

By 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       under certain circumstances; prohibiting a court from  
6       using certain presumptive alimony guidelines in  
7       calculating alimony pendente lite; amending s. 61.08,  
8       F.S.; defining terms; requiring a court to make  
9       specified initial written findings in a dissolution of  
10      marriage proceeding where a party has requested  
11      alimony; requiring a court to make specified findings  
12      before ruling on a request for alimony; providing for  
13      determinations of presumptive alimony amount range and  
14      duration range; providing presumptions concerning  
15      alimony awards depending on the duration of marriages;  
16      providing for imputation of income in certain  
17      circumstances; providing for awards of nominal alimony  
18      in certain circumstances; providing for taxability and  
19      deductibility of alimony awards; prohibiting a  
20      combined award of alimony and child support from  
21      constituting more than a specified percentage of a  
22      payor's net income; authorizing the court to order a  
23      party to protect an alimony award by specified means;  
24      providing for termination of an award; authorizing a  
25      court to modify or terminate the amount of an initial  
26      alimony award; prohibiting a court from modifying the  
27      duration of an alimony award; providing for payment of  
28      awards; amending s. 61.13, F.S.; revising public  
29      policy; revising the factors that are used to

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

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59 effective date of a modification or termination of an  
60 award; amending s. 61.30, F.S.; requiring that a child  
61 support award be adjusted to reduce the combined  
62 alimony and child support award under certain  
63 circumstances; creating s. 61.192, F.S.; providing for  
64 motions to advance the trial of certain actions if a  
65 specified period has passed since the initial service  
66 on the respondent; amending ss. 61.1827 and 409.2579,  
67 F.S.; conforming cross-references; providing  
68 applicability; providing an effective date.

69

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

71

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

74 61.071 Alimony pendente lite; suit money.—In every  
75 proceeding for dissolution of the marriage, a party may claim  
76 alimony and suit money in the petition or by motion, and if the  
77 petition is well founded, the court shall allow a reasonable sum  
78 therefor. If a party in any proceeding for dissolution of  
79 marriage claims alimony or suit money in his or her answer or by  
80 motion, and the answer or motion is well founded, the court  
81 shall allow a reasonable sum therefor. After determining there  
82 is a need for alimony and that there is an ability to pay  
83 alimony, the court shall consider the alimony factors in s.  
84 61.08(4)(b)1.-14. and make specific written findings of fact  
85 regarding the relevant factors that justify an award of alimony  
86 under this section. The court may not use the presumptive  
87 alimony guidelines in s. 61.08 to calculate alimony under this

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88 section.

89 Section 2. Section 61.08, Florida Statutes, is amended to  
90 read:

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

93 61.08 Alimony.—

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

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

98 a. Income from salaries.

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

103 c. Commissions.

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

107 e. Bonuses.

108 f. Dividends.

109 g. Severance pay.

110 h. Pension payments and retirement benefits actually  
111 received.

112 i. Royalties.

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

115 k. Interest.

116 l. Trust income and distributions which are regularly

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- 117 received, relied upon, or readily available to the beneficiary.
- 118 m. Annuity payments.
- 119 n. Capital gains.
- 120 o. Any money drawn by a self-employed individual for
- 121 personal use that is deducted as a business expense, which
- 122 moneys must be considered income from self-employment.
- 123 p. Social security benefits, including social security
- 124 benefits actually received by a party as a result of the
- 125 disability of that party.
- 126 q. Workers' compensation benefits.
- 127 r. Unemployment insurance benefits.
- 128 s. Disability insurance benefits.
- 129 t. Funds payable from any health, accident, disability, or
- 130 casualty insurance to the extent that such insurance replaces
- 131 wages or provides income in lieu of wages.
- 132 u. Continuing monetary gifts.
- 133 v. Income from general partnerships, limited partnerships,
- 134 closely held corporations, or limited liability companies;
- 135 except that if a party is a passive investor, has a minority
- 136 interest in the company, and does not have any managerial duties
- 137 or input, the income to be recognized may be limited to actual
- 138 cash distributions received.
- 139 w. Expense reimbursements or in-kind payments or benefits
- 140 received by a party in the course of employment, self-
- 141 employment, or operation of a business which reduces personal
- 142 living expenses.
- 143 x. Overtime pay.
- 144 y. Income from royalties, trusts, or estates.
- 145 z. Spousal support received from a previous marriage.

