

1 A bill to be entitled
2 An act relating to family law; amending s. 61.071,
3 F.S.; requiring the use of specified factors in
4 calculating alimony pendente lite; requiring findings
5 by the court regarding such alimony; specifying that a
6 court may not use certain presumptive alimony
7 guidelines in calculating such alimony; amending s.
8 61.08, F.S.; providing definitions; requiring a court
9 to make specified findings before ruling on a request
10 for alimony; providing for determination of
11 presumptive alimony range and duration range;
12 providing presumptions concerning alimony awards
13 depending on the duration of marriages; providing for
14 imputation of income in certain circumstances;
15 providing for awards of nominal alimony in certain
16 circumstances; providing for taxability and
17 deductibility of alimony awards; specifying that a
18 combined award of alimony and child support may not
19 constitute more than a specified percentage of a
20 payor's net income; providing for security of awards
21 through specified means; providing for modification,
22 termination, and payment of awards; providing for
23 participation in alimony depository; amending s.
24 61.14, F.S.; prohibiting a court from changing the
25 duration of an alimony award; providing that a party
26 may pursue an immediate modification of alimony in

27 | certain circumstances; revising factors to be
28 | considered in determining whether an existing award of
29 | alimony should be reduced or terminated because of an
30 | alleged supportive relationship; providing for the
31 | effective date of a reduction or termination of an
32 | alimony award based on the existence of a supportive
33 | relationship; providing that the remarriage of an
34 | alimony obligor is not a substantial change in
35 | circumstance; providing that the financial information
36 | of a subsequent spouse of a party paying or receiving
37 | alimony is inadmissible and undiscoverable; providing
38 | an exception; providing for modification or
39 | termination of an award based on a party's retirement;
40 | providing for a temporary reduction or suspension of
41 | an obligor's payment of alimony while his or her
42 | petition for modification or termination based on
43 | retirement is pending; providing for an award of
44 | attorney fees and costs for unreasonably pursuing or
45 | defending a modification of an award; establishing a
46 | rebuttable presumption that the modification of an
47 | alimony award is retroactive; amending s. 61.30, F.S.;
48 | providing that whenever a combined alimony and child
49 | support award constitutes more than a specified
50 | percentage of a payor's net income, the child support
51 | award be adjusted to reduce the combined total;
52 | creating s. 61.192, F.S.; providing for motions to

53 advance the trial of certain actions if a specified
 54 period has passed since the initial service on the
 55 respondent; providing applicability; providing an
 56 effective date.

57
 58 Be It Enacted by the Legislature of the State of Florida:
 59

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

62 61.071 Alimony pendente lite; suit money.—In every
 63 proceeding for dissolution of the marriage, a party may claim
 64 alimony and suit money in the petition or by motion, and if the
 65 petition is well founded, the court shall allow a reasonable sum
 66 therefor. If a party in any proceeding for dissolution of
 67 marriage claims alimony or suit money in his or her answer or by
 68 motion, and the answer or motion is well founded, the court
 69 shall allow a reasonable sum therefor. After determining that
 70 there is a need for alimony and that there is an ability to pay
 71 alimony, the court shall consider the alimony factors in s.
 72 61.08(4)(b)1.-14. and make specific written findings of fact
 73 regarding the relevant factors that justify an award of alimony
 74 under this section. The court may not use the presumptive
 75 alimony guidelines in s. 61.08 to calculate alimony under this
 76 section.

