

By Senator Passidomo

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1 A bill to be entitled
2 An act relating to alimony; amending s. 61.071, F.S.;
3 requiring the use of specified factors in calculating
4 alimony pendente lite; requiring findings by the court
5 regarding such alimony; specifying that a court may
6 not use certain presumptive alimony guidelines in
7 calculating such alimony; amending s. 61.08, F.S.;
8 defining terms; requiring a court to make specified
9 findings before ruling on a request for alimony;
10 providing for determination of the presumptive alimony
11 amount range and duration range; providing
12 presumptions concerning alimony awards depending on
13 the duration of marriages; providing for imputation of
14 income in certain circumstances; providing for awards
15 of nominal alimony in certain circumstances; providing
16 for taxability and deductibility of alimony awards;
17 specifying that a combined award of alimony and child
18 support may not constitute more than a specified
19 percentage of a payor's net income; providing that a
20 combined alimony and child support award be adjusted
21 to reduce the combined award if it exceeds such
22 specified percentage; providing for security of awards
23 through specified means; providing for modification,
24 termination, and payment of awards; providing for
25 participation in alimony depository; amending s.
26 61.14, F.S.; prohibiting a court from changing the
27 duration of an alimony award; providing that a party
28 may pursue an immediate modification of alimony in
29 certain circumstances; revising factors to be
30 considered in determining whether an existing award of
31 alimony should be reduced or terminated because of an
32 alleged supportive relationship; providing for the

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33 effective date of a reduction or termination of an
34 alimony award based on the existence of a supportive
35 relationship; providing that the remarriage of an
36 alimony obligor is not a substantial change in
37 circumstance; providing that the financial information
38 of a subsequent spouse of a party paying or receiving
39 alimony is inadmissible and undiscoverable; providing
40 an exception; providing for modification or
41 termination of an award based on an obligor's
42 retirement; allowing a temporary reduction or
43 suspension of an obligor's payment of alimony while
44 his or her petition for modification or termination
45 based on retirement is pending; providing for an award
46 of attorney fees and costs for unreasonably pursuing
47 or defending a modification of an award; establishing
48 a rebuttable presumption that the modification of an
49 alimony award is retroactive; providing applicability;
50 providing an effective date.

51
52 Be It Enacted by the Legislature of the State of Florida:

53
54 Section 1. Section 61.071, Florida Statutes, is amended to
55 read:

56 61.071 Alimony pendente lite; suit money.—In every
57 proceeding for dissolution of the marriage, a party may claim
58 alimony and suit money in the petition or by motion, and if the
59 petition is well founded, the court shall allow a reasonable sum
60 therefor. If a party in any proceeding for dissolution of
61 marriage claims alimony or suit money in his or her answer or by

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62 motion, and the answer or motion is well founded, the court
63 shall allow a reasonable sum therefor. After determining that
64 there is a need for alimony and that there is an ability to pay
65 alimony, the court shall consider the alimony factors in s.
66 61.08(4)(b)1.-14. and make specific written findings of fact
67 regarding the relevant factors that justify an award of alimony
68 under this section. The court may not use the presumptive
69 alimony guidelines in s. 61.08 to calculate alimony under this
70 section.

71 Section 2. Section 61.08, Florida Statutes, is amended to
72 read:

73 61.08 Alimony.—

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

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

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

80 a. Salaries.

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

85 c. Commissions.

86 d. Payments received as an independent contractor for labor
87 or services, which payments must be considered income from self-
88 employment.

89 e. Bonuses.

90 f. Dividends.

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91 g. Severance pay.

92 h. Pension payments and retirement benefits actually
93 received.

94 i. Royalties.

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

97 k. Interest.

98 l. Trust income and distributions that are regularly
99 received, relied upon, or readily available to the beneficiary.

100 m. Annuity payments.

101 n. Capital gains.

102 o. Any money drawn by a self-employed individual for
103 personal use which is deducted as a business expense and which
104 must be considered income from self-employment.

105 p. Social security benefits, including social security
106 benefits actually received by a party as a result of the
107 disability of that party.

108 q. Workers' compensation benefits.

109 r. Reemployment assistance or unemployment insurance
110 benefits.

111 s. Disability insurance benefits.

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

115 u. Continuing monetary gifts.

116 v. Income from general partnerships, limited partnerships,
117 closely held corporations, or limited liability companies;
118 except that if a party is a passive investor, has a minority
119 interest in the company, and does not have any managerial duties

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120 or input, the income to be recognized may be limited to actual
121 cash distributions received.

