

1 A bill to be entitled
2 An act relating to dissolution of marriage; amending
3 s. 61.08, F.S.; providing definitions; providing for
4 the priority of different forms of alimony; providing
5 an exception for when the court may grant permanent
6 alimony; providing restrictions on the consideration
7 of adultery when awarding alimony; requiring the court
8 to make written findings regarding the basis for
9 awarding a combination of forms of alimony; revising
10 factors the court must consider when determining an
11 alimony or maintenance award; revising provisions
12 relating to the protection of awards of alimony;
13 removing the rebuttable presumption of the length of a
14 marriage; revising provisions and criteria for an
15 award of rehabilitative or durational alimony;;
16 providing that a retired party does not have to pay
17 alimony under certain circumstances; providing
18 restrictions on the amount of alimony and what
19 benefits may be imputed to an obligor or obligee;
20 removing the authorization for a court to order
21 permanent alimony; authorizing the court to consider
22 prior alimony payments made by the obligor when
23 calculating rehabilitative or durational alimony;
24 amending s. 61.13, F.S.; creating a presumption for
25 equal time-sharing; revising provisions to conform to

26 | changes made by the act; amending s. 61.14, F.S.;

27 | revising and creating provisions relating to the

28 | modification of an alimony award; providing that an

29 | obligor's subsequent remarriage or cohabitation is not

30 | a basis for modification of an alimony award;

31 | providing that attaining a certain retirement age is a

32 | basis for modification of an alimony award; providing

33 | an exception; providing factors to be considered in

34 | determining whether retirement is reasonable;

35 | authorizing an obligor to petition for modification of

36 | an alimony award up to 12 months before his or her

37 | anticipated retirement; providing that certain

38 | benefits and payments received by an obligee

39 | subsequent to an initial alimony award constitute a

40 | change in circumstances; providing applicability;

41 | providing an effective date.

42 |

43 | Be It Enacted by the Legislature of the State of Florida:

44 |

45 | Section 1. Section 61.08, Florida Statutes, is amended to

46 | read:

47 | 61.08 Alimony.—

48 | (1) As used in this section, the term:

49 | (a) "Alimony" means a court-ordered payment of support by

50 | one spouse to the other spouse. The term includes maintenance,

51 spousal support, and separate support when they are not intended
 52 for the benefit of a child.

53 (b) "Gross income" means gross income as determined under
 54 s. 61.30.

55 (c) "Net income" means income that is determined by
 56 subtracting allowable deductions from gross income. For purposes
 57 of this section, allowable deductions include:

58 1. Federal, state, and local income tax deductions,
 59 adjusted for actual filing status and allowable dependents and
 60 income tax liabilities.

61 2. Federal insurance contributions or self-employment tax.

62 3. Mandatory union dues.

63 4. Mandatory retirement payments.

64 5. Health insurance payments, excluding payments for
 65 coverage of the minor child.

66 6. Court-ordered support for other children which is
 67 actually paid.

68 7. Spousal support paid pursuant to a court order from a
 69 previous marriage.

70 (2) (a) ~~(1)~~ In a proceeding for dissolution of marriage, the
 71 court may grant alimony to either party in the form of, ~~which~~
 72 ~~alimony may be~~ bridge-the-gap, rehabilitative, or durational
 73 ~~alimony,~~ or a permanent in nature or any combination of these
 74 forms of alimony, but shall prioritize an award of bridge-the-
 75 gap alimony, followed by rehabilitative alimony, over any other

76 form of alimony. The court may grant permanent alimony only when
77 the parties enter into an agreement for permanent alimony. In an
78 ~~any~~ award of alimony, the court may order periodic payments, ~~or~~
79 payments in lump sum, or both.

80 (b) The court shall make written findings regarding the
81 basis for awarding a combination of forms of alimony, including
82 the type of alimony and the length of time for which the alimony
83 is awarded. The court may award a combination of forms of
84 alimony only to provide greater economic assistance in order to
85 allow the recipient to achieve rehabilitation.