77 Section 2. Section 61.08, Florida Statutes, is amended to
 78 read:

79 61.08 Alimony.—
 80 (Substantial rewording of section. See
 81 s. 61.08, F.S., for present text.)
 82 (1) DEFINITIONS.—As used in this section, unless the
 83 context otherwise requires, the term:
 84 (a)1. "Gross income" means recurring income from any
 85 source and includes, but is not limited to:
 86 a. Income from salaries.
 87 b. Wages, including tips declared by the individual for
 88 purposes of reporting to the Internal Revenue Service or tips
 89 imputed to bring the employee's gross earnings to the minimum
 90 wage for the number of hours worked, whichever is greater.
 91 c. Commissions.
 92 d. Payments received as an independent contractor for
 93 labor or services, which payments must be considered income from
 94 self-employment.
 95 e. Bonuses.
 96 f. Dividends.
 97 g. Severance pay.
 98 h. Pension payments and retirement benefits actually
 99 received.
 100 i. Royalties.
 101 j. Rental income, which is gross receipts minus ordinary
 102 and necessary expenses required to produce the income.
 103 k. Interest.
 104 l. Trust income and distributions which are regularly

105 received, relied upon, or readily available to the beneficiary.

106 m. Annuity payments.

107 n. Capital gains.

108 o. Any money drawn by a self-employed individual for

109 personal use that is deducted as a business expense, which

110 moneys must be considered income from self-employment.

111 p. Social security benefits, including social security

112 benefits actually received by a party as a result of the

113 disability of that party.

114 q. Workers' compensation benefits.

115 r. Unemployment insurance benefits.

116 s. Disability insurance benefits.

117 t. Funds payable from any health, accident, disability, or

118 casualty insurance to the extent that such insurance replaces

119 wages or provides income in lieu of wages.

120 u. Continuing monetary gifts.

121 v. Income from general partnerships, limited partnerships,

122 closely held corporations, or limited liability companies;

123 except that if a party is a passive investor, has a minority

124 interest in the company, and does not have any managerial duties

125 or input, the income to be recognized may be limited to actual

126 cash distributions received.

127 w. Expense reimbursements or in-kind payments or benefits

128 received by a party in the course of employment, self-

129 employment, or operation of a business which reduces personal

130 living expenses.

- 131 x. Overtime pay.
- 132 y. Income from royalties, trusts, or estates.
- 133 z. Spousal support received from a previous marriage.
- 134 aa. Gains derived from dealings in property, unless the
135 gain is nonrecurring.
- 136 2. "Gross income" does not include:
- 137 a. Child support payments received.
- 138 b. Benefits received from public assistance programs.
- 139 c. Social security benefits received by a parent on behalf
140 of a minor child as a result of the death or disability of a
141 parent or stepparent.
- 142 d. Earnings or gains on retirement accounts, including
143 individual retirement accounts; except that such earnings or
144 gains shall be included as income if a party takes a
145 distribution from the account. If a party is able to take a
146 distribution from the account without being subject to a federal
147 tax penalty for early distribution and the party chooses not to
148 take such a distribution, the court may consider the
149 distribution that could have been taken in determining the
150 party's gross income.
- 151 3.a. For income from self-employment, rent, royalties,
152 proprietorship of a business, or joint ownership of a
153 partnership or closely held corporation, the term "gross income"
154 equals gross receipts minus ordinary and necessary expenses, as
155 defined in sub-subparagraph b., which are required to produce
156 such income.

157 b. "Ordinary and necessary expenses," as used in sub-
158 subparagraph a., does not include amounts allowable by the
159 Internal Revenue Service for the accelerated component of
160 depreciation expenses or investment tax credits or any other
161 business expenses determined by the court to be inappropriate
162 for determining gross income for purposes of calculating
163 alimony.

164 (b) "Potential income" means income which could be earned
165 by a party using his or her best efforts and includes potential
166 income from employment and potential income from the investment
167 of assets or use of property. Potential income from employment
168 is the income which a party could reasonably expect to earn by
169 working at a locally available, full-time job commensurate with
170 his or her education, training, and experience. Potential income
171 from the investment of assets or use of property is the income
172 which a party could reasonably expect to earn from the
173 investment of his or her assets or the use of his or her
174 property in a financially prudent manner.

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

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

183 a. Expected to result in higher income within the
 184 foreseeable future.

185 b. A good faith educational choice based upon the previous
 186 education, training, skills, and experience of the party and the
 187 availability of immediate employment based upon the educational
 188 program being pursued.

