

By the Committees on Appropriations; and Judiciary; and Senator Stargel

576-04459-16

2016668c2

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; specifying exceptions to the guidelines  
18          for the amount and duration of alimony awards;  
19          providing for awards of nominal alimony in certain  
20          circumstances; providing for taxability and  
21          deductibility of alimony awards; prohibiting a  
22          combined award of alimony and child support from  
23          constituting more than a specified percentage of a  
24          payor's net income; authorizing the court to order a  
25          party to protect an alimony award by specified means;  
26          providing for termination of an award; authorizing a  
27          court to modify or terminate the amount of an initial  
28          alimony award; prohibiting a court from modifying the  
29          duration of an alimony award; providing for payment of  
30          awards; amending s. 61.13, F.S.; specifying a premise  
31          that a minor child should spend approximately equal

576-04459-16

2016668c2

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

576-04459-16

2016668c2

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

74

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

76

77 Section 1. Section 61.071, Florida Statutes, is amended to  
78 read:

79 61.071 Alimony pendente lite; suit money.—In every  
80 proceeding for dissolution of the marriage, a party may claim  
81 alimony and suit money in the petition or by motion, and if the  
82 petition is well founded, the court shall allow a reasonable sum  
83 therefor. If a party in any proceeding for dissolution of  
84 marriage claims alimony or suit money in his or her answer or by  
85 motion, and the answer or motion is well founded, the court  
86 shall allow a reasonable sum therefor. After determining there  
87 is a need for alimony and that there is an ability to pay  
88 alimony, the court shall consider the alimony factors in s.  
89 61.08(4)(b)1.-14. and make specific written findings of fact

576-04459-16

2016668c2

90 regarding the relevant factors that justify an award of alimony  
91 under this section. The court may not use the presumptive  
92 alimony guidelines in s. 61.08 to calculate alimony under this  
93 section.

94 Section 2. Section 61.08, Florida Statutes, is amended to  
95 read:

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

98 61.08 Alimony.—

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

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

103 a. Income from salaries.

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

108 c. Commissions.

109 d. Payments received as an independent contractor for labor  
110 or services, which payments must be considered income from self-  
111 employment.

112 e. Bonuses.

113 f. Dividends.

114 g. Severance pay.

115 h. Pension payments and retirement benefits actually  
116 received.

117 i. Royalties.

118 j. Rental income, which is gross receipts minus ordinary

576-04459-16

2016668c2

119 and necessary expenses required to produce the income.

120 k. Interest.

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

123 m. Annuity payments.

124 n. Capital gains.

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

128 p. Social security benefits, including social security  
129 benefits actually received by a party as a result of the  
130 disability of that party.

131 q. Workers' compensation benefits.

132 r. Unemployment insurance benefits.

133 s. Disability insurance benefits.

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

137 u. Continuing monetary gifts.

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

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

576-04459-16

2016668c2

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

576-04459-16

2016668c2

177 depreciation expenses or investment tax credits or any other  
178 business expenses determined by the court to be inappropriate  
179 for determining gross income for purposes of calculating  
180 alimony.

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

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

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

200 a. Expected to result in higher income within the  
201 foreseeable future.

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

576-04459-16

2016668c2

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

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

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

217 (b) The years of marriage as determined from the date of  
218 marriage through the date of the filing of the action for  
219 dissolution of marriage.

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

226 (a) Presumptive alimony amount range.—The low end of the  
227 presumptive alimony amount range shall be calculated by using  
228 the following formula:

229  
230 (0.015 x the years of marriage) x the difference between the  
231 monthly gross incomes of the parties

232  
233 The high end of the presumptive alimony amount range shall be  
234 calculated by using the following formula:



576-04459-16

2016668c2

235

236 (0.020 x the years of marriage) x the difference between the  
237 monthly gross incomes of the parties

238

239 For purposes of calculating the presumptive alimony amount  
240 range, 20 years of marriage shall be used in calculating the low  
241 end and high end for marriages of 20 years or more. In  
242 calculating the difference between the parties' monthly gross  
243 income, the income of the party seeking alimony shall be  
244 subtracted from the income of the other party. If the  
245 application of the formulas to establish a guideline range  
246 results in a negative number, the presumptive alimony amount  
247 shall be \$0.

