

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Rodriguez offered the following:

Substitute Amendment for Amendment (419241) (with title amendment)

Remove lines 246-600 and insert:

exceed 50 percent of the length of a the marriage lasting fewer than 20 years or 75 percent of the length of a marriage lasting 20 years or longer. For purposes of this section, the length of a marriage is the period of time beginning on the date of marriage and ending on the date an action for dissolution of marriage is filed. However, if the party seeking alimony meets the primary qualifications for the Florida Medicaid medically needy program under part III of chapter 409 and the related

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14 rules in effect on March 1, 2020, or is the full-time in-home
15 caregiver to a totally and permanently disabled child, by reason
16 of a physical or mental impairment, who is common to the
17 parties, the court may extend durational alimony beyond 50
18 percent of the length of the marriage, until the death of the
19 child or until the court determines that there is no longer a
20 need for durational alimony.

21 (b) When awarding durational alimony, the court must make
22 written findings that an award of another type of alimony, or a
23 combination of the other forms of alimony, is not appropriate.

24 (c) The amount of durational alimony is the amount
25 determined to be the obligee's reasonable need or 30 percent of
26 the difference between the parties' net incomes, whichever
27 amount is less.

28 (8) A party against whom alimony is sought who has met the
29 requirements for retirement in accordance with s. 61.14(12)
30 before the filing of the petition for dissolution of marriage
31 may not be ordered to pay bridge-the-gap, rehabilitative, or
32 durational alimony, unless the court determines all of the
33 following:

34 (a) That the party seeking alimony has not reached the age
35 to qualify for any social security retirement benefits.

36 (b) That as a result of the dissolution of marriage, the
37 party seeking alimony would, based on the income and assets
38 available after the dissolution of marriage is final, meet the

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39 primary qualifications for the Florida Medicaid medically needy
40 program under part III of chapter 409 and the related rules in
41 effect on March 1, 2020.

42 (9) (a) Notwithstanding any other provision of law, alimony
43 may not be awarded to a party who has a monthly net income that
44 is equal to or more than the other party's monthly net income.

45 (b) Social security retirement benefits may not be imputed
46 to the obligor as demonstrated by a social security retirement
47 benefits entitlement letter unless those benefits are actually
48 being paid.

49 (c) If the obligee alleges that a physical disability has
50 impaired his or her capability to earn the income imputed by the
51 court, the obligee must have qualified for benefits under the
52 Social Security Disability Insurance program or, in the event
53 the obligee is not eligible for the program, must demonstrate
54 that his or her disability meets the disability qualification
55 standards of the Social Security Disability Insurance program.

56 ~~(8) Permanent alimony may be awarded to provide for the~~
57 ~~needs and necessities of life as they were established during~~
58 ~~the marriage of the parties for a party who lacks the financial~~
59 ~~ability to meet his or her needs and necessities of life~~
60 ~~following a dissolution of marriage. Permanent alimony may be~~
61 ~~awarded following a marriage of long duration if such an award~~
62 ~~is appropriate upon consideration of the factors set forth in~~
63 ~~subsection (2), following a marriage of moderate duration if~~

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64 ~~such an award is appropriate based upon clear and convincing~~
65 ~~evidence after consideration of the factors set forth in~~
66 ~~subsection (2), or following a marriage of short duration if~~
67 ~~there are written findings of exceptional circumstances. In~~
68 ~~awarding permanent alimony, the court shall include a finding~~
69 ~~that no other form of alimony is fair and reasonable under the~~
70 ~~circumstances of the parties. An award of permanent alimony~~
71 ~~terminates upon the death of either party or upon the remarriage~~
72 ~~of the party receiving alimony. An award may be modified or~~
73 ~~terminated based upon a substantial change in circumstances or~~
74 ~~upon the existence of a supportive relationship in accordance~~
75 ~~with s. 61.14.~~

76 ~~(9) The award of alimony may not leave the payor with~~
77 ~~significantly less net income than the net income of the~~
78 ~~recipient unless there are written findings of exceptional~~
79 ~~circumstances.~~

80 (10) (a) With respect to any order requiring the payment of
81 alimony entered on or after January 1, 1985, unless ~~the~~
82 ~~provisions of~~ paragraph (c) or paragraph (d) applies ~~apply~~, the
83 court shall direct in the order that the payments of alimony be
84 made through the appropriate depository as provided in s.
85 61.181.

86 (b) With respect to any order requiring the payment of
87 alimony entered before January 1, 1985, upon the subsequent
88 appearance~~7~~ on or after that date~~7~~ of one or both parties before

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89 the court having jurisdiction for the purpose of modifying or
90 enforcing the order or in any other proceeding related to the
91 order, or upon the application of either party, unless ~~the~~
92 ~~provisions of~~ paragraph (c) or paragraph (d) applies ~~apply~~, the
93 court shall modify the terms of the order as necessary to direct
94 that payments of alimony be made through the appropriate
95 depository as provided in s. 61.181.