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

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

196 (a) The amount of each party's monthly gross income,
 197 including, but not limited to, the actual or potential income,
 198 and also including actual or potential income from nonmarital or
 199 marital property distributed to each party.

200 (b) The years of marriage as determined from the date of
 201 marriage through the date of the filing of the action for
 202 dissolution of marriage.

203 (3) ALIMONY GUIDELINES.—After making the initial findings
 204 described in subsection (2), the court shall calculate the
 205 presumptive alimony amount range and the presumptive alimony
 206 duration range. The court shall make written findings as to the
 207 presumptive alimony amount range and presumptive alimony
 208 duration range.

209 (a) Presumptive alimony amount range.—The low end of the
 210 presumptive alimony amount range shall be calculated by using
 211 the following formula:

212
 213 (0.015 x the years of marriage) x the difference between
 214 the monthly gross incomes of the parties

215
 216 The high end of the presumptive alimony amount range shall be
 217 calculated by using the following formula:

218
 219 (0.020 x the years of marriage) x the difference between
 220 the monthly gross incomes of the parties

221
 222 For purposes of calculating the presumptive alimony amount
 223 range, 20 years of marriage shall be used in calculating the low
 224 end and high end for marriages of 20 years or more. In
 225 calculating the difference between the parties' monthly gross
 226 income, the income of the party seeking alimony shall be
 227 subtracted from the income of the other party. If the
 228 application of the formulas to establish a guideline range
 229 results in a negative number, the presumptive alimony amount
 230 shall be \$0. If a court establishes the duration of the alimony
 231 award at 50 percent or less of the length of the marriage, the
 232 court shall use the actual years of the marriage, up to a
 233 maximum of 25 years, to calculate the high end of the
 234 presumptive alimony amount range.

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

238
 239 0.25 x the years of marriage

240
 241 The high end of the presumptive alimony duration range shall be
 242 calculated by using the following formula:

243
 244 0.75 x the years of marriage

245
 246 (4) ALIMONY AWARD.—

247 (a) Marriages of 2 years or less.—For marriages of 2 years
 248 or less, there is a rebuttable presumption that no alimony shall
 249 be awarded. The court may award alimony for a marriage with a
 250 duration of 2 years or less only if the court makes written
 251 findings that there is clear and convincing need for alimony,
 252 there is an ability to pay alimony, and that the failure to
 253 award alimony would be inequitable. The court shall then
 254 establish the alimony award in accordance with paragraph (b).

255 (b) Marriages of more than 2 years.—Absent an agreement of
 256 the parties, alimony shall presumptively be awarded in an amount
 257 within the alimony amount range calculated in paragraph (3) (a).
 258 Absent an agreement of the parties, alimony shall presumptively
 259 be awarded for a duration within the alimony duration range
 260 calculated in paragraph (3) (b). In determining the amount and

261 duration of the alimony award, the court shall consider all of
262 the following factors upon which evidence was presented:

263 1. The financial resources of the recipient spouse,
264 including the actual or potential income from nonmarital or
265 marital property or any other source and the ability of the
266 recipient spouse to meet his or her reasonable needs
267 independently.

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

272 3. The standard of living of the parties during the
273 marriage with consideration that there will be two households to
274 maintain after the dissolution of the marriage and that neither
275 party may be able to maintain the same standard of living after
276 the dissolution of the marriage.

277 4. The equitable distribution of marital property,
278 including whether an unequal distribution of marital property
279 was made to reduce or alleviate the need for alimony.

280 5. Both parties' income, employment, and employability,
281 obtainable through reasonable diligence and additional training
282 or education, if necessary, and any necessary reduction in
283 employment due to the needs of an unemancipated child of the
284 marriage or the circumstances of the parties.

285 6. Whether a party could become better able to support
286 himself or herself and reduce the need for ongoing alimony by

287 pursuing additional educational or vocational training along
288 with all of the details of such educational or vocational plan,
289 including, but not limited to, the length of time required and
290 the anticipated costs of such educational or vocational plan.

