

By the Committee on Judiciary; and Senator Stargel

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1 A bill to be entitled
2 An act relating to family law; amending s. 61.071,
3 F.S.; requiring a court to consider certain alimony
4 factors and make specific written findings of fact
5 after making specified determinations; prohibiting a
6 court from using certain presumptive alimony
7 guidelines in calculating alimony pendente lite;
8 amending s. 61.08, F.S.; defining terms; requiring a
9 court to make specified initial written findings in a
10 dissolution of marriage proceeding where a party has
11 requested alimony; requiring a court to make specified
12 findings before ruling on a request for alimony;
13 providing for determinations of presumptive alimony
14 amount range and duration range; providing
15 presumptions concerning alimony awards depending on
16 the duration of marriages; providing for imputation of
17 income in certain circumstances; providing for awards
18 of nominal alimony in certain circumstances; providing
19 for taxability and deductibility of alimony awards;
20 prohibiting a combined award of alimony and child
21 support from constituting more than a specified
22 percentage of a payor's net income; authorizing the
23 court to order a party to protect an alimony award by
24 specified means; providing for termination of an
25 award; authorizing a court to modify or terminate the
26 amount of an initial alimony award; prohibiting a
27 court from modifying the duration of an alimony award;
28 providing for payment of awards; amending s. 61.13,
29 F.S.; creating a presumption that approximately equal

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30 time-sharing by both parents is in the best interests
31 of the child; revising a finite list of factors that a
32 court must evaluate when determining whether the
33 presumption of approximately equal time-sharing is
34 overcome; requiring a court order to be supported by
35 written findings of fact under certain circumstances;
36 amending s. 61.14, F.S.; providing that a party may
37 pursue an immediate modification of alimony in certain
38 circumstances; revising factors to be considered in
39 determining whether an existing award of alimony
40 should be reduced or terminated because of an alleged
41 supportive relationship; providing for burden of proof
42 for claims concerning the existence of supportive
43 relationships; providing for the effective date of a
44 reduction or termination of an alimony award;
45 providing that the remarriage of an alimony obligor is
46 not a substantial change in circumstance; providing
47 that the financial information of a spouse of a party
48 paying or receiving alimony is inadmissible and
49 undiscoverable; providing an exception; providing for
50 modification or termination of an award based on a
51 party's retirement; providing a presumption upon a
52 finding of a substantial change in circumstance;
53 specifying factors to be considered in determining
54 whether to modify or terminate an award based on a
55 substantial change in circumstance; providing for a
56 temporary suspension of an obligor's payment of
57 alimony while his or her petition for modification or
58 termination is pending; providing for an effective

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59 date of a modification or termination of an award;
60 providing for an award of attorney fees and costs for
61 unreasonably pursuing or defending a modification of
62 an award; amending s. 61.30, F.S.; providing that
63 whenever a combined alimony and child support award
64 constitutes more than a specified percentage of a
65 payor's net income, the child support award be
66 adjusted to reduce the combined total; creating s.
67 61.192, F.S.; providing for motions to advance the
68 trial of certain actions if a specified period has
69 passed since the initial service on the respondent;
70 providing applicability; providing an effective date.

71
72 Be It Enacted by the Legislature of the State of Florida:

73
74 Section 1. Section 61.071, Florida Statutes, is amended to
75 read:

76 61.071 Alimony pendente lite; suit money.—In every
77 proceeding for dissolution of the marriage, a party may claim
78 alimony and suit money in the petition or by motion, and if the
79 petition is well founded, the court shall allow a reasonable sum
80 therefor. If a party in any proceeding for dissolution of
81 marriage claims alimony or suit money in his or her answer or by
82 motion, and the answer or motion is well founded, the court
83 shall allow a reasonable sum therefor. After determining there
84 is a need for alimony and that there is an ability to pay
85 alimony, the court shall consider the alimony factors in s.
86 61.08(4)(b)1.-14. and make specific written findings of fact
87 regarding the relevant factors that justify an award of alimony

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88 under this section. The court may not use the presumptive
89 alimony guidelines in s. 61.08 to calculate alimony under this
90 section.