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

251

252 0.25 x the years of marriage

253

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

256

257 0.75 x the years of marriage

258

259 (c) Exceptions to alimony guidelines.—

260 1. If a court establishes the duration of the alimony award  
261 at 50 percent or less of the length of the marriage, the court  
262 shall use the actual years of the marriage, up to a maximum of  
263 25 years, to calculate the high end of the presumptive alimony

576-04459-16

2016668c2

264 amount range.

265 2. A court may award alimony in an amount that equalizes  
266 the income of the parties until the obligor retires upon  
267 reaching the age for eligibility for full retirement benefits  
268 under s. 216 of the Social Security Act, 42 U.S.C. s. 416, or  
269 upon reaching the customary retirement age for his or her  
270 occupation if:

271 a. The duration of the marriage was at least 20 years;

272 b. Pursuant to the mutual agreement or consent of the  
273 parties to the marriage, one spouse substantially refrained from  
274 economic, educational, or employment opportunities primarily for  
275 the purpose of contributing to the marriage through homemaking  
276 or child care activities; and

277 c. The spouse seeking alimony even with additional  
278 education faces dramatically reduced opportunities to advance in  
279 a career.

280

281 This subparagraph should not be applied in a manner that  
282 discourages a spouse from seeking additional education or  
283 employment opportunities.

284 (4) ALIMONY AWARD.—

285 (a) Marriages of 2 years or less.—For marriages of 2 years  
286 or less, there is a rebuttable presumption that no alimony shall  
287 be awarded. The court may award alimony for a marriage with a  
288 duration of 2 years or less only if the court makes written  
289 findings that there is a clear and convincing need for alimony,  
290 there is an ability to pay alimony, and that the failure to  
291 award alimony would be inequitable. The court shall then  
292 establish the alimony award in accordance with paragraph (b).

576-04459-16

2016668c2

293 (b) Marriages of more than 2 years.—Absent an agreement of  
294 the parties, alimony shall presumptively be awarded in an amount  
295 within the alimony amount range calculated in paragraph (3)(a).  
296 Absent an agreement of the parties, alimony shall presumptively  
297 be awarded for a duration within the alimony duration range  
298 calculated in paragraph (3)(b). In determining the amount and  
299 duration of the alimony award, the court shall consider all of  
300 the following factors upon which evidence was presented:

301 1. The financial resources of the recipient spouse,  
302 including the actual or potential income from nonmarital or  
303 marital property or any other source and the ability of the  
304 recipient spouse to meet his or her reasonable needs  
305 independently.

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

310 3. The standard of living of the parties during the  
311 marriage with consideration that there will be two households to  
312 maintain after the dissolution of the marriage and that neither  
313 party may be able to maintain the same standard of living after  
314 the dissolution of the marriage.

315 4. The equitable distribution of marital property,  
316 including whether an unequal distribution of marital property  
317 was made to reduce or alleviate the need for alimony.

318 5. Both parties' income, employment, and employability,  
319 obtainable through reasonable diligence and additional training  
320 or education, if necessary, and any necessary reduction in  
321 employment due to the needs of an unemancipated child of the

576-04459-16

2016668c2

322 marriage or the circumstances of the parties.

323 6. Whether a party could become better able to support  
324 himself or herself and reduce the need for ongoing alimony by  
325 pursuing additional educational or vocational training along  
326 with all of the details of such educational or vocational plan,  
327 including, but not limited to, the length of time required and  
328 the anticipated costs of such educational or vocational  
329 training.

330 7. Whether one party has historically earned higher or  
331 lower income than the income reflected at the time of trial and  
332 the duration and consistency of income from overtime or  
333 secondary employment.

334 8. Whether either party has foregone or postponed economic,  
335 educational, or employment opportunities during the course of  
336 the marriage.

337 9. Whether either party has caused the unreasonable  
338 depletion or dissipation of marital assets.

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

341 11. The age, health, and physical and mental condition of  
342 the parties, including consideration of significant health care  
343 needs or uninsured or unreimbursed health care expenses.