291 7. Whether one party has historically earned higher or
292 lower income than the income reflected at the time of trial and
293 the duration and consistency of income from overtime or
294 secondary employment.

295 8. Whether either party has foregone or postponed
296 economic, educational, or employment opportunities during the
297 course of the marriage.

298 9. Whether either party has caused the unreasonable
299 depletion or dissipation of marital assets.

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

302 11. The age, health, and physical and mental condition of
303 the parties, including consideration of significant health care
304 needs or uninsured or unreimbursed health care expenses.

305 12. Significant economic or noneconomic contributions to
306 the marriage or to the economic, educational, or occupational
307 advancement of a party, including, but not limited to, services
308 rendered in homemaking, child care, education, and career
309 building of the other party, payment by one spouse of the other
310 spouse's separate debts, or enhancement of the other spouse's
311 personal or real property.

312 13. The tax consequence of the alimony award.

313 14. Any other factor necessary to do equity and justice
314 between the parties.

315 (c) Deviation from guidelines.—The court may establish an
316 award of alimony that is outside the presumptive alimony amount
317 or alimony duration ranges only if the court considers all of
318 the factors in paragraph (b) and makes specific written findings
319 concerning the relevant factors that justify that the
320 application of the presumptive alimony amount or alimony
321 duration ranges, as applicable, is inappropriate or inequitable.

322 (d) Order establishing alimony award.—After consideration
323 of the presumptive alimony amount and duration ranges in
324 accordance with paragraphs (3) (a) and (b), and the factors upon
325 which evidence was presented in accordance with paragraph (b),
326 the court may establish an alimony award. An order establishing
327 an alimony award must clearly set forth both the amount and the
328 duration of the award. The court shall also make a written
329 finding that the payor has the financial ability to pay the
330 award.

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

336 (6) NOMINAL ALIMONY.—Notwithstanding subsections (1), (3),
337 and (4), the court may make an award of nominal alimony in the
338 amount of \$1 per year if, at the time of trial, a party who has

339 traditionally provided the primary source of financial support
340 to the family temporarily lacks the ability to pay support but
341 is reasonably anticipated to have the ability to pay support in
342 the future. The court may also award nominal alimony for an
343 alimony recipient that is presently able to work but for whom a
344 medical condition with a reasonable degree of medical certainty
345 may inhibit or prevent his or her ability to work during the
346 duration of the alimony period. The duration of the nominal
347 alimony shall be established within the presumptive durational
348 range based upon the length of the marriage subject to the
349 alimony factors in paragraph (4) (b). Before the expiration of
350 the durational period, nominal alimony may be modified in
351 accordance with s. 61.14 as to amount to a full alimony award
352 using the alimony guidelines and factors in this section.

353 (7) TAXABILITY AND DEDUCTIBILITY OF ALIMONY.—

354 (a) Unless otherwise stated in the judgment or order for
355 alimony or in an agreement incorporated thereby, alimony shall
356 be deductible from income by the payor under s. 215 of the
357 Internal Revenue Code and includable in the income of the payee
358 under s. 71 of the Internal Revenue Code.

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

363 (c) The parties may, in a marital settlement agreement,
364 separation agreement, or related agreement, specifically agree

365 in writing that alimony be nondeductible from income by the
366 payor and nonincludable in the income of the payee.

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

371 (9) SECURITY OF AWARD.—To the extent necessary to protect
372 an award of alimony, the court may order any party who is
373 ordered to pay alimony to purchase or maintain a decreasing term
374 life insurance policy or a bond, or to otherwise secure such
375 alimony award with any other assets that may be suitable for
376 that purpose, in an amount adequate to secure the alimony award.
377 Any such security may be awarded only upon a showing of special
378 circumstances. If the court finds special circumstances and
379 awards such security, the court must make specific evidentiary
380 findings regarding the availability, cost, and financial impact
381 on the obligated party. Any security may be modifiable in the
382 event that the underlying alimony award is modified and shall be
383 reduced in an amount commensurate with any reduction in the
384 alimony award.