91 Section 2. Section 61.08, Florida Statutes, is amended to
92 read:

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

95 61.08 Alimony.—

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

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

100 a. Income from salaries.

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

105 c. Commissions.

106 d. Payments received as an independent contractor for labor
107 or services, which payments must be considered income from self-
108 employment.

109 e. Bonuses.

110 f. Dividends.

111 g. Severance pay.

112 h. Pension payments and retirement benefits actually
113 received.

114 i. Royalties.

115 j. Rental income, which is gross receipts minus ordinary
116 and necessary expenses required to produce the income.

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117 k. Interest.

118 l. Trust income and distributions which are regularly
119 received, relied upon, or readily available to the beneficiary.

120 m. Annuity payments.

121 n. Capital gains.

122 o. Any money drawn by a self-employed individual for
123 personal use that is deducted as a business expense, which
124 moneys must be considered income from self-employment.

125 p. Social security benefits, including social security
126 benefits actually received by a party as a result of the
127 disability of that party.

128 q. Workers' compensation benefits.

129 r. Unemployment insurance benefits.

130 s. Disability insurance benefits.

131 t. Funds payable from any health, accident, disability, or
132 casualty insurance to the extent that such insurance replaces
133 wages or provides income in lieu of wages.

134 u. Continuing monetary gifts.

135 v. Income from general partnerships, limited partnerships,
136 closely held corporations, or limited liability companies;
137 except that if a party is a passive investor, has a minority
138 interest in the company, and does not have any managerial duties
139 or input, the income to be recognized may be limited to actual
140 cash distributions received.

141 w. Expense reimbursements or in-kind payments or benefits
142 received by a party in the course of employment, self-
143 employment, or operation of a business which reduces personal
144 living expenses.

145 x. Overtime pay.

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

147 z. Spousal support received from a previous marriage.

148 aa. Gains derived from dealings in property, unless the
149 gain is nonrecurring.

150 2. "Gross income" does not include:

151 a. Child support payments received.

152 b. Benefits received from public assistance programs.

153 c. Social security benefits received by a parent on behalf
154 of a minor child as a result of the death or disability of a
155 parent or stepparent.

156 d. Earnings or gains on retirement accounts, including
157 individual retirement accounts; except that such earnings or
158 gains shall be included as income if a party takes a
159 distribution from the account. If a party is able to take a
160 distribution from the account without being subject to a federal
161 tax penalty for early distribution and the party chooses not to
162 take such a distribution, the court may consider the
163 distribution that could have been taken in determining the
164 party's gross income.

165 3.a. For income from self-employment, rent, royalties,
166 proprietorship of a business, or joint ownership of a
167 partnership or closely held corporation, the term "gross income"
168 equals gross receipts minus ordinary and necessary expenses, as
169 defined in sub-subparagraph b., which are required to produce
170 such income.

171 b. "Ordinary and necessary expenses," as used in sub-
172 paragraph a., does not include amounts allowable by the
173 Internal Revenue Service for the accelerated component of
174 depreciation expenses or investment tax credits or any other

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175 business expenses determined by the court to be inappropriate
176 for determining gross income for purposes of calculating
177 alimony.

178 (b) "Potential income" means income which could be earned
179 by a party using his or her best efforts and includes potential
180 income from employment and potential income from the investment
181 of assets or use of property. Potential income from employment
182 is the income which a party could reasonably expect to earn by
183 working at a locally available, full-time job commensurate with
184 his or her education, training, and experience. Potential income
185 from the investment of assets or use of property is the income
186 which a party could reasonably expect to earn from the
187 investment of his or her assets or the use of his or her
188 property in a financially prudent manner.

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

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

197 a. Expected to result in higher income within the
198 foreseeable future.

199 b. A good faith educational choice based upon the previous
200 education, training, skills, and experience of the party and the
201 availability of immediate employment based upon the educational
202 program being pursued.