122 w. Expense reimbursements or in-kind payments or benefits
123 received by a party in the course of employment, self-
124 employment, or operation of a business which reduce personal
125 living expenses.

126 x. Overtime pay.

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

128 z. Spousal support received from a previous marriage.

129 aa. Gains derived from dealings in property, unless the
130 gain is nonrecurring.

131 2. Gross income does not include:

132 a. Child support payments received.

133 b. Benefits received from public assistance programs.

134 c. Social security benefits received by a parent on behalf
135 of a minor child as a result of the death or disability of a
136 parent or stepparent.

137 d. Earnings or gains on retirement accounts, including
138 individual retirement accounts, except that such earnings or
139 gains must be included as income if a party takes a distribution
140 from the account. If a party is able to take a distribution from
141 the account without being subject to a federal tax penalty for
142 early distribution and the party chooses not to take such a
143 distribution, the court may consider the distribution that could
144 have been taken in determining the party's gross income.

145 3.a. For income from self-employment, rent, royalties,
146 proprietorship of a business, or joint ownership of a
147 partnership or closely held corporation, the term equals gross
148 receipts minus ordinary and necessary expenses, as defined in

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149 sub-subparagraph b., which are required to produce such income.

150 b. "Ordinary and necessary expenses," as used in sub-
151 subparagraph a., does not include amounts allowable by the
152 Internal Revenue Service for the accelerated component of
153 depreciation expenses or investment tax credits or any other
154 business expenses determined by the court to be inappropriate
155 for determining gross income for purposes of calculating
156 alimony.

157 (b) "Potential income" means income that could be earned by
158 a party using his or her best efforts and includes potential
159 income from employment and potential income from the investment
160 of assets or use of property. Potential income from employment
161 is the income a party could reasonably expect to earn by working
162 at a locally available, full-time job commensurate with his or
163 her education, training, and experience. Potential income from
164 the investment of assets or use of property is the income a
165 party could reasonably expect to earn from the investment of his
166 or her assets or the use of his or her property in a financially
167 prudent manner.

168 (c)1. "Underemployed" means a party is not working full-
169 time in a position that is appropriate, based upon his or her
170 educational training and experience, and available in the
171 geographical area of his or her residence.

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

176 a. Expected to result in higher income within the
177 foreseeable future; and

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178 b. A good faith educational choice based upon the previous
179 education, training, skills, and experience of the party and the
180 availability of immediate employment based upon the educational
181 program being pursued.

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

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

189 (a) The amount of each party's monthly gross income,
190 including, but not limited to, the actual or potential income,
191 and also including actual or potential income from nonmarital or
192 marital property distributed to each party.

193 (b) The years of marriage as determined from the date of
194 marriage through the date of the filing of the action for
195 dissolution of marriage.

196 (3) ALIMONY GUIDELINES.—After making the initial findings
197 described in subsection (2), the court shall calculate the
198 presumptive alimony amount range and the presumptive alimony
199 duration range. The court shall make written findings as to the
200 presumptive alimony amount range and presumptive alimony
201 duration range.

202 (a) Presumptive alimony amount range.—The low end of the
203 presumptive alimony amount range shall be calculated by using
204 the following formula:

205
206 (0.015 x the years of marriage) x the difference

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207 between the monthly gross incomes of the parties

208
209 The high end of the presumptive alimony amount range shall be
210 calculated by using the following formula:

211
212 (0.020 x the years of marriage) x the difference
213 between the monthly gross incomes of the parties

214
215 For purposes of calculating the presumptive alimony amount
216 range, 20 years of marriage shall be used in calculating the low
217 end and high end for marriages of 20 years or more. In
218 calculating the difference between the parties' monthly gross
219 income, the income of the party seeking alimony shall be
220 subtracted from the income of the other party. If the
221 application of the formulas to establish a guideline range
222 results in a negative number, the presumptive alimony amount
223 shall be \$0. If a court establishes the duration of the alimony
224 award at 50 percent or less of the length of the marriage, the
225 court shall use the actual years of the marriage, up to a
226 maximum of 25 years, to calculate the high end of the
227 presumptive alimony amount range.

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

231
232 0.25 x the years of marriage

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

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236

237 0.75 x the years of marriage

238

239 (4) ALIMONY AWARD.—

240 (a) Marriages of 2 years or less.—For marriages of 2 years
241 or less, there is a rebuttable presumption that alimony may not
242 be awarded. The court may award alimony for a marriage with a
243 duration of 2 years or less only if the court makes written
244 findings that there is clear and convincing need for alimony,
245 that there is an ability to pay alimony, and that the failure to
246 award alimony would be inequitable. The court shall then
247 establish the alimony award in accordance with paragraph (b).