344 12. Significant economic or noneconomic contributions to  
345 the marriage or to the economic, educational, or occupational  
346 advancement of a party, including, but not limited to, services  
347 rendered in homemaking, child care, education, and career  
348 building of the other party, payment by one spouse of the other  
349 spouse's separate debts, or enhancement of the other spouse's  
350 personal or real property.

576-04459-16

2016668c2

351 13. The tax consequence of the alimony award.

352 14. Any other factor necessary to do equity and justice  
353 between the parties.

354 (c) Deviation from guidelines.—The court may establish an  
355 award of alimony that is outside the presumptive alimony amount  
356 or alimony duration ranges only if the court considers all of  
357 the factors in paragraph (b) and makes specific written findings  
358 concerning the relevant factors justifying that the application  
359 of the presumptive alimony amount or alimony duration ranges, as  
360 applicable, is inappropriate or inequitable.

361 (d) Order establishing alimony award.—After consideration  
362 of the presumptive alimony amount and duration ranges in  
363 accordance with paragraphs (3) (a) and (b) and the factors upon  
364 which evidence was presented in accordance with paragraph (b),  
365 the court may establish an alimony award. An order establishing  
366 an alimony award must clearly set forth both the amount and the  
367 duration of the award. The court shall also make a written  
368 finding that the payor has the financial ability to pay the  
369 award.

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

375 (6) NOMINAL ALIMONY.—Notwithstanding subsections (1), (3),  
376 and (4), the court may make an award of nominal alimony in the  
377 amount of \$1 per year if, at the time of trial, a party who has  
378 traditionally provided the primary source of financial support  
379 to the family temporarily lacks the ability to pay support but

576-04459-16

2016668c2

380 is reasonably anticipated to have the ability to pay support in  
381 the future. The court may also award nominal alimony for an  
382 alimony recipient who is presently able to work but for whom a  
383 medical condition with a reasonable degree of medical certainty  
384 may inhibit or prevent his or her ability to work during the  
385 duration of the alimony period. The duration of the nominal  
386 alimony shall be established within the presumptive durational  
387 range based upon the length of the marriage subject to the  
388 alimony factors in paragraph (4) (b). Before the expiration of  
389 the durational period, nominal alimony may be modified in  
390 accordance with s. 61.14 as to amount to a full alimony award  
391 using the alimony guidelines and factors in accordance with s.  
392 61.08.

393 (7) TAXABILITY AND DEDUCTIBILITY OF ALIMONY.—

394 (a) Unless otherwise stated in the judgment or order for  
395 alimony or in an agreement incorporated thereby, alimony shall  
396 be deductible from income by the payor under s. 215 of the  
397 Internal Revenue Code and includable in the income of the payee  
398 under s. 71 of the Internal Revenue Code.

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

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

407 (8) MAXIMUM COMBINED AWARD.—In no event shall a combined  
408 award of alimony and child support constitute more than 55

576-04459-16

2016668c2

409 percent of the payor's net income, calculated without any  
410 consideration of alimony or child support obligations.

411 (9) SECURITY OF AWARD.—To the extent necessary to protect  
412 an award of alimony, the court may order any party who is  
413 ordered to pay alimony to purchase or maintain a decreasing term  
414 life insurance policy or a bond, or to otherwise secure such  
415 alimony award with any other assets that may be suitable for  
416 that purpose, in an amount adequate to secure the alimony award.  
417 Any such security may be awarded only upon a showing of special  
418 circumstances. If the court finds special circumstances and  
419 awards such security, the court must make specific evidentiary  
420 findings regarding the availability, cost, and financial impact  
421 on the obligated party. Any security may be modifiable in the  
422 event the underlying alimony award is modified and shall be  
423 reduced in an amount commensurate with any reduction in the  
424 alimony award.

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

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

432 (12) PAYMENT OF AWARD.—

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

576-04459-16

2016668c2

438 (b) With respect to an order requiring the payment of  
439 alimony entered before January 1, 1985, upon the subsequent  
440 appearance, on or after that date, of one or both parties before  
441 the court having jurisdiction for the purpose of modifying or  
442 enforcing the order or in any other proceeding related to the  
443 order, or upon the application of either party, unless paragraph  
444 (c) or paragraph (d) applies, the court shall modify the terms  
445 of the order as necessary to direct that payments of alimony be  
446 made through the appropriate depository as provided in s.  
447 61.181.