203 (d) "Years of marriage" means the number of whole years,

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204 beginning from the date of the parties' marriage until the date
205 of the filing of the action for dissolution of marriage.

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

210 (a) The amount of each party's monthly gross income,
211 including, but not limited to, the actual or potential income,
212 and also including actual or potential income from nonmarital or
213 marital property distributed to each party.

214 (b) The years of marriage as determined from the date of
215 marriage through the date of the filing of the action for
216 dissolution of marriage.

217 (3) ALIMONY GUIDELINES.—After making the initial findings
218 described in subsection (2), the court shall calculate the
219 presumptive alimony amount range and the presumptive alimony
220 duration range. The court shall make written findings as to the
221 presumptive alimony amount range and presumptive alimony
222 duration range.

223 (a) Presumptive alimony amount range.—The low end of the
224 presumptive alimony amount range shall be calculated by using
225 the following formula:

226
227 (0.015 x the years of marriage) x the difference between the
228 monthly gross incomes of the parties

229
230 The high end of the presumptive alimony amount range shall be
231 calculated by using the following formula:
232

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233 (0.020 x the years of marriage) x the difference between the
234 monthly gross incomes of the parties

235
236 For purposes of calculating the presumptive alimony amount
237 range, 20 years of marriage shall be used in calculating the low
238 end and high end for marriages of 20 years or more. In
239 calculating the difference between the parties' monthly gross
240 income, the income of the party seeking alimony shall be
241 subtracted from the income of the other party. If the
242 application of the formulas to establish a guideline range
243 results in a negative number, the presumptive alimony amount
244 shall be \$0. If a court establishes the duration of the alimony
245 award at 50 percent or less of the length of the marriage, the
246 court shall use the actual years of the marriage, up to a
247 maximum of 25 years, to calculate the high end of the
248 presumptive alimony amount range.

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

252
253 0.25 x the years of marriage

254
255 The high end of the presumptive alimony duration range shall be
256 calculated by using the following formula:

257
258 0.75 x the years of marriage.

259
260 (4) ALIMONY AWARD.—

261 (a) Marriages of 2 years or less.—For marriages of 2 years

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262 or less, there is a rebuttable presumption that no alimony shall
263 be awarded. The court may award alimony for a marriage with a
264 duration of 2 years or less only if the court makes written
265 findings that there is a clear and convincing need for alimony,
266 there is an ability to pay alimony, and that the failure to
267 award alimony would be inequitable. The court shall then
268 establish the alimony award in accordance with paragraph (b).

269 (b) Marriages of more than 2 years.—Absent an agreement of
270 the parties, alimony shall presumptively be awarded in an amount
271 within the alimony amount range calculated in paragraph (3) (a).
272 Absent an agreement of the parties, alimony shall presumptively
273 be awarded for a duration within the alimony duration range
274 calculated in paragraph (3) (b). In determining the amount and
275 duration of the alimony award, the court shall consider all of
276 the following factors upon which evidence was presented:

277 1. The financial resources of the recipient spouse,
278 including the actual or potential income from nonmarital or
279 marital property or any other source and the ability of the
280 recipient spouse to meet his or her reasonable needs
281 independently.

282 2. The financial resources of the payor spouse, including
283 the actual or potential income from nonmarital or marital
284 property or any other source and the ability of the payor spouse
285 to meet his or her reasonable needs while paying alimony.

286 3. The standard of living of the parties during the
287 marriage with consideration that there will be two households to
288 maintain after the dissolution of the marriage and that neither
289 party may be able to maintain the same standard of living after
290 the dissolution of the marriage.

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291 4. The equitable distribution of marital property,
292 including whether an unequal distribution of marital property
293 was made to reduce or alleviate the need for alimony.

294 5. Both parties' income, employment, and employability,
295 obtainable through reasonable diligence and additional training
296 or education, if necessary, and any necessary reduction in
297 employment due to the needs of an unemancipated child of the
298 marriage or the circumstances of the parties.