385 (10) MODIFICATION OF AWARD.—A court may subsequently
386 modify or terminate the amount of an award of alimony initially
387 established under this section in accordance with s. 61.14.
388 However, a court may not modify the duration of an award of
389 alimony initially established under this section.

390 (11) TERMINATION OF AWARD.—An alimony award shall

391 terminate upon the death of either party or the remarriage of
392 the obligee.

393 (12) (a) PAYMENT OF AWARD.—With respect to an order
394 requiring the payment of alimony entered on or after January 1,
395 1985, unless paragraph (c) or paragraph (d) applies, the court
396 shall direct in the order that the payments of alimony be made
397 through the appropriate depository as provided in s. 61.181.

398 (b) With respect to an order requiring the payment of
399 alimony entered before January 1, 1985, upon the subsequent
400 appearance, on or after that date, of one or both parties before
401 the court having jurisdiction for the purpose of modifying or
402 enforcing the order or in any other proceeding related to the
403 order, or upon the application of either party, unless paragraph
404 (c) or paragraph (d) applies, the court shall modify the terms
405 of the order as necessary to direct that payments of alimony be
406 made through the appropriate depository as provided in s.
407 61.181.

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

410 (d)1. If there is a minor child of the parties and both
411 parties so request, the court may order that alimony payments
412 need not be directed through the depository. In this case, the
413 order of support shall provide, or be deemed to provide, that
414 either party may subsequently apply to the depository to require
415 that payments be made through the depository. The court shall
416 provide a copy of the order to the depository.

417 2. If subparagraph 1. applies, either party may
418 subsequently file with the clerk of the court a verified motion
419 alleging a default or arrearages in payment stating that the
420 party wishes to initiate participation in the depository
421 program. The moving party shall provide a copy of the motion to
422 the other party. No later than 15 days after filing the motion,
423 the court shall conduct an evidentiary hearing establishing the
424 default and arrearages, if any, and issue an order directing the
425 clerk of the circuit court to establish, or amend an existing,
426 family law case history account, and further advising the
427 parties that future payments shall thereafter be directed
428 through the depository.

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

432 Section 3. Subsection (1) of section 61.14, Florida
433 Statutes, is amended to read:

434 61.14 Enforcement and modification of support,
435 maintenance, or alimony agreements or orders.—

436 (1) (a) When the parties enter into an agreement for
437 payments for, or instead of, support, maintenance, or alimony,
438 whether in connection with a proceeding for dissolution or
439 separate maintenance or with any voluntary property settlement,
440 or when a party is required by court order to make any payments,
441 and the circumstances or the financial ability of either party
442 changes or the child who is a beneficiary of an agreement or

443 court order as described herein reaches majority after the
444 execution of the agreement or the rendition of the order, either
445 party may apply to the circuit court of the circuit in which the
446 parties, or either of them, resided at the date of the execution
447 of the agreement or reside at the date of the application, or in
448 which the agreement was executed or in which the order was
449 rendered, for an order decreasing or increasing the amount of
450 support, maintenance, or alimony, and the court has jurisdiction
451 to make orders as equity requires, with due regard to the
452 changed circumstances or the financial ability of the parties or
453 the child, decreasing, increasing, or confirming the amount of
454 separate support, maintenance, or alimony provided for in the
455 agreement or order. However, a court may not decrease or
456 increase the duration of alimony provided for in the agreement
457 or order. A party is entitled to pursue an immediate
458 modification of alimony if the actual income earned by the other
459 party exceeds, by at least 10 percent, the amount imputed to
460 that party at the time the existing alimony award was determined
461 and such circumstance shall constitute a substantial change in
462 circumstances sufficient to support a modification of alimony.
463 However, an increase in an alimony obligor's income alone does
464 not constitute a basis for a modification to increase alimony
465 unless at the time the alimony award was established it was
466 determined that the obligor was underemployed or unemployed and
467 the court did not impute income to that party at his or her
468 maximum potential income. If an alimony obligor becomes