86 (c) The court may consider the adultery of either spouse
87 and the circumstances thereof in determining the amount of
88 alimony, if any, to be awarded. However, the adultery of a
89 spouse may not be the court's sole basis for:

- 90 1. Denying a request for alimony; or
91 2. Awarding alimony, unless the adultery contributed to a
92 depletion of marital assets.

93 (d) In all dissolution actions, the court shall include
94 written findings of fact relative to the factors provided
95 ~~enumerated~~ in subsection (3)(2) supporting the an award or
96 denial of alimony.

97 (3)(2) In determining whether to award alimony or
98 maintenance, the court shall first make, in writing, a specific
99 factual determination as to whether the either party requesting
100 alimony or maintenance has an actual need for alimony or

101 maintenance and whether the other ~~either~~ party has the ability
 102 to pay alimony or maintenance. If the court finds that the a
 103 party seeking alimony or maintenance has a need for alimony or
 104 maintenance and that the other party has the ability to pay
 105 alimony or maintenance, then in determining the proper type and
 106 amount of alimony or maintenance under subsections (5)-(7) ~~(5)-~~
 107 ~~(8)~~, the court shall consider all relevant factors, including,
 108 but not limited to:

109 (a) The standard of living established during the
 110 marriage, including the needs and necessities of life for each
 111 party after the dissolution of marriage, taking into
 112 consideration the presumption that both parties will have a
 113 lower standard of living after the dissolution of marriage than
 114 the standard of living they enjoyed during the marriage. This
 115 presumption may be overcome by a preponderance of the evidence.

116 (b) The duration of the marriage.

117 (c) The age and the physical and emotional condition of
 118 each party.

119 (d) The financial resources of each party, including the
 120 nonmarital and the marital assets and liabilities distributed to
 121 each party.

122 (e) The earning capacities, educational levels, vocational
 123 skills, and employability of the parties and, when applicable,
 124 the time necessary for either party to acquire sufficient
 125 education or training to enable such party to find appropriate

126 employment.

127 (f) The contribution of each party to the marriage,
128 including, but not limited to, services rendered in homemaking,
129 child care, education, and career building of the other party.

130 (g) The responsibilities each party will have with regard
131 to any minor children that the parties ~~they~~ have in common.

132 (h) The tax treatment and consequences to both parties of
133 any alimony award, ~~including the designation of all or a portion~~
134 ~~of the payment as a nontaxable, nondeductible payment.~~

135 (i) All sources of income available to either party,
136 including income available to either party through investments
137 of any asset held by that party.

138 (j) Any other factor necessary to do equity and justice
139 between the parties if such factor is specifically identified in
140 the award with findings of fact justifying the application of
141 such factor.

142 ~~(4)(3)~~ To the extent necessary to protect an award of
143 alimony, the obligee may ~~court may order any party who is~~
144 ~~ordered to pay alimony to~~ purchase or maintain a life insurance
145 policy on the obligor's life in an amount adequate to ~~or a bond,~~
146 ~~or to otherwise~~ secure such alimony award ~~with any other assets~~
147 ~~which may be suitable for that purpose.~~ If the obligee purchases
148 such a life insurance policy, the court may order the obligor to
149 cooperate in the process of procuring the issuance and
150 underwriting of such life insurance policy and to reimburse the

151 obligee for the cost of procuring and maintaining the policy.

152 ~~(4) For purposes of determining alimony, there is a~~
153 ~~rebuttable presumption that a short-term marriage is a marriage~~
154 ~~having a duration of less than 7 years, a moderate-term marriage~~
155 ~~is a marriage having a duration of greater than 7 years but less~~
156 ~~than 17 years, and long-term marriage is a marriage having a~~
157 ~~duration of 17 years or greater. The length of a marriage is the~~
158 ~~period of time from the date of marriage until the date of~~
159 ~~filing of an action for dissolution of marriage.~~

160 (5) Bridge-the-gap alimony may be awarded to assist a
161 party by providing support to allow the party to make a
162 transition from being married to being single. Bridge-the-gap
163 alimony is designed to assist a party with legitimate
164 identifiable short-term needs, and the length of an award of
165 bridge-the-gap alimony may not exceed 2 years. An award of
166 bridge-the-gap alimony terminates upon the death of either party
167 or upon the remarriage of the party receiving alimony. An award
168 of bridge-the-gap alimony is ~~shall~~ not ~~be~~ modifiable in amount
169 or duration.