299 6. Whether a party could become better able to support
300 himself or herself and reduce the need for ongoing alimony by
301 pursuing additional educational or vocational training along
302 with all of the details of such educational or vocational plan,
303 including, but not limited to, the length of time required and
304 the anticipated costs of such educational or vocational
305 training.

306 7. Whether one party has historically earned higher or
307 lower income than the income reflected at the time of trial and
308 the duration and consistency of income from overtime or
309 secondary employment.

310 8. Whether either party has foregone or postponed economic,
311 educational, or employment opportunities during the course of
312 the marriage.

313 9. Whether either party has caused the unreasonable
314 depletion or dissipation of marital assets.

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

317 11. The age, health, and physical and mental condition of
318 the parties, including consideration of significant health care
319 needs or uninsured or unreimbursed health care expenses.

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320 12. Significant economic or noneconomic contributions to
321 the marriage or to the economic, educational, or occupational
322 advancement of a party, including, but not limited to, services
323 rendered in homemaking, child care, education, and career
324 building of the other party, payment by one spouse of the other
325 spouse's separate debts, or enhancement of the other spouse's
326 personal or real property.

327 13. The tax consequence of the alimony award.

328 14. Any other factor necessary to do equity and justice
329 between the parties.

330 (c) Deviation from guidelines.—The court may establish an
331 award of alimony that is outside the presumptive alimony amount
332 or alimony duration ranges only if the court considers all of
333 the factors in paragraph (b) and makes specific written findings
334 concerning the relevant factors justifying that the application
335 of the presumptive alimony amount or alimony duration ranges, as
336 applicable, is inappropriate or inequitable.

337 (d) Order establishing alimony award.—After consideration
338 of the presumptive alimony amount and duration ranges in
339 accordance with paragraphs (3) (a) and (b) and the factors upon
340 which evidence was presented in accordance with paragraph (b),
341 the court may establish an alimony award. An order establishing
342 an alimony award must clearly set forth both the amount and the
343 duration of the award. The court shall also make a written
344 finding that the payor has the financial ability to pay the
345 award.

346 (5) IMPUTATION OF INCOME.—If a party is voluntarily
347 unemployed or underemployed, alimony shall be calculated based
348 on a determination of potential income unless the court makes

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349 specific written findings regarding the circumstances that make
350 it inequitable to impute income.

351 (6) NOMINAL ALIMONY.—Notwithstanding subsections (1), (3),
352 and (4), the court may make an award of nominal alimony in the
353 amount of \$1 per year if, at the time of trial, a party who has
354 traditionally provided the primary source of financial support
355 to the family temporarily lacks the ability to pay support but
356 is reasonably anticipated to have the ability to pay support in
357 the future. The court may also award nominal alimony for an
358 alimony recipient who is presently able to work but for whom a
359 medical condition with a reasonable degree of medical certainty
360 may inhibit or prevent his or her ability to work during the
361 duration of the alimony period. The duration of the nominal
362 alimony shall be established within the presumptive durational
363 range based upon the length of the marriage subject to the
364 alimony factors in paragraph (4) (b). Before the expiration of
365 the durational period, nominal alimony may be modified in
366 accordance with s. 61.14 as to amount to a full alimony award
367 using the alimony guidelines and factors in accordance with s.
368 61.08.

369 (7) TAXABILITY AND DEDUCTIBILITY OF ALIMONY.—

370 (a) Unless otherwise stated in the judgment or order for
371 alimony or in an agreement incorporated thereby, alimony shall
372 be deductible from income by the payor under s. 215 of the
373 Internal Revenue Code and includable in the income of the payee
374 under s. 71 of the Internal Revenue Code.

375 (b) When making a judgment or order for alimony, the court
376 may, in its discretion after weighing the equities and tax
377 efficiencies, order alimony be nondeductible from income by the

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378 payor and nonincludable in the income of the payee.