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

450 (d)1. If there is a minor child of the parties and both  
451 parties so request, the court may order that alimony payments do  
452 not need to be directed through the depository. In this case,  
453 the order of support shall provide, or be deemed to provide,  
454 that either party may subsequently apply to the depository to  
455 require that payments be made through the depository. The court  
456 shall provide a copy of the order to the depository.

457 2. If subparagraph 1. applies, either party may  
458 subsequently file with the clerk of the court a verified motion  
459 alleging a default or arrearages in payment stating that the  
460 party wishes to initiate participation in the depository  
461 program. The moving party shall copy the other party with the  
462 motion. No later than 15 days after filing the motion, the court  
463 shall conduct an evidentiary hearing establishing the default  
464 and arrearages, if any, and issue an order directing the clerk  
465 of the circuit court to establish, or amend an existing, family  
466 law case history account, and further advising the parties that



576-04459-16

2016668c2

467 future payments must thereafter be directed through the  
468 depository.

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

472 Section 3. Paragraph (c) of subsection (2) and subsection  
473 (3) of section 61.13, Florida Statutes, are amended to read:

474 61.13 Support of children; parenting and time-sharing;  
475 powers of court.—

476 (2)

477 (c) The court shall determine all matters relating to  
478 parenting and time-sharing of each minor child of the parties in  
479 accordance with the best interests of the child and in  
480 accordance with the Uniform Child Custody Jurisdiction and  
481 Enforcement Act, except that modification of a parenting plan  
482 and time-sharing schedule requires a showing of a substantial,  
483 material, and unanticipated change of circumstances.

484 1. In establishing a parenting plan and time-sharing  
485 schedule, the court shall begin with the premise that a minor  
486 child should spend approximately equal amounts of time with each  
487 parent. Using this premise as a starting point, the court shall  
488 formulate a parenting plan and time-sharing schedule taking into  
489 account the best interest of the child after considering all of  
490 the relevant factors in subsection (3). It is the public policy  
491 of this state ~~that each minor child has frequent and continuing~~  
492 ~~contact with both parents after the parents separate or the~~  
493 ~~marriage of the parties is dissolved and to encourage parents to~~  
494 share the rights and responsibilities, and joys, of  
495 childrearing. ~~There is no presumption for or against the father~~

576-04459-16

2016668c2

496 ~~or mother of the child or for or against any specific time~~  
497 ~~sharing schedule when creating or modifying the parenting plan~~  
498 ~~of the child.~~

499       2. The court shall order that the parental responsibility  
500 for a minor child be shared by both parents unless the court  
501 finds that shared parental responsibility would be detrimental  
502 to the child. Evidence that a parent has been convicted of a  
503 misdemeanor of the first degree or higher involving domestic  
504 violence, as defined in s. 741.28 and chapter 775, or meets the  
505 criteria of s. 39.806(1)(d), creates a rebuttable presumption of  
506 detriment to the child. If the presumption is not rebutted after  
507 the convicted parent is advised by the court that the  
508 presumption exists, shared parental responsibility, including  
509 time-sharing with the child, and decisions made regarding the  
510 child, may not be granted to the convicted parent. However, the  
511 convicted parent is not relieved of any obligation to provide  
512 financial support. If the court determines that shared parental  
513 responsibility would be detrimental to the child, it may order  
514 sole parental responsibility and make such arrangements for  
515 time-sharing as specified in the parenting plan as will best  
516 protect the child or abused spouse from further harm. Whether or  
517 not there is a conviction of any offense of domestic violence or  
518 child abuse or the existence of an injunction for protection  
519 against domestic violence, the court shall consider evidence of  
520 domestic violence or child abuse as evidence of detriment to the  
521 child.

522       a. In ordering shared parental responsibility, the court  
523 may consider the expressed desires of the parents and may grant  
524 to one party the ultimate responsibility over specific aspects

576-04459-16

2016668c2

525 of the child's welfare or may divide those responsibilities  
526 between the parties based on the best interests of the child.  
527 Areas of responsibility may include education, health care, and  
528 any other responsibilities that the court finds unique to a  
529 particular family.

