F.S.; defining terms; requiring a  
741 court to make specified initial written findings in a  
742 dissolution of marriage proceeding where a party has  
743 requested alimony; requiring a court to make specified  
744 findings before ruling on a request for alimony;  
745 providing for determinations of presumptive alimony  
746 amount range and duration range; providing  
747 presumptions concerning alimony awards depending on  
748 the duration of marriages; providing for imputation of  
749 income in certain circumstances; providing for awards  
750 of nominal alimony in certain circumstances; providing  
751 for taxability and deductibility of alimony awards;  
752 prohibiting a combined award of alimony and child  
753 support from constituting more than a specified  
754 percentage of a payor's net income; authorizing the  
755 court to order a party to protect an alimony award by  
756 specified means; providing for termination of an  
757 award; authorizing a court to modify or terminate the  
758 amount of an initial alimony award; prohibiting a  
759 court from modifying the duration of an alimony award;  
760 providing for payment of awards; amending s. 61.13,  
761 F.S.; creating a presumption that approximately equal  
762 time-sharing by both parents is in the best interests  
763 of the child; revising a finite list of factors that a  
764 court must evaluate when determining whether the  
765 presumption of approximately equal time-sharing is



766 overcome; requiring a court order to be supported by  
767 written findings of fact under certain circumstances;  
768 amending s. 61.14, F.S.; providing that a party may  
769 pursue an immediate modification of alimony in certain  
770 circumstances; revising factors to be considered in  
771 determining whether an existing award of alimony  
772 should be reduced or terminated because of an alleged  
773 supportive relationship; providing for burden of proof  
774 for claims concerning the existence of supportive  
775 relationships; providing for the effective date of a  
776 reduction or termination of an alimony award;  
777 providing that the remarriage of an alimony obligor is  
778 not a substantial change in circumstance; providing  
779 that the financial information of a spouse of a party  
780 paying or receiving alimony is inadmissible and  
781 undiscoverable; providing an exception; providing for  
782 modification or termination of an award based on a  
783 party's retirement; providing a presumption upon a  
784 finding of a substantial change in circumstance;  
785 specifying factors to be considered in determining  
786 whether to modify or terminate an award based on a  
787 substantial change in circumstance; providing for a  
788 temporary suspension of an obligor's payment of  
789 alimony while his or her petition for modification or  
790 termination is pending; providing for an effective  
791 date of a modification or termination of an award;  
792 providing for an award of attorney fees and costs for  
793 unreasonably pursuing or defending a modification of  
794 an award; amending s. 61.30, F.S.; providing that



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795 whenever a combined alimony and child support award  
796 constitutes more than a specified percentage of a  
797 payor's net income, the child support award be  
798 adjusted to reduce the combined total; creating s.  
799 61.192, F.S.; providing for motions to advance the  
800 trial of certain actions if a specified period has  
801 passed since the initial service on the respondent;  
802 providing applicability; providing an effective date.