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

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

387 (9) SECURITY OF AWARD.—To the extent necessary to protect
388 an award of alimony, the court may order any party who is
389 ordered to pay alimony to purchase or maintain a decreasing term
390 life insurance policy or a bond, or to otherwise secure such
391 alimony award with any other assets that may be suitable for
392 that purpose, in an amount adequate to secure the alimony award.
393 Any such security may be awarded only upon a showing of special
394 circumstances. If the court finds special circumstances and
395 awards such security, the court must make specific evidentiary
396 findings regarding the availability, cost, and financial impact
397 on the obligated party. Any security may be modifiable in the
398 event the underlying alimony award is modified and shall be
399 reduced in an amount commensurate with any reduction in the
400 alimony award.

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

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

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407 alimony initially established under this section.

408 (12) PAYMENT OF AWARD.—

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

414 (b) With respect to an order requiring the payment of
415 alimony entered before January 1, 1985, upon the subsequent
416 appearance, on or after that date, of one or both parties before
417 the court having jurisdiction for the purpose of modifying or
418 enforcing the order or in any other proceeding related to the
419 order, or upon the application of either party, unless paragraph
420 (c) or paragraph (d) applies, the court shall modify the terms
421 of the order as necessary to direct that payments of alimony be
422 made through the appropriate depository as provided in s.
423 61.181.

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

426 (d)1. If there is a minor child of the parties and both
427 parties so request, the court may order that alimony payments do
428 not need to be directed through the depository. In this case,
429 the order of support shall provide, or be deemed to provide,
430 that either party may subsequently apply to the depository to
431 require that payments be made through the depository. The court
432 shall provide a copy of the order to the depository.

433 2. If subparagraph 1. applies, either party may
434 subsequently file with the clerk of the court a verified motion
435 alleging a default or arrearages in payment stating that the

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436 party wishes to initiate participation in the depository
437 program. The moving party shall copy the other party with the
438 motion. No later than 15 days after filing the motion, the court
439 shall conduct an evidentiary hearing establishing the default
440 and arrearages, if any, and issue an order directing the clerk
441 of the circuit court to establish, or amend an existing, family
442 law case history account, and further advising the parties that
443 future payments must thereafter be directed through the
444 depository.

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

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

450 61.13 Support of children; parenting and time-sharing;
451 powers of court.—

452 (3) For purposes of establishing or modifying parental
453 responsibility and creating, developing, approving, or modifying
454 a parenting plan, including a time-sharing schedule, which
455 governs each parent's relationship with his or her minor child
456 and the relationship between each parent with regard to his or
457 her minor child, the best interest of the child shall be the
458 primary consideration.

459 (a) Approximately equal time-sharing with a minor child by
460 both parents is presumed to be in the best interest of the
461 child. In determining whether the presumption is overcome, the
462 court shall evaluate the evidence based on ~~A determination of~~
463 ~~parental responsibility, a parenting plan, or a time-sharing~~
464 ~~schedule may not be modified without a showing of a substantial,~~

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465 ~~material, and unanticipated change in circumstances and a~~
466 ~~determination that the modification is in the best interests of~~
467 ~~the child. Determination of the best interests of the child~~
468 ~~shall be made by evaluating~~ all of the factors affecting the
469 welfare and interests of the particular minor child and the
470 circumstances of that family, including, ~~but not limited to:~~

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

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

478 3.(e) The demonstrated capacity and disposition of each
479 parent to determine, consider, and act upon the needs of the
480 child as opposed to the needs or desires of the parent.

481 4.(d) The length of time the child has lived in a stable,
482 satisfactory environment and the desirability of maintaining
483 continuity.

484 5.(e) The geographic viability of the parenting plan, with
485 special attention paid to the needs of school-age children and
486 the amount of time to be spent traveling to carry out ~~effectuate~~
487 the parenting plan. This factor does not create a presumption
488 for or against relocation of either parent with a child.

489 6.(f) The moral fitness of the parents.

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

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

492 9.(i) The reasonable preference of the child, ~~if the court~~
493 deems the child to be of sufficient intelligence, understanding,

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494 and experience to express a preference.

495 10.~~(j)~~ The demonstrated knowledge, capacity, or ~~and~~
496 disposition of each parent to be informed of the circumstances
497 of the minor child, including, but not limited to, the child's
498 friends, teachers, medical care providers, daily activities, and
499 favorite things.