170 (6) (a) Rehabilitative alimony may be awarded to assist a
171 party in establishing the capacity for self-support through
172 either:

- 173 1. The redevelopment of previous skills or credentials; or
174 2. The acquisition of education, training, or work
175 experience necessary to develop appropriate employment skills or

176 credentials.

177 (b) In order to award rehabilitative alimony, there must
178 be a specific and defined rehabilitative plan which shall be
179 included as a part of any order awarding rehabilitative alimony.

180 (c) The length of an award of rehabilitative alimony may
181 not exceed 5 years or the limitations for durational alimony as
182 provided in subsection (7), whichever period of time is shorter.

183 (d) An award of rehabilitative alimony may be modified or
184 terminated in accordance with s. 61.14 based upon a substantial
185 change in circumstances, upon noncompliance with the
186 rehabilitative plan, or upon completion of the rehabilitative
187 plan, including completion of the rehabilitative plan before the
188 length of the award of rehabilitative alimony expires.

189 (7) (a) Durational alimony may be awarded ~~when permanent~~
190 ~~periodic alimony is inappropriate. The purpose of durational~~
191 ~~alimony is~~ to provide a party with economic assistance for a set
192 period of time ~~following a marriage of short or moderate~~
193 ~~duration or following a marriage of long duration if there is no~~
194 ~~ongoing need for support on a permanent basis.~~ An award of
195 durational alimony terminates upon the death of either party or
196 upon the remarriage of the party receiving alimony. The amount
197 of an award of durational alimony may be modified or terminated
198 based upon a substantial change in circumstances, including a
199 finding that a supportive relationship exists or existed between
200 the obligee and another person in accordance with s. 61.14.

201 ~~However,~~ The length of an award of durational alimony may not be
202 modified except under exceptional circumstances and may not
203 exceed 50 percent of the length of the marriage. For purposes of
204 this subsection, the length of a marriage is the period of time
205 beginning on the date of marriage and ending on the date the
206 action for dissolution of marriage that is currently pending
207 before the court is filed.

208 (b) When awarding durational alimony, the court must make
209 written findings that an award of another type of alimony, or
210 any combination of the other forms of alimony, is not
211 appropriate.

212 (c) The amount of durational alimony is the amount
213 determined to be the obligee's reasonable need or 25 percent of
214 the difference between the parties' net incomes, whichever
215 amount is less.

216 (8) A party against whom alimony is sought who has met the
217 requirements for retirement in accordance with s. 61.14(12)
218 before the filing of the petition for dissolution of marriage
219 may not be ordered to pay bridge-the-gap, rehabilitative, or
220 durational alimony, unless the court determines that the needs
221 and necessities of life for the party seeking alimony are not
222 adequately provided for by nonmarital assets or the distribution
223 of marital assets.

224 (9) (a) Notwithstanding any other provision of law, alimony
225 may not be awarded to a party who has a monthly net income that

226 is equal to or more than the other party's monthly net income.

227 (b) Social security retirement benefits may not be imputed
228 to the obligor or the obligee as demonstrated by a social
229 security retirement benefits entitlement letter.

230 (c) If the obligee alleges that a physical disability has
231 impaired his or her capability to earn the income imputed by the
232 court, the obligee must have qualified for benefits under the
233 Social Security Administration Disability Insurance Program or,
234 in the event the obligee is not eligible for the program, must
235 demonstrate that his or her disability meets the disability
236 qualification standards of the Social Security Administration
237 Disability Insurance Program.