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- 146       aa. Gains derived from dealings in property, unless the  
147 gain is nonrecurring.
- 148       2. "Gross income" does not include:
- 149       a. Child support payments received.
- 150       b. Benefits received from public assistance programs.
- 151       c. Social security benefits received by a parent on behalf  
152 of a minor child as a result of the death or disability of a  
153 parent or stepparent.
- 154       d. Earnings or gains on retirement accounts, including  
155 individual retirement accounts; except that such earnings or  
156 gains shall be included as income if a party takes a  
157 distribution from the account. If a party is able to take a  
158 distribution from the account without being subject to a federal  
159 tax penalty for early distribution and the party chooses not to  
160 take such a distribution, the court may consider the  
161 distribution that could have been taken in determining the  
162 party's gross income.
- 163       3.a. For income from self-employment, rent, royalties,  
164 proprietorship of a business, or joint ownership of a  
165 partnership or closely held corporation, the term "gross income"  
166 equals gross receipts minus ordinary and necessary expenses, as  
167 defined in sub-subparagraph b., which are required to produce  
168 such income.
- 169       b. "Ordinary and necessary expenses," as used in sub-  
170 subparagraph a., does not include amounts allowable by the  
171 Internal Revenue Service for the accelerated component of  
172 depreciation expenses or investment tax credits or any other  
173 business expenses determined by the court to be inappropriate  
174 for determining gross income for purposes of calculating

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175 alimony.

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

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

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

195 a. Expected to result in higher income within the  
196 foreseeable future.

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

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

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

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

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

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

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

224  
225       (0.015 x the years of marriage) x the difference between the  
226 monthly gross incomes of the parties

227  
228       The high end of the presumptive alimony amount range shall be  
229 calculated by using the following formula:

230  
231       (0.020 x the years of marriage) x the difference between the  
232 monthly gross incomes of the parties



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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

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

0.75 x the years of marriage

(4) ALIMONY AWARD.—

(a) Marriages of 2 years or less.—For marriages of 2 years or less, there is a rebuttable presumption that no alimony shall be awarded. The court may award alimony for a marriage with a

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262 duration of 2 years or less only if the court makes written  
263 findings that there is a clear and convincing need for alimony,  
264 there is an ability to pay alimony, and that the failure to  
265 award alimony would be inequitable. The court shall then  
266 establish the alimony award in accordance with paragraph (b).

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

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

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

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

289 4. The equitable distribution of marital property,  
290 including whether an unequal distribution of marital property

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291 was made to reduce or alleviate the need for alimony.

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

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

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

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

311 9. Whether either party has caused the unreasonable  
312 depletion or dissipation of marital assets.

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

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

318 12. Significant economic or noneconomic contributions to  
319 the marriage or to the economic, educational, or occupational

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

325 13. The tax consequence of the alimony award.

326 14. Any other factor necessary to do equity and justice  
327 between the parties.

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

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

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

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

367       (7) TAXABILITY AND DEDUCTIBILITY OF ALIMONY.—

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

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

377       (c) The parties may, in a marital settlement agreement,

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378 separation agreement, or related agreement, specifically agree  
379 in writing that alimony be nondeductible from income by the  
380 payor and nonincludable in the income of the payee.