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

504 12.~~(l)~~ The demonstrated capacity of each parent to
505 communicate with the other parent and keep the other parent
506 informed of issues and activities regarding the minor child, and
507 the willingness of each parent to adopt a unified front on all
508 major issues when dealing with the child.

509 13.~~(m)~~ Evidence of domestic violence, sexual violence,
510 child abuse, child abandonment, or child neglect, regardless of
511 whether a prior or pending action relating to those issues has
512 been brought. If the court accepts evidence of prior or pending
513 actions regarding domestic violence, sexual violence, child
514 abuse, child abandonment, or child neglect, the court must
515 specifically acknowledge in writing that such evidence was
516 considered when evaluating the best interests of the child.

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

521 15.~~(o)~~ The demonstrated capacity or disposition of each
522 parent to perform or ensure the performance of particular

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523 parenting tasks customarily performed by the other ~~each~~ parent
524 and the division of parental responsibilities before the
525 institution of litigation and during the pending litigation,
526 including the extent to which parenting responsibilities were
527 undertaken by third parties.

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

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

534 18. ~~(r)~~ The capacity and disposition of each parent to
535 protect the child from the ongoing litigation as demonstrated by
536 not discussing the litigation with the child, not sharing
537 documents or electronic media related to the litigation with the
538 child, and refraining from disparaging comments about the other
539 parent to the child.

540 19. ~~(s)~~ The developmental stages and needs of the child and
541 the demonstrated capacity and disposition of each parent to meet
542 the child's developmental needs.

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

544 21. The frequency that a parent would likely leave the
545 child in the care of a nonrelative on evenings and weekends when
546 the other parent would be available and willing to provide care.

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

550 (b) A court order must be supported by written findings of
551 fact if the order establishes an initial permanent time-sharing

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552 schedule that does not provide for approximately equal time-
553 sharing.

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

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

561 61.14 Enforcement and modification of support, maintenance,
562 or alimony agreements or orders.-

563 (1) (a) When the parties enter into an agreement for
564 payments for, or instead of, support, maintenance, or alimony,
565 whether in connection with a proceeding for dissolution or
566 separate maintenance or with any voluntary property settlement,
567 or when a party is required by court order to make any payments,
568 and the circumstances or the financial ability of either party
569 changes or the child who is a beneficiary of an agreement or
570 court order as described herein reaches majority after the
571 execution of the agreement or the rendition of the order, either
572 party may apply to the circuit court of the circuit in which the
573 parties, or either of them, resided at the date of the execution
574 of the agreement or reside at the date of the application, or in
575 which the agreement was executed or in which the order was
576 rendered, for an order decreasing or increasing the amount of
577 support, maintenance, or alimony, and the court has jurisdiction
578 to make orders as equity requires, with due regard to the
579 changed circumstances or the financial ability of the parties or
580 the child, decreasing, increasing, or confirming the amount of

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581 separate support, maintenance, or alimony provided for in the
582 agreement or order. However, a court may not decrease or
583 increase the duration of alimony provided for in the agreement
584 or order. A party is entitled to pursue an immediate
585 modification of alimony if the actual income earned by the other
586 party exceeds by at least 10 percent the amount imputed to that
587 party at the time the existing alimony award was determined and
588 such circumstance shall constitute a substantial change in
589 circumstances sufficient to support a modification of alimony.
590 However, an increase in an alimony obligor's income alone does
591 not constitute a basis for a modification to increase alimony
592 unless at the time the alimony award was established it was
593 determined that the obligor was underemployed or unemployed and
594 the court did not impute income to that party at his or her
595 maximum potential income. If an alimony obligor becomes
596 involuntarily underemployed or unemployed for a period of 6
597 months following the entry of the last order requiring the
598 payment of alimony, the obligor is entitled to pursue an
599 immediate modification of his or her existing alimony
600 obligations and such circumstance shall constitute a substantial
601 change in circumstance sufficient to support a modification of
602 alimony. A finding that medical insurance is reasonably
603 available or the child support guidelines schedule in s. 61.30
604 may constitute changed circumstances. Except as otherwise
605 provided in s. 61.30(11)(c), the court may modify an order of
606 support, maintenance, or alimony by increasing or decreasing the
607 support, maintenance, or alimony retroactively to the date of
608 the filing of the action or supplemental action for modification
609 as equity requires, giving due regard to the changed

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610 circumstances or the financial ability of the parties or the
611 child.