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

98 (d)1. If there is a minor child of the parties and both
99 parties so request, the court may order that alimony payments
100 need not be directed through the depository. In this case, the
101 order of support must ~~shall~~ provide, or be deemed to provide,
102 that either party may subsequently apply to the depository to
103 require that payments be made through the depository. The court
104 shall provide a copy of the order to the depository.

105 2. If ~~the provisions of~~ subparagraph 1. applies ~~apply~~,
106 either party may subsequently file with the depository an
107 affidavit alleging default or arrearages in payment and stating
108 that the party wishes to initiate participation in the
109 depository program. The party shall provide copies of the
110 affidavit to the court and the other party or parties. Fifteen
111 days after receipt of the affidavit, the depository shall notify
112 all parties that future payments shall be directed to the
113 depository.

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

117 (11) The court shall consider any alimony payments made to
118 the obligee after the date of filing of a petition for
119 dissolution of marriage, either voluntarily or pursuant to a
120 court order, in determining the amount and length of an award of
121 rehabilitative or durational alimony.

122 Section 3. Paragraph (c) of subsection (2) of section
123 61.13, Florida Statutes, is amended to read:

124 61.13 Support of children; parenting and time-sharing;
125 powers of court.—

126 (2)

127 (c) The court shall determine all matters relating to
128 parenting and time-sharing of each minor child of the parties in
129 accordance with the best interests of the child and in
130 accordance with the Uniform Child Custody Jurisdiction and
131 Enforcement Act, except that modification of a parenting plan
132 and time-sharing schedule requires a showing of a substantial,
133 material, and unanticipated change of circumstances.

134 1. It is the public policy of this state that each minor
135 child has frequent and continuing contact with both parents
136 after the parents separate or the marriage of the parties is
137 dissolved and to encourage parents to share the rights and
138 responsibilities, and joys, of childrearing. Unless otherwise

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139 provided in this section or agreed to by the parties, there is a
140 presumption that equal time-sharing of a minor child is in the
141 best interests of the minor child common to both parties ~~There~~
142 ~~is no presumption for or against the father or mother of the~~
143 ~~child or for or against any specific time-sharing schedule when~~
144 ~~creating or modifying the parenting plan of the child.~~

145 2. The court shall order that the parental responsibility
146 for a minor child be shared by both parents unless the court
147 finds that shared parental responsibility would be detrimental
148 to the child. Evidence that a parent has been convicted of a
149 misdemeanor of the first degree or higher involving domestic
150 violence, as defined in s. 741.28 and chapter 775, or meets the
151 criteria of s. 39.806(1)(d), creates a rebuttable presumption of
152 detriment to the child. If the presumption is not rebutted after
153 the convicted parent is advised by the court that the
154 presumption exists, shared parental responsibility, including
155 time-sharing with the child, and decisions made regarding the
156 child, may not be granted to the convicted parent. However, the
157 convicted parent is not relieved of any obligation to provide
158 financial support. If the court determines that shared parental
159 responsibility would be detrimental to the child, it may order
160 sole parental responsibility and make such arrangements for
161 time-sharing as specified in the parenting plan as will best
162 protect the child or abused spouse from further harm. Regardless
163 of whether ~~or not~~ there is a conviction of any offense of

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164 domestic violence or child abuse or the existence of an
165 injunction for protection against domestic violence, the court
166 shall consider evidence of domestic violence or child abuse as
167 evidence of detriment to the child.

168 a. In ordering shared parental responsibility, the court
169 may consider the expressed desires of the parents and may grant
170 to one party the ultimate responsibility over specific aspects
171 of the child's welfare or may divide those responsibilities
172 between the parties based on the best interests of the child.
173 Areas of responsibility may include education, health care, and
174 any other responsibilities that the court finds unique to a
175 particular family.

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

180 3. Access to records and information pertaining to a minor
181 child, including, but not limited to, medical, dental, and
182 school records, may not be denied to either parent. Full rights
183 under this subparagraph apply to either parent unless a court
184 order specifically revokes these rights, including any
185 restrictions on these rights as provided in a domestic violence
186 injunction. A parent having rights under this subparagraph has
187 the same rights upon request as to form, substance, and manner
188 of access as are available to the other parent of a child,

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189 including, without limitation, the right to in-person
190 communication with medical, dental, and education providers.

191 Section 4. Paragraph (b) of subsection (1) of section
192 61.14, Florida Statutes, is amended, paragraph (c) is added to
193 subsection (11), and subsections (12), (13), and (14) are added
194 to that section, to read:

195 61.14 Enforcement and modification of support,
196 maintenance, or alimony agreements or orders.—

197 (1)

198 (b)1. The court may reduce or terminate an award of
199 alimony or order reimbursement to the obligor for any amount the
200 court determines is equitable upon specific written findings by
201 the court that since the granting of a divorce and the award of
202 alimony, a supportive relationship exists or ~~has~~ existed between
203 the obligee and another a person at any time during the 180 days
204 before the filing of a petition for modification of alimony with
205 ~~whom the obligee resides~~. On the issue of whether alimony should
206 be reduced or terminated under this paragraph, the burden is on
207 the obligor to prove by a preponderance of the evidence that a
208 supportive relationship exists or existed.