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

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

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

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

406 (12) PAYMENT OF AWARD.—

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

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

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

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

431 2. If subparagraph 1. applies, either party may  
432 subsequently file with the clerk of the court a verified motion  
433 alleging a default or arrearages in payment stating that the  
434 party wishes to initiate participation in the depository  
435 program. The moving party shall copy the other party with the

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

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

446 Section 3. Paragraph (c) of subsection (2) and subsection  
447 (3) of section 61.13, Florida Statutes, are amended, present  
448 subsections (4) through (8) of that section are redesignated as  
449 subsections (5) through (9), respectively, and a new subsection  
450 (4) is added to that section, to read:

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

453 (2)

454 (c) The court shall determine all matters relating to  
455 parenting and time-sharing of each minor child of the parties in  
456 accordance with the best interests of the child and in  
457 accordance with the Uniform Child Custody Jurisdiction and  
458 Enforcement Act, except that modification of a parenting plan  
459 and time-sharing schedule requires a showing of a substantial,  
460 material, and unanticipated change of circumstances.

461 1. Absent good cause, it is the public policy of this state  
462 that the best interest of each minor child is served by a time-  
463 sharing schedule that provides for substantially equal time-  
464 sharing with both parents. It is the public policy of this state



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465 ~~that each minor child has frequent and continuing contact with~~  
466 ~~both parents after the parents separate or the marriage of the~~  
467 ~~parties is dissolved and to encourage parents to share the~~  
468 rights and responsibilities, and joys, of childrearing. There is  
469 no presumption for or against the father or mother of the child  
470 or for or against any specific time-sharing schedule when  
471 creating or modifying the parenting plan of the child.

472       2. The court shall order that the parental responsibility  
473 for a minor child be shared by both parents unless the court  
474 finds that shared parental responsibility would be detrimental  
475 to the child. Evidence that a parent has been convicted of a  
476 misdemeanor of the first degree or higher involving domestic  
477 violence, as defined in s. 741.28 and chapter 775, or meets the  
478 criteria of s. 39.806(1)(d), creates a rebuttable presumption of  
479 detriment to the child. If the presumption is not rebutted after  
480 the convicted parent is advised by the court that the  
481 presumption exists, shared parental responsibility, including  
482 time-sharing with the child, and decisions made regarding the  
483 child, may not be granted to the convicted parent. However, the  
484 convicted parent is not relieved of any obligation to provide  
485 financial support. If the court determines that shared parental  
486 responsibility would be detrimental to the child, it may order  
487 sole parental responsibility and make such arrangements for  
488 time-sharing as specified in the parenting plan as will best  
489 protect the child or abused spouse from further harm. Whether or  
490 not there is a conviction of any offense of domestic violence or  
491 child abuse or the existence of an injunction for protection  
492 against domestic violence, the court shall consider evidence of  
493 domestic violence or child abuse as evidence of detriment to the

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494 child.

495 a. In ordering shared parental responsibility, the court  
496 may consider the expressed desires of the parents and may grant  
497 to one party the ultimate responsibility over specific aspects  
498 of the child's welfare or may divide those responsibilities  
499 between the parties based on the best interests of the child.  
500 Areas of responsibility may include education, health care, and  
501 any other responsibilities that the court finds unique to a  
502 particular family.

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

506 3. Access to records and information pertaining to a minor  
507 child, including, but not limited to, medical, dental, and  
508 school records, may not be denied to either parent. Full rights  
509 under this subparagraph apply to either parent unless a court  
510 order specifically revokes these rights, including any  
511 restrictions on these rights as provided in a domestic violence  
512 injunction. A parent having rights under this subparagraph has  
513 the same rights upon request as to form, substance, and manner  
514 of access as are available to the other parent of a child,  
515 including, without limitation, the right to in-person  
516 communication with medical, dental, and education providers.

517 (3) For purposes of establishing or modifying parental  
518 responsibility and creating, developing, approving, or modifying  
519 a parenting plan, including a time-sharing schedule, which  
520 governs each parent's relationship with his or her minor child  
521 and the relationship between each parent with regard to his or  
522 her minor child, the best interest of the child shall be the

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523 primary consideration. A determination of parental  
524 responsibility, a parenting plan, or a time-sharing schedule may  
525 not be modified without a showing of a substantial, material,  
526 and unanticipated change in circumstances and a determination  
527 that the modification is in the best interests of the child.  
528 Determination of the best interests of the child shall be made  
529 by evaluating all of the factors affecting the welfare and  
530 interests of the particular minor child and the circumstances of  
531 that family, including, ~~but not limited to:~~

532 (a) The demonstrated capacity or ~~and~~ disposition of each  
533 parent to facilitate and encourage a close and continuing  
534 parent-child relationship, to honor the time-sharing schedule,  
535 and to be reasonable when changes are required.