612 (b)1. The court may reduce or terminate an award of alimony
613 upon specific written findings by the court that since the
614 granting of a divorce and the award of alimony a supportive
615 relationship exists or has existed within the previous year
616 before the date of the filing of the petition for modification
617 or termination between the obligee and another a person with
618 ~~whom the obligee resides. On the issue of whether alimony should~~
619 ~~be reduced or terminated under this paragraph, the burden is on~~
620 ~~the obligor to prove by a preponderance of the evidence that a~~
621 ~~supportive relationship exists.~~

622 2. In determining whether an existing award of alimony
623 should be reduced or terminated because of an alleged supportive
624 relationship between an obligee and a person who is not related
625 by consanguinity or affinity ~~and with whom the obligee resides,~~
626 the court shall elicit the nature and extent of the relationship
627 in question. The court shall give consideration, without
628 limitation, to circumstances, including, but not limited to, the
629 following, in determining the relationship of an obligee to
630 another person:

631 a. The extent to which the obligee and the other person
632 have held themselves out as a married couple by engaging in
633 conduct such as using the same last name, using a common mailing
634 address, referring to each other ~~in terms such as "my husband"~~
635 ~~or "my wife,"~~ "my spouse" or otherwise conducting themselves in
636 a manner that evidences a permanent supportive relationship.

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

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639 c. The extent to which the obligee and the other person
640 have pooled their assets or income or otherwise exhibited
641 financial interdependence.

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

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

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

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

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

652 i. Evidence in support of a claim that the obligee and the
653 other person have an express agreement regarding property
654 sharing or support.

655 j. Evidence in support of a claim that the obligee and the
656 other person have an implied agreement regarding property
657 sharing or support.

658 k. Whether the obligee and the other person have provided
659 support to the children of one another, regardless of any legal
660 duty to do so.

661 1. Whether the obligor's failure, in whole or in part, to
662 comply with all court-ordered financial obligations to the
663 obligee constituted a significant factor in the establishment of
664 the supportive relationship.

665 3. In any proceeding to modify an alimony award based upon
666 a supportive relationship, the obligor has the burden of proof
667 to establish, by a preponderance of the evidence, that a

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668 supportive relationship exists or has existed within the
669 previous year before the date of the filing of the petition for
670 modification or termination. The obligor is not required to
671 prove cohabitation of the obligee and the third party.

672 4. Notwithstanding paragraph (f), if a reduction or
673 termination is granted under this paragraph, the reduction or
674 termination is retroactive to the date of filing of the petition
675 for reduction or termination.

676 5.3. This paragraph does not abrogate the requirement that
677 every marriage in this state be solemnized under a license, does
678 not recognize a common law marriage as valid, and does not
679 recognize a de facto marriage. This paragraph recognizes only
680 that relationships do exist that provide economic support
681 equivalent to a marriage and that alimony terminable on
682 remarriage may be reduced or terminated upon the establishment
683 of equivalent equitable circumstances as described in this
684 paragraph. The existence of a conjugal relationship, though it
685 may be relevant to the nature and extent of the relationship, is
686 not necessary for the application of the provisions of this
687 paragraph.

688 (c)1. For purposes of this section, the remarriage of an
689 alimony obligor does not constitute a substantial change in
690 circumstance or a basis for a modification of alimony.