238 ~~(8) Permanent alimony may be awarded to provide for the~~
239 ~~needs and necessities of life as they were established during~~
240 ~~the marriage of the parties for a party who lacks the financial~~
241 ~~ability to meet his or her needs and necessities of life~~
242 ~~following a dissolution of marriage. Permanent alimony may be~~
243 ~~awarded following a marriage of long duration if such an award~~
244 ~~is appropriate upon consideration of the factors set forth in~~
245 ~~subsection (2), following a marriage of moderate duration if~~
246 ~~such an award is appropriate based upon clear and convincing~~
247 ~~evidence after consideration of the factors set forth in~~
248 ~~subsection (2), or following a marriage of short duration if~~
249 ~~there are written findings of exceptional circumstances. In~~
250 ~~awarding permanent alimony, the court shall include a finding~~

251 ~~that no other form of alimony is fair and reasonable under the~~
252 ~~circumstances of the parties. An award of permanent alimony~~
253 ~~terminates upon the death of either party or upon the remarriage~~
254 ~~of the party receiving alimony. An award may be modified or~~
255 ~~terminated based upon a substantial change in circumstances or~~
256 ~~upon the existence of a supportive relationship in accordance~~
257 ~~with s. 61.14.~~

258 ~~(9) The award of alimony may not leave the payor with~~
259 ~~significantly less net income than the net income of the~~
260 ~~recipient unless there are written findings of exceptional~~
261 ~~circumstances.~~

262 (10) (a) With respect to any order requiring the payment of
263 alimony entered on or after January 1, 1985, unless ~~the~~
264 ~~provisions of~~ paragraph (c) or paragraph (d) applies apply, the
265 court shall direct in the order that the payments of alimony be
266 made through the appropriate depository as provided in s.
267 61.181.

268 (b) With respect to any order requiring the payment of
269 alimony entered before January 1, 1985, upon the subsequent
270 appearance~~,~~ on or after that date~~,~~ of one or both parties before
271 the court having jurisdiction for the purpose of modifying or
272 enforcing the order or in any other proceeding related to the
273 order~~,~~ or upon the application of either party, unless ~~the~~
274 ~~provisions of~~ paragraph (c) or paragraph (d) applies apply, the
275 court shall modify the terms of the order as necessary to direct

276 that payments of alimony be made through the appropriate
277 depository as provided in s. 61.181.

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

280 (d)1. If there is a minor child of the parties and both
281 parties so request, the court may order that alimony payments
282 need not be directed through the depository. In this case, the
283 order of support must ~~shall~~ provide, or be deemed to provide,
284 that either party may subsequently apply to the depository to
285 require that payments be made through the depository. The court
286 shall provide a copy of the order to the depository.

287 2. If ~~the provisions of~~ subparagraph 1. applies ~~apply~~,
288 either party may subsequently file with the depository an
289 affidavit alleging default or arrearages in payment and stating
290 that the party wishes to initiate participation in the
291 depository program. The party shall provide copies of the
292 affidavit to the court and the other party or parties. Fifteen
293 days after receipt of the affidavit, the depository shall notify
294 all parties that future payments shall be directed to the
295 depository.

296 3. In IV-D cases, the IV-D agency has ~~shall have~~ the same
297 rights as the obligee in requesting that payments be made
298 through the depository.

299 (11) The court may consider any alimony payments made to
300 the obligee after the date of filing of a petition for

301 dissolution of marriage, either voluntarily or pursuant to a
 302 court order, in determining the amount and length of an award of
 303 rehabilitative or durational alimony.

304 Section 2. Paragraph (c) of subsection (2) of section
 305 61.13, Florida Statutes, is amended to read:

306 61.13 Support of children; parenting and time-sharing;
 307 powers of court.—

308 (2)

309 (c) The court shall determine all matters relating to
 310 parenting and time-sharing of each minor child of the parties in
 311 accordance with the best interests of the child and in
 312 accordance with the Uniform Child Custody Jurisdiction and
 313 Enforcement Act, except that modification of a parenting plan
 314 and time-sharing schedule requires a showing of a substantial,
 315 material, and unanticipated change of circumstances.