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

533 3. Access to records and information pertaining to a minor  
534 child, including, but not limited to, medical, dental, and  
535 school records, may not be denied to either parent. Full rights  
536 under this subparagraph apply to either parent unless a court  
537 order specifically revokes these rights, including any  
538 restrictions on these rights as provided in a domestic violence  
539 injunction. A parent having rights under this subparagraph has  
540 the same rights upon request as to form, substance, and manner  
541 of access as are available to the other parent of a child,  
542 including, without limitation, the right to in-person  
543 communication with medical, dental, and education providers.

544 (3) For purposes of establishing or modifying parental  
545 responsibility and creating, developing, approving, or modifying  
546 a parenting plan, including a time-sharing schedule, which  
547 governs each parent's relationship with his or her minor child  
548 and the relationship between each parent with regard to his or  
549 her minor child, the best interest of the child shall be the  
550 primary consideration. A determination of parental  
551 responsibility, a parenting plan, or a time-sharing schedule may  
552 not be modified without a showing of a substantial, material,  
553 and unanticipated change in circumstances and a determination

576-04459-16

2016668c2

554 that the modification is in the best interests of the child.  
555 Determination of the best interests of the child shall be made  
556 by evaluating all of the factors affecting the welfare and  
557 interests of the particular minor child and the circumstances of  
558 that family, including, but not limited to:

559 (a) The demonstrated capacity and disposition of each  
560 parent to facilitate and encourage a close and continuing  
561 parent-child relationship, to honor the time-sharing schedule,  
562 and to be reasonable when changes are required.

563 (b) The anticipated division of parental responsibilities  
564 after the litigation, including the extent to which parental  
565 responsibilities will be delegated to third parties.

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

569 (d) The length of time the child has lived in a stable,  
570 satisfactory environment and the desirability of maintaining  
571 continuity.

572 (e) The geographic viability of the parenting plan, with  
573 special attention paid to the needs of school-age children and  
574 the amount of time to be spent traveling to effectuate the  
575 parenting plan. This factor does not create a presumption for or  
576 against relocation of either parent with a child.

577 (f) The moral fitness of the parents.

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

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

580 (i) The reasonable preference of the child, if the court  
581 deems the child to be of sufficient intelligence, understanding,  
582 and experience to express a preference.

576-04459-16

2016668c2

583 (j) The demonstrated knowledge, capacity, or ~~and~~  
584 disposition of each parent to be informed of the circumstances  
585 of the minor child, including, but not limited to, the child's  
586 friends, teachers, medical care providers, daily activities, and  
587 favorite things.

588 (k) The demonstrated capacity or ~~and~~ disposition of each  
589 parent to provide a consistent routine for the child, such as  
590 discipline, and daily schedules for homework, meals, and  
591 bedtime.

592 (l) The demonstrated capacity of each parent to communicate  
593 with and keep the other parent informed of issues and activities  
594 regarding the minor child, and the willingness of each parent to  
595 adopt a unified front on all major issues when dealing with the  
596 child.

597 (m) Evidence of domestic violence, sexual violence, child  
598 abuse, child abandonment, or child neglect, regardless of  
599 whether a prior or pending action relating to those issues has  
600 been brought. If the court accepts evidence of prior or pending  
601 actions regarding domestic violence, sexual violence, child  
602 abuse, child abandonment, or child neglect, the court must  
603 specifically acknowledge in writing that such evidence was  
604 considered when evaluating the best interests of the child.

605 (n) Evidence that either parent has knowingly provided  
606 false information to the court regarding any prior or pending  
607 action regarding domestic violence, sexual violence, child  
608 abuse, child abandonment, or child neglect.

609 (o) The demonstrated capacity or disposition of each parent  
610 to perform or ensure the performance of particular parenting  
611 tasks customarily performed by the other ~~each~~ parent and the

576-04459-16

2016668c2

612 division of parental responsibilities before the institution of  
613 litigation and during the pending litigation, including the  
614 extent to which parenting responsibilities were undertaken by  
615 third parties.

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

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

622 (r) The capacity and disposition of each parent to protect  
623 the child from the ongoing litigation as demonstrated by not  
624 discussing the litigation with the child, not sharing documents  
625 or electronic media related to the litigation with the child,  
626 and refraining from disparaging comments about the other parent  
627 to the child.