691 2. The financial information, including, but not limited
692 to, information related to assets and income, of a subsequent
693 spouse of a party paying or receiving alimony is inadmissible
694 and may not be considered as a part of any modification action
695 unless a party is claiming that his or her income has decreased
696 since the marriage. If a party makes such a claim, the financial

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697 information of the subsequent spouse is discoverable and
698 admissible only to the extent necessary to establish whether the
699 party claiming that his or her income has decreased is diverting
700 income or assets to the subsequent spouse that might otherwise
701 be available for the payment of alimony. However, this
702 subparagraph may not be used to prevent the discovery of or
703 admissibility in evidence of the income or assets of a party
704 when those assets are held jointly with a subsequent spouse.
705 This subparagraph is not intended to prohibit the discovery or
706 admissibility of a joint tax return filed by a party and his or
707 her subsequent spouse in connection with a modification of
708 alimony.

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

712 a. A substantial change in circumstance is deemed to exist
713 if:

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

717 (II) The obligor has reached the customary retirement age
718 for his or her occupation and has retired from that occupation.
719 An obligor may file an action within 1 year of his or her
720 anticipated retirement date and the court shall determine the
721 customary retirement date for the obligor's profession. However,
722 a determination of the customary retirement age is not an
723 adjudication of a petition for a modification of an alimony
724 award.

725 b. If an obligor voluntarily retires before reaching any of

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726 the ages described in sub-subparagraph a., the court shall
727 determine whether the obligor's retirement is reasonable upon
728 consideration of the obligor's age, health, and motivation for
729 retirement and the financial impact on the obligee. A finding of
730 reasonableness by the court shall constitute a substantial
731 change in circumstance.

732 2. Upon a finding of a substantial change in circumstance,
733 there is a rebuttable presumption that an obligor's existing
734 alimony obligation shall be modified or terminated. The court
735 shall modify or terminate the alimony obligation, or make a
736 determination regarding whether the rebuttable presumption has
737 been overcome, based upon the following factors applied to the
738 current circumstances of the obligor and obligee:

739 a. The age of the parties.

740 b. The health of the parties.

741 c. The assets and liabilities of the parties.

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

744 e. The ability of the parties to maintain part-time or
745 full-time employment.

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

747 3. The court may temporarily reduce or suspend the
748 obligor's payment of alimony while his or her petition for
749 modification or termination under this paragraph is pending.

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

753 Further, a party obligated to pay prevailing party attorney fees
754 and costs in connection with unreasonably pursuing or defending

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755 an action for modification is not entitled to an award of
756 attorney fees and cost in accordance with s. 61.16.

757 (f) There is a rebuttable presumption that a modification
758 or termination of an alimony award is retroactive to the date of
759 the filing of the petition, unless the obligee demonstrates that
760 the result is inequitable.

761 (g)~~(e)~~ For each support order reviewed by the department as
762 required by s. 409.2564(11), if the amount of the child support
763 award under the order differs by at least 10 percent but not
764 less than \$25 from the amount that would be awarded under s.
765 61.30, the department shall seek to have the order modified and
766 any modification shall be made without a requirement for proof
767 or showing of a change in circumstances.

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

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

772 61.30 Child support guidelines; retroactive child support.-

773 (11)

774 (d) Whenever a combined alimony and child support award
775 constitutes more than 55 percent of the payor's net income,
776 calculated without any consideration of alimony or child support
777 obligations, the court shall adjust the award of child support
778 to ensure that the 55 percent cap is not exceeded.

779 Section 6. Section 61.192, Florida Statutes, is created to
780 read:

781 61.192 Advancing trial.-In an action brought pursuant to
782 this chapter, if more than 2 years have passed since the initial
783 petition was served on the respondent, either party may move the

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784 court to advance the trial of their action on the docket. This
785 motion may be made at any time after 2 years have passed since
786 the petition was served, and once made the court must give the
787 case priority on the court's calendar.

788 Section 7. The amendments made by this act to chapter 61,
789 Florida Statutes, apply to all initial determinations of alimony
790 and all alimony modification actions that are pending as of the
791 effective date of this act, and to all initial determinations of
792 alimony and all alimony modification actions brought on or after
793 the effective date of this act. The enacting of this act may not
794 serve as the sole basis for a party to seek a modification of an
795 alimony award existing before the effective date of this act.

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