536 (b) The anticipated division of parental responsibilities  
537 after the litigation, including the extent to which parental  
538 responsibilities will be delegated to third parties.

539 (c) The demonstrated capacity and disposition of each  
540 parent to determine, consider, and act upon the needs of the  
541 child as opposed to the needs or desires of the parent.

542 (d) The length of time the child has lived in a stable,  
543 satisfactory environment and the desirability of maintaining  
544 continuity.

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

550 (f) The moral fitness of the parents.

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

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- 552 (h) The home, school, and community record of the child.
- 553 (i) The reasonable preference of the child, if the court  
554 deems the child to be of sufficient intelligence, understanding,  
555 and experience to express a preference.
- 556 (j) The demonstrated knowledge, capacity, or ~~and~~  
557 disposition of each parent to be informed of the circumstances  
558 of the minor child, including, but not limited to, the child's  
559 friends, teachers, medical care providers, daily activities, and  
560 favorite things.
- 561 (k) The demonstrated capacity or ~~and~~ disposition of each  
562 parent to provide a consistent routine for the child, such as  
563 discipline, and daily schedules for homework, meals, and  
564 bedtime.
- 565 (l) The demonstrated capacity of each parent to communicate  
566 with the other parent and keep the other parent informed of  
567 issues and activities regarding the minor child, and the  
568 willingness of each parent to adopt a unified front on all major  
569 issues when dealing with the child.
- 570 (m) Evidence of domestic violence, sexual violence, child  
571 abuse, child abandonment, or child neglect, regardless of  
572 whether a prior or pending action relating to those issues has  
573 been brought. If the court accepts evidence of prior or pending  
574 actions regarding domestic violence, sexual violence, child  
575 abuse, child abandonment, or child neglect, the court must  
576 specifically acknowledge in writing that such evidence was  
577 considered when evaluating the best interests of the child.
- 578 (n) Evidence that either parent has knowingly provided  
579 false information to the court regarding any prior or pending  
580 action regarding domestic violence, sexual violence, child

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581 abuse, child abandonment, or child neglect.

582 (o) The demonstrated capacity or disposition of each parent  
583 to perform or ensure the performance of particular parenting  
584 tasks customarily performed by the other ~~each~~ parent and the  
585 division of parental responsibilities before the institution of  
586 litigation and during the pending litigation, including the  
587 extent to which parenting responsibilities were undertaken by  
588 third parties.

589 (p) The demonstrated capacity and disposition of each  
590 parent to participate and be involved in the child's school and  
591 extracurricular activities.

592 (q) The demonstrated capacity and disposition of each  
593 parent to maintain an environment for the child which is free  
594 from substance abuse.

595 (r) The capacity and disposition of each parent to protect  
596 the child from the ongoing litigation as demonstrated by not  
597 discussing the litigation with the child, not sharing documents  
598 or electronic media related to the litigation with the child,  
599 and refraining from disparaging comments about the other parent  
600 to the child.

601 (s) The developmental stages and needs of the child and the  
602 demonstrated capacity and disposition of each parent to meet the  
603 child's developmental needs.

604 (t) The amount of time-sharing requested by each parent.

605 (u) The frequency that a parent would likely leave the  
606 child in the care of a nonrelative on evenings and weekends when  
607 the other parent would be available and willing to provide care.

608 (v) ~~(t)~~ Any other factor that is relevant to the  
609 determination of a specific parenting plan, including the time-

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610 sharing schedule.

611 (4) A court order must be supported by written findings of  
612 fact if the order establishes an initial permanent time-sharing  
613 schedule that does not provide for substantially equal time-  
614 sharing.