316 1. It is the public policy of this state that each minor
 317 child has frequent and continuing contact with both parents
 318 after the parents separate or the marriage of the parties is
 319 dissolved and to encourage parents to share the rights and
 320 responsibilities, and joys, of childrearing. Unless otherwise
 321 agreed to by the parties, there is a presumption that equal
 322 time-sharing is in the best interests of the minor children
 323 common to both parties ~~There is no presumption for or against~~
 324 ~~the father or mother of the child or for or against any specific~~
 325 ~~time-sharing schedule when creating or modifying the parenting~~

326 | ~~plan of the child.~~

327 | 2. The court shall order that the parental responsibility
328 | for a minor child be shared by both parents unless the court
329 | finds that shared parental responsibility would be detrimental
330 | to the child. Evidence that a parent has been convicted of a
331 | misdemeanor of the first degree or higher involving domestic
332 | violence, as defined in s. 741.28 and chapter 775, or meets the
333 | criteria of s. 39.806(1)(d), creates a rebuttable presumption of
334 | detriment to the child. If the presumption is not rebutted after
335 | the convicted parent is advised by the court that the
336 | presumption exists, shared parental responsibility, including
337 | time-sharing with the child, and decisions made regarding the
338 | child, may not be granted to the convicted parent. However, the
339 | convicted parent is not relieved of any obligation to provide
340 | financial support. If the court determines that shared parental
341 | responsibility would be detrimental to the child, it may order
342 | sole parental responsibility and make such arrangements for
343 | time-sharing as specified in the parenting plan as will best
344 | protect the child or abused spouse from further harm. Regardless
345 | of whether ~~or not~~ there is a conviction of any offense of
346 | domestic violence or child abuse or the existence of an
347 | injunction for protection against domestic violence, the court
348 | shall consider evidence of domestic violence or child abuse as
349 | evidence of detriment to the child.

350 | a. In ordering shared parental responsibility, the court

351 may consider the expressed desires of the parents and may grant
352 to one party the ultimate responsibility over specific aspects
353 of the child's welfare or may divide those responsibilities
354 between the parties based on the best interests of the child.
355 Areas of responsibility may include education, health care, and
356 any other responsibilities that the court finds unique to a
357 particular family.

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

362 3. Access to records and information pertaining to a minor
363 child, including, but not limited to, medical, dental, and
364 school records, may not be denied to either parent. Full rights
365 under this subparagraph apply to either parent unless a court
366 order specifically revokes these rights, including any
367 restrictions on these rights as provided in a domestic violence
368 injunction. A parent having rights under this subparagraph has
369 the same rights upon request as to form, substance, and manner
370 of access as are available to the other parent of a child,
371 including, without limitation, the right to in-person
372 communication with medical, dental, and education providers.

373 Section 3. Paragraphs (b) and (d) of subsection (1) of
374 section 61.14, Florida Statutes, are amended, paragraph (c) is
375 added to subsection (11), and subsections (12), (13), and (14)

376 are added to that section, to read:

377 61.14 Enforcement and modification of support,
 378 maintenance, or alimony agreements or orders.—

379 (1)

380 (b)1. The court may reduce or terminate an award of
 381 alimony or order reimbursement to the obligor for any amount the
 382 court determines is equitable upon specific written findings by
 383 the court that since the granting of a divorce and the award of
 384 alimony a supportive relationship exists or ~~has~~ existed between
 385 the obligee and another a person at any time during the 180 days
 386 before the filing of a petition for modification of alimony with
 387 ~~whom the obligee resides~~. On the issue of whether alimony should
 388 be reduced or terminated under this paragraph, the burden is on
 389 the obligor to prove by a preponderance of the evidence that a
 390 supportive relationship exists or existed.