469 involuntarily underemployed or unemployed for a period of 6
470 months following the entry of the last order requiring the
471 payment of alimony, the obligor is entitled to pursue an
472 immediate modification of his or her existing alimony
473 obligations and such circumstance shall constitute a substantial
474 change in circumstance sufficient to support a modification of
475 alimony. A finding that medical insurance is reasonably
476 available or the child support guidelines schedule in s. 61.30
477 may constitute changed circumstances. Except as otherwise
478 provided in s. 61.30(11)(c), the court may modify an order of
479 support, maintenance, or alimony by increasing or decreasing the
480 support, maintenance, or alimony retroactively to the date of
481 the filing of the action or supplemental action for modification
482 as equity requires, giving due regard to the changed
483 circumstances or the financial ability of the parties or the
484 child.

485 (b)1. The court may reduce or terminate an award of
486 alimony upon specific written findings by the court that since
487 the granting of a divorce and the award of alimony a supportive
488 relationship exists or has existed within the previous year
489 before the date of the filing of the petition for modification
490 or termination between the obligee and another ~~a~~ person with
491 ~~whom the obligee resides. On the issue of whether alimony should~~
492 ~~be reduced or terminated under this paragraph, the burden is on~~
493 ~~the obligor to prove by a preponderance of the evidence that a~~
494 ~~supportive relationship exists.~~

495 2. In determining whether an existing award of alimony
496 should be reduced or terminated because of an alleged supportive
497 relationship between an obligee and a person who is not related
498 by consanguinity or affinity ~~and with whom the obligee resides,~~
499 the court shall elicit the nature and extent of the relationship
500 in question. The court shall give consideration, without
501 limitation, to circumstances, including, but not limited to, the
502 following, in determining the relationship of an obligee to
503 another person:

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

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

512 c. The extent to which the obligee and the other person
513 have pooled their assets or income or otherwise exhibited
514 financial interdependence.

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

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

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

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

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

525 i. Evidence in support of a claim that the obligee and the
526 other person have an express agreement regarding property
527 sharing or support.

528 j. Evidence in support of a claim that the obligee and the
529 other person have an implied agreement regarding property
530 sharing or support.

531 k. Whether the obligee and the other person have provided
532 support to the children of one another, regardless of any legal
533 duty to do so.

534 1. Whether the obligor's failure, in whole or in part, to
535 comply with all court-ordered financial obligations to the
536 obligee constituted a significant factor in the establishment of
537 the supportive relationship.

538 3. In any proceeding to modify an alimony award based upon
539 a supportive relationship, the obligor has the burden of proof
540 to establish, by a preponderance of the evidence, that a
541 supportive relationship exists or has existed within the
542 previous year before the date of the filing of the petition for
543 modification or termination. The obligor is not required to
544 prove cohabitation of the obligee and the third party.

545 4. Notwithstanding paragraph (f), if a reduction or
546 termination is granted under this paragraph, the reduction or

547 termination is retroactive to the date of filing of the petition
548 for reduction or termination.

549 ~~5.3.~~ This paragraph does not abrogate the requirement that
550 every marriage in this state be solemnized under a license, does
551 not recognize a common law marriage as valid, and does not
552 recognize a de facto marriage. This paragraph recognizes only
553 that relationships do exist that provide economic support
554 equivalent to a marriage and that alimony terminable on
555 remarriage may be reduced or terminated upon the establishment
556 of equivalent equitable circumstances as described in this
557 paragraph. The existence of a conjugal relationship, though it
558 may be relevant to the nature and extent of the relationship, is
559 not necessary for the application of the provisions of this
560 paragraph.