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

617 61.14 Enforcement and modification of support, maintenance,  
618 or alimony agreements or orders.—

619 (1) (a) When the parties enter into an agreement for  
620 payments for, or instead of, support, maintenance, or alimony,  
621 whether in connection with a proceeding for dissolution or  
622 separate maintenance or with any voluntary property settlement,  
623 or when a party is required by court order to make any payments,  
624 and the circumstances or the financial ability of either party  
625 changes or the child who is a beneficiary of an agreement or  
626 court order as described herein reaches majority after the  
627 execution of the agreement or the rendition of the order, either  
628 party may apply to the circuit court of the circuit in which the  
629 parties, or either of them, resided at the date of the execution  
630 of the agreement or reside at the date of the application, or in  
631 which the agreement was executed or in which the order was  
632 rendered, for an order decreasing or increasing the amount of  
633 support, maintenance, or alimony, and the court has jurisdiction  
634 to make orders as equity requires, with due regard to the  
635 changed circumstances or the financial ability of the parties or  
636 the child, decreasing, increasing, or confirming the amount of  
637 separate support, maintenance, or alimony provided for in the  
638 agreement or order. However, a court may not decrease or

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639 increase the duration of alimony provided for in the agreement  
640 or order. A party is entitled to pursue an immediate  
641 modification of alimony if the actual income earned by the other  
642 party exceeds by at least 10 percent the amount imputed to that  
643 party at the time the existing alimony award was determined and  
644 such circumstance shall constitute a substantial change in  
645 circumstances sufficient to support a modification of alimony.  
646 However, an increase in an alimony obligor's income alone does  
647 not constitute a basis for a modification to increase alimony  
648 unless at the time the alimony award was established it was  
649 determined that the obligor was underemployed or unemployed and  
650 the court did not impute income to that party at his or her  
651 maximum potential income. If an alimony obligor becomes  
652 involuntarily underemployed or unemployed for a period of 6  
653 months following the entry of the last order requiring the  
654 payment of alimony, the obligor is entitled to pursue an  
655 immediate modification of his or her existing alimony  
656 obligations and such circumstance shall constitute a substantial  
657 change in circumstance sufficient to support a modification of  
658 alimony. A finding that medical insurance is reasonably  
659 available or the child support guidelines schedule in s. 61.30  
660 may constitute changed circumstances. Except as otherwise  
661 provided in s. 61.30(11)(c), the court may modify an order of  
662 support, maintenance, or alimony by increasing or decreasing the  
663 support, maintenance, or alimony retroactively to the date of  
664 the filing of the action or supplemental action for modification  
665 as equity requires, giving due regard to the changed  
666 circumstances or the financial ability of the parties or the  
667 child.

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668 (b)1. The court may reduce or terminate an award of alimony  
669 upon specific written findings by the court that since the  
670 granting of a divorce and the award of alimony a supportive  
671 relationship exists or has existed within the previous year  
672 before the date of the filing of the petition for modification  
673 or termination between the obligee and another a person ~~with~~  
674 ~~whom the obligee resides. On the issue of whether alimony should~~  
675 ~~be reduced or terminated under this paragraph, the burden is on~~  
676 ~~the obligor to prove by a preponderance of the evidence that a~~  
677 ~~supportive relationship exists.~~

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

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

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

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



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697 financial interdependence.

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

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

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

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

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

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

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

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

717 1. Whether the obligor's failure, in whole or in part, to  
718 comply with all court-ordered financial obligations to the  
719 obligee constituted a significant factor in the establishment of  
720 the supportive relationship.

721 3. In any proceeding to modify an alimony award based upon  
722 a supportive relationship, the obligor has the burden of proof  
723 to establish, by a preponderance of the evidence, that a  
724 supportive relationship exists or has existed within the  
725 previous year before the date of the filing of the petition for

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726 modification or termination. The obligor is not required to  
727 prove cohabitation of the obligee and the third party.

728 4. Notwithstanding paragraph (f), if a reduction or  
729 termination is granted under this paragraph, the reduction or  
730 termination is retroactive to the date of filing of the petition  
731 for reduction or termination.