628 (s) The developmental stages and needs of the child and the  
629 demonstrated capacity and disposition of each parent to meet the  
630 child's developmental needs.

631 (t) Any other factor that is relevant to the determination  
632 of a specific parenting plan, including the time-sharing  
633 schedule.

634  
635 The court shall make detailed written findings of fact which  
636 support and justify any parenting plan or time-sharing schedule  
637 that is not based on an agreement between the parents.

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

640 61.14 Enforcement and modification of support, maintenance,

576-04459-16

2016668c2

641 or alimony agreements or orders.-

642 (1) (a) When the parties enter into an agreement for  
643 payments for, or instead of, support, maintenance, or alimony,  
644 whether in connection with a proceeding for dissolution or  
645 separate maintenance or with any voluntary property settlement,  
646 or when a party is required by court order to make any payments,  
647 and the circumstances or the financial ability of either party  
648 changes or the child who is a beneficiary of an agreement or  
649 court order as described herein reaches majority after the  
650 execution of the agreement or the rendition of the order, either  
651 party may apply to the circuit court of the circuit in which the  
652 parties, or either of them, resided at the date of the execution  
653 of the agreement or reside at the date of the application, or in  
654 which the agreement was executed or in which the order was  
655 rendered, for an order decreasing or increasing the amount of  
656 support, maintenance, or alimony, and the court has jurisdiction  
657 to make orders as equity requires, with due regard to the  
658 changed circumstances or the financial ability of the parties or  
659 the child, decreasing, increasing, or confirming the amount of  
660 separate support, maintenance, or alimony provided for in the  
661 agreement or order. However, a court may not decrease or  
662 increase the duration of alimony provided for in the agreement  
663 or order. A party is entitled to pursue an immediate  
664 modification of alimony if the actual income earned by the other  
665 party exceeds by at least 10 percent the amount imputed to that  
666 party at the time the existing alimony award was determined and  
667 such circumstance shall constitute a substantial change in  
668 circumstances sufficient to support a modification of alimony.  
669 However, an increase in an alimony obligor's income alone does

576-04459-16

2016668c2

670 not constitute a basis for a modification to increase alimony  
671 unless at the time the alimony award was established it was  
672 determined that the obligor was underemployed or unemployed and  
673 the court did not impute income to that party at his or her  
674 maximum potential income. If an alimony obligor becomes  
675 involuntarily underemployed or unemployed for a period of 6  
676 months following the entry of the last order requiring the  
677 payment of alimony, the obligor is entitled to pursue an  
678 immediate modification of his or her existing alimony  
679 obligations and such circumstance shall constitute a substantial  
680 change in circumstance sufficient to support a modification of  
681 alimony. A finding that medical insurance is reasonably  
682 available or the child support guidelines schedule in s. 61.30  
683 may constitute changed circumstances. Except as otherwise  
684 provided in s. 61.30(11)(c), the court may modify an order of  
685 support, maintenance, or alimony by increasing or decreasing the  
686 support, maintenance, or alimony retroactively to the date of  
687 the filing of the action or supplemental action for modification  
688 as equity requires, giving due regard to the changed  
689 circumstances or the financial ability of the parties or the  
690 child.

691 (b)1. The court may reduce or terminate an award of alimony  
692 upon specific written findings by the court that since the  
693 granting of a divorce and the award of alimony a supportive  
694 relationship exists or has existed within the previous year  
695 before the date of the filing of the petition for modification  
696 or termination between the obligee and another a person with  
697 ~~whom the obligee resides. On the issue of whether alimony should~~  
698 ~~be reduced or terminated under this paragraph, the burden is on~~



576-04459-16

2016668c2

699 ~~the obligor to prove by a preponderance of the evidence that a~~  
700 ~~supportive relationship exists.~~

701 2. In determining whether an existing award of alimony  
702 should be reduced or terminated because of an alleged supportive  
703 relationship between an obligee and a person who is not related  
704 by consanguinity or affinity ~~and with whom the obligee resides,~~  
705 the court shall elicit the nature and extent of the relationship  
706 in question. The court shall give consideration, without  
707 limitation, to circumstances, including, but not limited to, the  
708 following, in determining the relationship of an obligee to  
709 another person:

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

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

718 c. The extent to which the obligee and the other person  
719 have pooled their assets or income or otherwise exhibited  
720 financial interdependence.