248 (b) Marriages of more than 2 years.—Absent an agreement of
249 the parties, alimony shall presumptively be awarded in an amount
250 within the alimony amount range calculated in paragraph (3)(a).
251 Absent an agreement of the parties, alimony shall presumptively
252 be awarded for a duration within the alimony duration range
253 calculated in paragraph (3)(b). In determining the amount and
254 duration of the alimony award, the court shall consider all of
255 the following factors upon which evidence was presented:

256 1. The financial resources of the recipient spouse,
257 including the actual or potential income from nonmarital or
258 marital property or any other source and the ability of the
259 recipient spouse to meet his or her reasonable needs
260 independently.

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

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265 3. The standard of living of the parties during the
266 marriage with consideration that there will be two households to
267 maintain after the dissolution of the marriage and that neither
268 party may be able to maintain the same standard of living after
269 the dissolution of the marriage.

270 4. The equitable distribution of marital property,
271 including whether an unequal distribution of marital property
272 was made to reduce or alleviate the need for alimony.

273 5. Both parties' income, employment, and employability,
274 obtainable through reasonable diligence and additional training
275 or education, if necessary, and any necessary reduction in
276 employment due to the needs of an unemancipated child of the
277 marriage or the circumstances of the parties.

278 6. Whether a party could become better able to support
279 himself or herself and reduce the need for ongoing alimony by
280 pursuing additional educational or vocational training along
281 with all of the details of such educational or vocational plan,
282 including, but not limited to, the length of time required and
283 the anticipated costs of such educational or vocational plan.

284 7. Whether one party has historically earned higher or
285 lower income than the income reflected at the time of trial and
286 the duration and consistency of income from overtime or
287 secondary employment.

288 8. Whether either party has foregone or postponed economic,
289 educational, or employment opportunities during the course of
290 the marriage.

291 9. Whether either party has caused the unreasonable
292 depletion or dissipation of marital assets.

293 10. The amount of temporary alimony and the number of

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294 months that temporary alimony was paid to the recipient spouse.

295 11. The age, health, and physical and mental condition of
296 the parties, including consideration of significant health care
297 needs or uninsured or unreimbursed health care expenses.

298 12. Significant economic or noneconomic contributions to
299 the marriage or to the economic, educational, or occupational
300 advancement of a party; including, but not limited to, services
301 rendered in homemaking, child care, education, and career
302 building of the other party; payment by one spouse of the other
303 spouse's separate debts; or enhancement of the other spouse's
304 personal or real property.

305 13. The tax consequences of the alimony award.

306 14. Any other factor necessary to do equity and justice
307 between the parties.

308 (c) Deviation from guidelines.—The court may establish an
309 award of alimony that is outside the presumptive alimony amount
310 or alimony duration ranges only if the court considers all of
311 the factors in paragraph (b) and makes specific written findings
312 concerning the relevant factors that justify that the
313 application of the presumptive alimony amount or alimony
314 duration ranges, as applicable, is inappropriate or inequitable.

315 (d) Order establishing alimony award.—After consideration
316 of the presumptive alimony amount and duration ranges in
317 accordance with paragraphs (3) (a) and (b), and the factors upon
318 which evidence was presented in accordance with paragraph (b),
319 the court may establish an alimony award. An order establishing
320 an alimony award must clearly set forth both the amount and the
321 duration of the award. The court shall also make a written
322 finding that the payor has the financial ability to pay the

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323 award.

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

329 (6) NOMINAL ALIMONY.—Notwithstanding subsections (1), (3),
330 and (4), the court may make an award of nominal alimony in the
331 amount of \$1 per year if, at the time of trial, a party who has
332 traditionally provided the primary source of financial support
333 to the family temporarily lacks the ability to pay support but
334 is reasonably anticipated to have the ability to pay support in
335 the future. The court may also award nominal alimony for an
336 alimony recipient that is presently able to work but for whom a
337 medical condition with a reasonable degree of medical certainty
338 may inhibit or prevent his or her ability to work during the
339 duration of the alimony period. The duration of the nominal
340 alimony shall be established within the presumptive durational
341 range based upon the length of the marriage subject to the
342 alimony factors in paragraph (4) (b). Before the expiration of
343 the durational period, nominal alimony may be modified in
344 accordance with s. 61.14 as to amount to a full alimony award
345 using the alimony guidelines and factors in this section.

346 (7) TAXABILITY AND DEDUCTIBILITY OF ALIMONY.—

347 (a) Unless otherwise stated in the judgment or order for
348 alimony or in an agreement incorporated thereby, alimony shall
349 be deductible from income by the payor under s. 215 of the
350 Internal Revenue Code and includable in the income of the payee
351 under s. 71 of the Internal Revenue Code.