732 5.3. This paragraph does not abrogate the requirement that  
733 every marriage in this state be solemnized under a license, does  
734 not recognize a common law marriage as valid, and does not  
735 recognize a de facto marriage. This paragraph recognizes only  
736 that relationships do exist that provide economic support  
737 equivalent to a marriage and that alimony terminable on  
738 remarriage may be reduced or terminated upon the establishment  
739 of equivalent equitable circumstances as described in this  
740 paragraph. The existence of a conjugal relationship, though it  
741 may be relevant to the nature and extent of the relationship, is  
742 not necessary for the application of the provisions of this  
743 paragraph.

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

747 2. The financial information, including, but not limited  
748 to, information related to assets and income, of a subsequent  
749 spouse of a party paying or receiving alimony is inadmissible  
750 and may not be considered as a part of any modification action  
751 unless a party is claiming that his or her income has decreased  
752 since the marriage. If a party makes such a claim, the financial  
753 information of the subsequent spouse is discoverable and  
754 admissible only to the extent necessary to establish whether the

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755 party claiming that his or her income has decreased is diverting  
756 income or assets to the subsequent spouse that might otherwise  
757 be available for the payment of alimony. However, this  
758 subparagraph may not be used to prevent the discovery of or  
759 admissibility in evidence of the income or assets of a party  
760 when those assets are held jointly with a subsequent spouse.  
761 This subparagraph is not intended to prohibit the discovery or  
762 admissibility of a joint tax return filed by a party and his or  
763 her subsequent spouse in connection with a modification of  
764 alimony.

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

768 a. A substantial change in circumstance is deemed to exist  
769 if:

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

773 (II) The obligor has reached the customary retirement age  
774 for his or her occupation and has retired from that occupation.  
775 An obligor may file an action within 1 year of his or her  
776 anticipated retirement date and the court shall determine the  
777 customary retirement date for the obligor's profession. However,  
778 a determination of the customary retirement age is not an  
779 adjudication of a petition for a modification of an alimony  
780 award.

781 b. If an obligor voluntarily retires before reaching any of  
782 the ages described in sub-subparagraph a., the court shall  
783 determine whether the obligor's retirement is reasonable upon

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784 consideration of the obligor's age, health, and motivation for  
785 retirement and the financial impact on the obligee. A finding of  
786 reasonableness by the court shall constitute a substantial  
787 change in circumstance.

788 2. Upon a finding of a substantial change in circumstance,  
789 there is a rebuttable presumption that an obligor's existing  
790 alimony obligation shall be modified or terminated. The court  
791 shall modify or terminate the alimony obligation, or make a  
792 determination regarding whether the rebuttable presumption has  
793 been overcome, based upon the following factors applied to the  
794 current circumstances of the obligor and obligee:

795 a. The age of the parties.

796 b. The health of the parties.

797 c. The assets and liabilities of the parties.

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

800 e. The ability of the parties to maintain part-time or  
801 full-time employment.

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

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

806 (e) A party who unreasonably pursues or defends an action  
807 for modification of alimony shall be required to pay the  
808 reasonable attorney fees and costs of the prevailing party.  
809 Further, a party obligated to pay prevailing party attorney fees  
810 and costs in connection with unreasonably pursuing or defending  
811 an action for modification is not entitled to an award of  
812 attorney fees and costs in accordance with s. 61.16.

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813 (f) There is a rebuttable presumption that a modification  
 814 or termination of an alimony award is retroactive to the date of  
 815 the filing of the petition, unless the obligee demonstrates that  
 816 the result is inequitable.

817 (g)~~(e)~~ For each support order reviewed by the department as  
 818 required by s. 409.2564(11), if the amount of the child support  
 819 award under the order differs by at least 10 percent but not  
 820 less than \$25 from the amount that would be awarded under s.  
 821 61.30, the department shall seek to have the order modified and  
 822 any modification shall be made without a requirement for proof  
 823 or showing of a change in circumstances.