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

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

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

727 g. Whether the obligee and the other person have worked

576-04459-16

2016668c2

728 together to create or enhance anything of value.

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

731 i. Evidence in support of a claim that the obligee and the  
732 other person have an express agreement regarding property  
733 sharing or support.

734 j. Evidence in support of a claim that the obligee and the  
735 other person have an implied agreement regarding property  
736 sharing or support.

737 k. Whether the obligee and the other person have provided  
738 support to the children of one another, regardless of any legal  
739 duty to do so.

740 1. Whether the obligor's failure, in whole or in part, to  
741 comply with all court-ordered financial obligations to the  
742 obligee constituted a significant factor in the establishment of  
743 the supportive relationship.

744 3. In any proceeding to modify an alimony award based upon  
745 a supportive relationship, the obligor has the burden of proof  
746 to establish, by a preponderance of the evidence, that a  
747 supportive relationship exists or has existed within the  
748 previous year before the date of the filing of the petition for  
749 modification or termination. The obligor is not required to  
750 prove cohabitation of the obligee and the third party.

751 4. Notwithstanding paragraph (f), if a reduction or  
752 termination is granted under this paragraph, the reduction or  
753 termination is retroactive to the date of filing of the petition  
754 for reduction or termination.

755 ~~5.3.~~ This paragraph does not abrogate the requirement that  
756 every marriage in this state be solemnized under a license, does

576-04459-16

2016668c2

757 not recognize a common law marriage as valid, and does not  
758 recognize a de facto marriage. This paragraph recognizes only  
759 that relationships do exist that provide economic support  
760 equivalent to a marriage and that alimony terminable on  
761 remarriage may be reduced or terminated upon the establishment  
762 of equivalent equitable circumstances as described in this  
763 paragraph. The existence of a conjugal relationship, though it  
764 may be relevant to the nature and extent of the relationship, is  
765 not necessary for the application of the provisions of this  
766 paragraph.

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

770 2. The financial information, including, but not limited  
771 to, information related to assets and income, of a subsequent  
772 spouse of a party paying or receiving alimony is inadmissible  
773 and may not be considered as a part of any modification action  
774 unless a party is claiming that his or her income has decreased  
775 since the marriage. If a party makes such a claim, the financial  
776 information of the subsequent spouse is discoverable and  
777 admissible only to the extent necessary to establish whether the  
778 party claiming that his or her income has decreased is diverting  
779 income or assets to the subsequent spouse that might otherwise  
780 be available for the payment of alimony. However, this  
781 subparagraph may not be used to prevent the discovery of or  
782 admissibility in evidence of the income or assets of a party  
783 when those assets are held jointly with a subsequent spouse.  
784 This subparagraph is not intended to prohibit the discovery or  
785 admissibility of a joint tax return filed by a party and his or

576-04459-16

2016668c2

786 her subsequent spouse in connection with a modification of  
787 alimony.

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

791 a. A substantial change in circumstance is deemed to exist  
792 if:

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

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

798 An obligor may file an action within 1 year of his or her  
799 anticipated retirement date and the court shall determine the  
800 customary retirement date for the obligor's profession. However,  
801 a determination of the customary retirement age is not an  
802 adjudication of a petition for a modification of an alimony  
803 award.

804 b. If an obligor voluntarily retires before reaching any of  
805 the ages described in sub-subparagraph a., the court shall  
806 determine whether the obligor's retirement is reasonable upon  
807 consideration of the obligor's age, health, and motivation for  
808 retirement and the financial impact on the obligee. A finding of  
809 reasonableness by the court shall constitute a substantial  
810 change in circumstance.

811 2. Upon a finding of a substantial change in circumstance,  
812 there is a rebuttable presumption that an obligor's existing  
813 alimony obligation shall be modified or terminated. The court  
814 shall modify or terminate the alimony obligation, or make a

576-04459-16

2016668c2

815 determination regarding whether the rebuttable presumption has  
816 been overcome, based upon the following factors applied to the  
817 current circumstances of the obligor and obligee:

818 a. The age of the parties.

819 b. The health of the parties.

820 c. The assets and liabilities of the parties.