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352 (b) When making a judgment or order for alimony, the court
353 may, in its discretion after weighing the equities and tax
354 efficiencies, order that alimony be nondeductible from income by
355 the payor and nonincludable in the income of the payee.

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

360 (8) MAXIMUM COMBINED AWARD.—A combined award of alimony and
361 child support may not exceed 55 percent of the payor's net
362 income, calculated without any consideration of alimony or child
363 support obligations. If the combined award exceeds the maximum
364 percentage of the payor's net income, the court must adjust the
365 award of child support to ensure that the 55-percent cap is not
366 exceeded.

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

380 (10) MODIFICATION OF AWARD.—A court may subsequently modify

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381 or terminate the amount of an award of alimony initially
382 established under this section in accordance with s. 61.14.
383 However, a court may not modify the duration of an award of
384 alimony initially established under this section.

385 (11) TERMINATION OF AWARD.—An alimony award shall terminate
386 upon the death of either party or the remarriage of the obligee.

387 (12) PAYMENT OF AWARD.—

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

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

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

405 (d)1. If there is a minor child of the parties and both
406 parties so request, the court may order that alimony payments
407 need not be directed through the depository. In this case, the
408 order of support shall provide, or be deemed to provide, that
409 either party may subsequently apply to the depository to require

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410 that payments be made through the depository. The court shall
411 provide a copy of the order to the depository.

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

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

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

429 61.14 Enforcement and modification of support, maintenance,
430 or alimony agreements or orders.—

431 (1) (a) When the parties enter into an agreement for
432 payments for, or instead of, support, maintenance, or alimony,
433 whether in connection with a proceeding for dissolution or
434 separate maintenance or with any voluntary property settlement,
435 or when a party is required by court order to make any payments,
436 and the circumstances or the financial ability of either party
437 changes or the child who is a beneficiary of an agreement or
438 court order as described herein reaches majority after the

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439 execution of the agreement or the rendition of the order, either
440 party may apply to the circuit court of the circuit in which the
441 parties, or either of them, resided at the date of the execution
442 of the agreement or reside at the date of the application, or in
443 which the agreement was executed or in which the order was
444 rendered, for an order decreasing or increasing the amount of
445 support, maintenance, or alimony, and the court has jurisdiction
446 to make orders as equity requires, with due regard to the
447 changed circumstances or the financial ability of the parties or
448 the child, decreasing, increasing, or confirming the amount of
449 separate support, maintenance, or alimony provided for in the
450 agreement or order. However, a court may not decrease or
451 increase the duration of alimony provided for in the agreement
452 or order. A party is entitled to pursue an immediate
453 modification of alimony if the actual income earned by the other
454 party exceeds, by at least 10 percent, the amount imputed to
455 that party at the time the existing alimony award was determined
456 and such circumstance shall constitute a substantial change in
457 circumstances sufficient to support a modification of alimony.
458 However, an increase in an alimony obligor's income alone does
459 not constitute a basis for a modification to increase alimony
460 unless at the time the alimony award was established it was
461 determined that the obligor was underemployed or unemployed and
462 the court did not impute income to that party at his or her
463 maximum potential income. If an alimony obligor becomes
464 involuntarily underemployed or unemployed for a period of 6
465 months following the entry of the last order requiring the
466 payment of alimony, the obligor is entitled to pursue an
467 immediate modification of his or her existing alimony

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468 obligations and such circumstance shall constitute a substantial
469 change in circumstance sufficient to support a modification of
470 alimony. A finding that medical insurance is reasonably
471 available or the child support guidelines schedule in s. 61.30
472 may constitute changed circumstances. Except as otherwise
473 provided in s. 61.30(11)(c), the court may modify an order of
474 support or, ~~maintenance, or alimony~~ by increasing or decreasing
475 the support or, ~~maintenance, or alimony~~ retroactively to the
476 date of the filing of the action or supplemental action for
477 modification as equity requires, giving due regard to the
478 changed circumstances or the financial ability of the parties or
479 the child.

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

490 2. In determining whether an existing award of alimony
491 should be reduced or terminated because of an alleged supportive
492 relationship between an obligee and a person who is not related
493 by consanguinity or affinity ~~and with whom the obligee resides,~~
494 the court shall elicit the nature and extent of the relationship
495 in question. The court shall give consideration, without
496 limitation, to circumstances, including, but not limited to, the

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497 following, in determining the relationship of an obligee to
498 another person:

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

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

507 c. The extent to which the obligee and the other person
508 have pooled their assets or income or otherwise exhibited
509 financial interdependence.