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

564 2. The financial information, including, but not limited
565 to, information related to assets and income, of a subsequent
566 spouse of a party paying or receiving alimony is inadmissible
567 and may not be considered as a part of any modification action
568 unless a party is claiming that his or her income has decreased
569 since the marriage. If a party makes such a claim, the financial
570 information of the subsequent spouse is discoverable and
571 admissible only to the extent necessary to establish whether the
572 party claiming that his or her income has decreased is diverting

573 income or assets to the subsequent spouse that might otherwise
574 be available for the payment of alimony. However, this
575 subparagraph may not be used to prevent the discovery of or
576 admissibility in evidence of the income or assets of a party
577 when those assets are held jointly with a subsequent spouse.
578 This subparagraph is not intended to prohibit the discovery or
579 admissibility of a joint tax return filed by a party and his or
580 her subsequent spouse in connection with a modification of
581 alimony.

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

585 a. A substantial change in circumstance is deemed to exist
586 if:

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

590 (II) The obligor has reached the customary retirement age
591 for his or her occupation and has retired from that occupation.
592 An obligor may file an action within 1 year of his or her
593 anticipated retirement date and the court shall determine the
594 customary retirement date for the obligor's profession. However,
595 a determination of the customary retirement age is not an
596 adjudication of a petition for a modification of an alimony
597 award.

598 b. If an obligor voluntarily retires before reaching any

599 of the ages described in sub-subparagraph a., the court shall
600 determine whether the obligor's retirement is reasonable upon
601 consideration of the obligor's age, health, and motivation for
602 retirement and the financial impact on the obligee. A finding of
603 reasonableness by the court shall constitute a substantial
604 change in circumstance.

605 2. Upon a finding of a substantial change in circumstance,
606 there is a rebuttable presumption that an obligor's existing
607 alimony obligation shall be modified or terminated. The court
608 shall modify or terminate the alimony obligation, or make a
609 determination regarding whether the rebuttable presumption has
610 been overcome, based upon the following factors applied to the
611 current circumstances of the obligor and obligee:

612 a. The age of the parties.
613 b. The health of the parties.
614 c. The assets and liabilities of the parties.
615 d. The earned or imputed income of the parties as provided
616 in s. 61.08(1)(a) and (5).

617 e. The ability of the parties to maintain part-time or
618 full-time employment.

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

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

623 (e) A party who unreasonably pursues or defends an action
624 for modification of alimony shall be required to pay the

625 reasonable attorney fees and costs of the prevailing party.
626 Further, a party obligated to pay prevailing party attorney fees
627 and costs in connection with unreasonably pursuing or defending
628 an action for modification is not entitled to an award of
629 attorney fees and cost in accordance with s. 61.16.

630 (f) There is a rebuttable presumption that a modification
631 or termination of an alimony award is retroactive to the date of
632 the filing of the petition, unless the obligee demonstrates that
633 the result is inequitable.

634 (g)-(e) For each support order reviewed by the department
635 as required by s. 409.2564(11), if the amount of the child
636 support award under the order differs by at least 10 percent but
637 not less than \$25 from the amount that would be awarded under s.
638 61.30, the department shall seek to have the order modified and
639 any modification shall be made without a requirement for proof
640 or showing of a change in circumstances.

641 (h)-(d) The department may ~~shall have authority to~~ adopt
642 rules to implement this section.

643 Section 4. Paragraph (d) is added to subsection (11) of
644 section 61.30, Florida Statutes, to read:

645 61.30 Child support guidelines; retroactive child
646 support.—

647 (11)

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

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

653 Section 5. Section 61.192, Florida Statutes, is created to
654 read:

655 61.192 Advancing trial.—In an action brought pursuant to
656 this chapter, if more than 2 years have passed since the initial
657 petition was served on the respondent, either party may move the
658 court to advance the trial of their action on the docket. This
659 motion may be made at any time after 2 years have passed since
660 the petition was served, and once made the court must give the
661 case priority on the court's calendar.

662 Section 6. The amendments made by this act to chapter 61,
663 Florida Statutes, apply to all initial determinations of alimony
664 and all alimony modification actions that are pending on October
665 1, 2015, or that are brought on or after October 1, 2015. The
666 changes to the law made by this act do not constitute a
667 substantial change in circumstances and may not serve as the
668 sole basis to seek a modification of an alimony award made
669 before the effective date of this act.

670 Section 7. This act shall take effect October 1, 2015.