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

823 e. The ability of the parties to maintain part-time or  
824 full-time employment.

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

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

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

832 Further, a party obligated to pay prevailing party attorney fees  
833 and costs in connection with unreasonably pursuing or defending  
834 an action for modification is not entitled to an award of  
835 attorney fees and costs in accordance with s. 61.16.

836 (f) There is a rebuttable presumption that a modification  
837 or termination of an alimony award is retroactive to the date of  
838 the filing of the petition, unless the obligee demonstrates that  
839 the result is inequitable.

840 (g) ~~(e)~~ For each support order reviewed by the department as  
841 required by s. 409.2564(11), if the amount of the child support  
842 award under the order differs by at least 10 percent but not  
843 less than \$25 from the amount that would be awarded under s.

576-04459-16

2016668c2

844 61.30, the department shall seek to have the order modified and  
845 any modification shall be made without a requirement for proof  
846 or showing of a change in circumstances.

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

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

851 61.30 Child support guidelines; retroactive child support.-

852 (11)

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

858 Section 6. Section 61.192, Florida Statutes, is created to  
859 read:

860 61.192 Advancing trial.-In an action brought pursuant to  
861 this chapter, if more than 2 years have passed since the initial  
862 petition was served on the respondent, either party may move the  
863 court to advance the trial of their action on the docket. This  
864 motion may be made at any time after 2 years have passed since  
865 the petition was served, and once made the court must give the  
866 case priority on the court's calendar.

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

869 61.1827 Identifying information concerning applicants for  
870 and recipients of child support services.-

871 (1) Any information that reveals the identity of applicants  
872 for or recipients of child support services, including the name,

576-04459-16

2016668c2

873 address, and telephone number of such persons, held by a non-  
874 Title IV-D county child support enforcement agency is  
875 confidential and exempt from s. 119.07(1) and s. 24(a) of Art. I  
876 of the State Constitution. The use or disclosure of such  
877 information by the non-Title IV-D county child support  
878 enforcement agency is limited to the purposes directly connected  
879 with:

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

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

887 (c) Mandatory disclosure of information as required by ss.  
888 409.2577, 61.181, 61.1825, and 61.1826 and Title IV-D of the  
889 Social Security Act; or

890 (d) Disclosure to an authorized person, as defined in 45  
891 C.F.R. s. 303.15, for purposes of enforcing any state or federal  
892 law with respect to the unlawful taking or restraint of a child  
893 or making or enforcing a parenting plan. As used in this  
894 paragraph, the term "authorized person" includes a parent with  
895 whom the child does not currently reside, unless a court has  
896 entered an order under s. 741.30, s. 741.31, or s. 784.046.

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

899 409.2579 Safeguarding Title IV-D case file information.—

900 (1) Information concerning applicants for or recipients of  
901 Title IV-D child support services is confidential and exempt

576-04459-16

2016668c2

902 from the provisions of s. 119.07(1). The use or disclosure of  
903 such information by the IV-D program is limited to purposes  
904 directly connected with:

905 (a) The administration of the plan or program approved  
906 under part A, part B, part D, part E, or part F of Title IV;  
907 under Title II, Title X, Title XIV, Title XVI, Title XIX, or  
908 Title XX; or under the supplemental security income program  
909 established under Title XVI of the Social Security Act;

910 (b) Any investigation, prosecution, or criminal or civil  
911 proceeding connected with the administration of any such plan or  
912 program;

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

916 (d) Reporting to an appropriate agency or official,  
917 information on known or suspected instances of physical or  
918 mental injury, child abuse, sexual abuse or exploitation, or  
919 negligent treatment or maltreatment of a child who is the  
920 subject of a support enforcement activity under circumstances  
921 which indicate that the child's health or welfare is threatened  
922 thereby; and

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

926 Section 9. The amendments made by this act to chapter 61,  
927 Florida Statutes, apply to all initial determinations of alimony  
928 and all alimony modification actions that are pending as of the  
929 effective date of this act, and to all initial determinations of  
930 alimony and all alimony modification actions brought on or after



576-04459-16

2016668c2

931 the effective date of this act. The enacting of this act may not  
932 serve as the sole basis for a party to seek a modification of an  
933 alimony award existing before the effective date of this act.

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