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

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

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

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

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

520 i. Evidence in support of a claim that the obligee and the
521 other person have an express agreement regarding property
522 sharing or support.

523 j. Evidence in support of a claim that the obligee and the
524 other person have an implied agreement regarding property
525 sharing or support.

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526 k. Whether the obligee and the other person have provided
527 support to the children of one another, regardless of any legal
528 duty to do so.

529 1. Whether the obligor's failure, in whole or in part, to
530 comply with all court-ordered financial obligations to the
531 obligee constituted a significant factor in the establishment of
532 the supportive relationship.

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

540 4. Notwithstanding paragraph (f), if a reduction or
541 termination is granted under this paragraph, the reduction or
542 termination is retroactive to the date of filing of the petition
543 for reduction or termination.

544 ~~5.3.~~ This paragraph does not abrogate the requirement that
545 every marriage in this state be solemnized under a license, does
546 not recognize a common law marriage as valid, and does not
547 recognize a de facto marriage. This paragraph recognizes only
548 that relationships do exist that provide economic support
549 equivalent to a marriage and that alimony terminable on
550 remarriage may be reduced or terminated upon the establishment
551 of equivalent equitable circumstances as described in this
552 paragraph. The existence of a conjugal relationship, though it
553 may be relevant to the nature and extent of the relationship, is
554 not necessary for the application of the provisions of this

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555 paragraph.

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

559 2. The financial information, including, but not limited
560 to, information related to assets and income, of a subsequent
561 spouse of a party paying or receiving alimony is inadmissible
562 and may not be considered as a part of any modification action
563 unless a party is claiming that his or her income has decreased
564 since the marriage. If a party makes such a claim, the financial
565 information of the subsequent spouse is discoverable and
566 admissible only to the extent necessary to establish whether the
567 party claiming that his or her income has decreased is diverting
568 income or assets to the subsequent spouse that might otherwise
569 be available for the payment of alimony. However, this
570 subparagraph may not be used to prevent the discovery of or
571 admissibility in evidence of the income or assets of a party
572 when those assets are held jointly with a subsequent spouse.
573 This subparagraph is not intended to prohibit the discovery or
574 admissibility of a joint tax return filed by a party and his or
575 her subsequent spouse in connection with a modification of
576 alimony.

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

580 a. A substantial change in circumstance is deemed to exist
581 if:

582 (I) The obligor has reached the age for eligibility to
583 receive full retirement benefits under s. 216 of the Social

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584 Security Act, 42 U.S.C. s. 416, and has retired; or

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

593 b. If an obligor voluntarily retires before reaching any of
594 the ages described in sub-subparagraph a., the court shall
595 determine whether the obligor's retirement is reasonable upon
596 consideration of the obligor's age, health, and motivation for
597 retirement and the financial impact on the obligee. A finding of
598 reasonableness by the court shall constitute a substantial
599 change in circumstance.

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

607 a. The age of the parties.

608 b. The health of the parties.

609 c. The assets and liabilities of the parties.

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

612 e. The ability of the parties to maintain part-time or

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613 full-time employment.

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

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

618 (e) A party who unreasonably pursues or defends an action
619 for modification of alimony shall be required to pay the
620 reasonable attorney fees and costs of the prevailing party.
621 Further, a party obligated to pay prevailing party attorney fees
622 and costs in connection with unreasonably pursuing or defending
623 an action for modification is not entitled to an award of
624 attorney fees and cost in accordance with s. 61.16.

625 (f) There is a rebuttable presumption that a modification
626 or termination of an alimony award is retroactive to the date of
627 the filing of the petition, unless the obligee demonstrates that
628 the result is inequitable.

629 (g)~~(e)~~ For each support order reviewed by the department as
630 required by s. 409.2564(11), if the amount of the child support
631 award under the order differs by at least 10 percent but not
632 less than \$25 from the amount that would be awarded under s.
633 61.30, the department shall seek to have the order modified and
634 any modification shall be made without a requirement for proof
635 or showing of a change in circumstances.

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

638 Section 4. The amendments made by this act to chapter 61,
639 Florida Statutes, apply to all initial determinations of alimony
640 and all alimony modification actions that are pending on October
641 1, 2017, or that are brought on or after October 1, 2017. The

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642 amendments to law made by this act do not constitute a
643 substantial change in circumstances and may not serve as the
644 sole basis to seek a modification of an alimony award made
645 before October 1, 2017.

646 Section 5. This act shall take effect October 1, 2017.