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

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

828 61.30 Child support guidelines; retroactive child support.-  
 829 (11)

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

835 Section 6. Section 61.192, Florida Statutes, is created to  
 836 read:

837 61.192 Advancing trial.-In an action brought pursuant to  
 838 this chapter, if more than 2 years have passed since the initial  
 839 petition was served on the respondent, either party may move the  
 840 court to advance the trial of their action on the docket. This  
 841 motion may be made at any time after 2 years have passed since

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842 the petition was served, and once made the court must give the  
843 case priority on the court's calendar.

844 Section 7. Subsection (1) of section 61.1827, Florida  
845 Statutes, is amended to read:

846 61.1827 Identifying information concerning applicants for  
847 and recipients of child support services.—

848 (1) Any information that reveals the identity of applicants  
849 for or recipients of child support services, including the name,  
850 address, and telephone number of such persons, held by a non-  
851 Title IV-D county child support enforcement agency is  
852 confidential and exempt from s. 119.07(1) and s. 24(a) of Art. I  
853 of the State Constitution. The use or disclosure of such  
854 information by the non-Title IV-D county child support  
855 enforcement agency is limited to the purposes directly connected  
856 with:

857 (a) Any investigation, prosecution, or criminal or civil  
858 proceeding connected with the administration of any non-Title  
859 IV-D county child support enforcement program;

860 (b) Mandatory disclosure of identifying and location  
861 information as provided in s. 61.13(8) ~~s. 61.13(7)~~ by the non-  
862 Title IV-D county child support enforcement agency when  
863 providing non-Title IV-D services;

864 (c) Mandatory disclosure of information as required by ss.  
865 409.2577, 61.181, 61.1825, and 61.1826 and Title IV-D of the  
866 Social Security Act; or

867 (d) Disclosure to an authorized person, as defined in 45  
868 C.F.R. s. 303.15, for purposes of enforcing any state or federal  
869 law with respect to the unlawful taking or restraint of a child  
870 or making or enforcing a parenting plan. As used in this

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871 paragraph, the term "authorized person" includes a parent with  
872 whom the child does not currently reside, unless a court has  
873 entered an order under s. 741.30, s. 741.31, or s. 784.046.

874 Section 8. Subsection (1) of section 409.2579, Florida  
875 Statutes, is amended to read:

876 409.2579 Safeguarding Title IV-D case file information.—

877 (1) Information concerning applicants for or recipients of  
878 Title IV-D child support services is confidential and exempt  
879 from the provisions of s. 119.07(1). The use or disclosure of  
880 such information by the IV-D program is limited to purposes  
881 directly connected with:

882 (a) The administration of the plan or program approved  
883 under part A, part B, part D, part E, or part F of Title IV;  
884 under Title II, Title X, Title XIV, Title XVI, Title XIX, or  
885 Title XX; or under the supplemental security income program  
886 established under Title XVI of the Social Security Act;

887 (b) Any investigation, prosecution, or criminal or civil  
888 proceeding connected with the administration of any such plan or  
889 program;

890 (c) The administration of any other federal or federally  
891 assisted program which provides service or assistance, in cash  
892 or in kind, directly to individuals on the basis of need;

893 (d) Reporting to an appropriate agency or official,  
894 information on known or suspected instances of physical or  
895 mental injury, child abuse, sexual abuse or exploitation, or  
896 negligent treatment or maltreatment of a child who is the  
897 subject of a support enforcement activity under circumstances  
898 which indicate that the child's health or welfare is threatened  
899 thereby; and

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900 (e) Mandatory disclosure of identifying and location  
901 information as provided in s. 61.13(8) ~~s. 61.13(7)~~ by the IV-D  
902 program when providing Title IV-D services.

903 Section 9. The amendments made by this act to chapter 61,  
904 Florida Statutes, apply to all initial determinations of alimony  
905 and all alimony modification actions that are pending as of the  
906 effective date of this act, and to all initial determinations of  
907 alimony and all alimony modification actions brought on or after  
908 the effective date of this act. The enacting of this act may not  
909 serve as the sole basis for a party to seek a modification of an  
910 alimony award existing before the effective date of this act.

911 Section 10. This act shall take effect October 1, 2016.