391 2. In determining whether an existing award of alimony
 392 should be reduced or terminated because of an alleged supportive
 393 relationship between an obligee and a person who is not related
 394 by consanguinity or affinity and with whom the obligee resides,
 395 the court shall elicit the nature and extent of the relationship
 396 in question. The court shall give consideration, without
 397 limitation, to circumstances, including, but not limited to, the
 398 following, in determining the relationship of an obligee to
 399 another person:

400 a. The extent to which the obligee and the other person

401 have held themselves out as a married couple by engaging in
402 conduct such as using the same last name, using a common mailing
403 address, referring to each other in terms such as "my husband"
404 or "my wife," or otherwise conducting themselves in a manner
405 that evidences a permanent supportive relationship.

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

408 c. The extent to which the obligee and the other person
409 have pooled their assets or income or otherwise exhibited
410 financial interdependence.

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

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

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

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

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

421 i. Evidence in support of a claim that the obligee and the
422 other person have an express agreement regarding property
423 sharing or support.

424 j. Evidence in support of a claim that the obligee and the
425 other person have an implied agreement regarding property

426 | sharing or support.

427 | k. Whether the obligee and the other person have provided
428 | support to the children of one another, regardless of any legal
429 | duty to do so.

430 | 3. This paragraph does not abrogate the requirement that
431 | every marriage in this state be solemnized under a license, does
432 | not recognize a common law marriage as valid, and does not
433 | recognize a de facto marriage. This paragraph recognizes only
434 | that relationships do exist that provide economic support
435 | equivalent to a marriage and that alimony terminable on
436 | remarriage may be reduced or terminated upon the establishment
437 | of equivalent equitable circumstances as described in this
438 | paragraph. The existence of a conjugal relationship, though it
439 | may be relevant to the nature and extent of the relationship, is
440 | not necessary for the application of ~~the provisions of this~~
441 | paragraph.

442 | (d) The department may ~~shall have authority to~~ adopt rules
443 | to administer ~~implement~~ this section.

444 | (11)

445 | (c) An obligor's subsequent remarriage or cohabitation
446 | does not constitute a basis for either party to seek a
447 | modification of an alimony award. An obligee may not seek
448 | modification to increase an award of alimony based on the income
449 | and assets of the obligor's subsequent spouse or person with
450 | whom the obligor resides, and the obligor may not seek

451 modification to reduce an award of alimony based on the
452 obligor's reliance upon the income and assets of the obligor's
453 subsequent spouse or person with whom the obligor resides.

454 (12) (a) An alimony award may be modified when the obligor
455 reaches full retirement age as determined by the United States
456 Social Security Administration or when the obligor's retirement
457 is reasonable for his or her profession or line of work,
458 whichever is earlier. However, if an alimony award was made
459 pursuant to an agreement between the parties, the court must
460 make written findings of fact indicating exceptional
461 circumstances which require the court to modify the agreed-upon
462 alimony award.

463 (b) In determining whether the obligor's retirement is
464 reasonable, the court shall consider:

- 465 1. The obligor's age and health.
- 466 2. The obligor's motivation for retirement.
- 467 3. The obligor's type of work and the typical retirement
468 age for that type of work.
- 469 4. The obligee's needs and necessities of life.
- 470 5. The impact that a termination or reduction of alimony
471 would have on the obligee. In determining the impact, the court
472 shall consider any assets accumulated or received by the
473 obligee, including any income generated by such assets, since
474 the final judgment of dissolution of marriage.

475 (c) Up to 12 months before the obligor's anticipated

476 retirement, the obligor may file a petition to modify the
477 alimony award effective upon his or her actual retirement date.
478 The court shall modify the alimony award after the retirement of
479 the obligor unless the court makes written findings of fact that
480 the obligor's retirement is not reasonable.

481 (13) Any amount of social security or disability benefits
482 or retirement payments received by an obligee subsequent to an
483 initial award of alimony constitutes a change in circumstances
484 for which an obligor may seek modification of an alimony award.

485 (14) Nothing in this section invalidates any support,
486 maintenance, or alimony award, including an award of permanent
487 alimony, ordered before July 1, 2020.

488 Section 4. This act shall take effect July 1, 2020.