209 2. In determining whether an existing award of alimony
210 should be reduced or terminated because of an alleged supportive
211 relationship between an obligee and a person who is not related
212 by consanguinity or affinity and with whom the obligee resides,
213 the court shall elicit the nature and extent of the relationship

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214 in question. The court shall give consideration, without
215 limitation, to circumstances, including, but not limited to, the
216 following, in determining the relationship of an obligee to
217 another person:

218 a. The extent to which the obligee and the other person
219 have held themselves out as a married couple by engaging in
220 conduct such as using the same last name, using a common mailing
221 address, referring to each other in terms such as "my husband,"
222 ~~or~~ "my wife," "my partner," or "my fiancé," or otherwise
223 conducting themselves in a manner that evidences a permanent or
224 longstanding committed and supportive relationship.

225 b. The period of time that the obligee has resided with
226 the other person ~~in a permanent place of abode.~~

227 c. The extent to which the obligee and the other person
228 have pooled their assets or income or otherwise exhibited
229 financial interdependence.

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

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

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

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

238 h. Whether the obligee and the other person have jointly

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239 contributed to the purchase of any real or personal property.

240 i. Evidence in support of a claim that the obligee and the
241 other person have an express agreement regarding property
242 sharing or support.

243 j. Evidence in support of a claim that the obligee and the
244 other person have an implied agreement regarding property
245 sharing or support.

246 k. Whether the obligee and the other person have provided
247 support to the children of one another, regardless of any legal
248 duty to do so.

249 1. Whether the obligee and the other person are engaged to
250 be married.

251 3. This paragraph does not abrogate the requirement that
252 every marriage in this state be solemnized under a license, does
253 not recognize a common law marriage as valid, and does not
254 recognize a de facto marriage. This paragraph recognizes only
255 that relationships do exist that provide economic support
256 equivalent to a marriage and that alimony terminable on
257 remarriage may be reduced or terminated upon the establishment
258 of equivalent equitable circumstances as described in this
259 paragraph. The existence of a conjugal relationship, though it
260 may be relevant to the nature and extent of the relationship, is
261 not necessary for the application of ~~the provisions of this~~
262 paragraph.

263 (11)

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264 (c) An obligor's subsequent remarriage or cohabitation
265 does not constitute a basis for either party to seek a
266 modification of an alimony award. An obligee may not seek
267 modification to increase an award of alimony based on the income
268 and assets of the obligor's subsequent spouse or person with
269 whom the obligor resides, and the obligor may not seek
270 modification to reduce an award of alimony based on the
271 obligor's reliance upon the income and assets of the obligor's
272 subsequent spouse or person with whom the obligor resides.

273 (12) (a) An alimony award terminates when the obligor
274 reaches full retirement age as determined by the United States
275 Social Security Administration. However, if an obligor reaches
276 full retirement age as determined by the United States Social
277 Security Administration but he or she has not paid durational
278 alimony for a period equal to 50 percent of the length of the
279 marriage, the court may require the obligor to continue to pay
280 durational alimony, not to exceed 50 percent of the length of
281 the marriage, only if the court determines that all of the
282 following apply:

283 1. The obligee has not reached the minimum age to qualify
284 for social security retirement benefits.

285 2. As a result of the dissolution of marriage or the
286 termination of alimony payments under this paragraph, the
287 obligee would, based on the income and assets available after
288 the dissolution of marriage is final, meet the primary

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289 qualifications for the Florida Medicaid medically needy program
290 under part III of chapter 409 and the related rules in effect on
291 March 1, 2020.

292 (b) If an obligor seeks to retire at an age that is
293 reasonable for his or her profession or line of work, but before
294 he or she reaches full retirement age as determined by the
295 United States Social Security Administration, the court may
296 terminate an alimony award if it determines that the obligor's
297 retirement is reasonable. In determining whether the obligor's
298 retirement is reasonable, the court shall consider all of the
299 following:

300 1. The obligor's age and health.

301 2. The obligor's motivation for retirement.

302 3. The obligor's profession or line of work and the
303 typical retirement age for that profession or line of work.

304 4. The obligee's needs and necessities of life and the
305 obligor's needs and necessities of life.

306 5. The impact that a termination or reduction of alimony
307 would have on the obligee. In determining such impact, the court
308 must consider any assets accumulated or received by the obligee,
309 including any income generated by such assets, since the final
310 judgment of dissolution of marriage.

311 (c) Up to 12 months before the obligor's anticipated
312 retirement under paragraph (a) or paragraph (b), the obligor may
313 file a petition to modify or terminate the alimony award,

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314 effective upon his or her actual retirement date. The court
315 shall modify or terminate the alimony award after the obligor's
316 retirement unless, after consideration of the factors under
317 paragraph (b), the court makes written findings of fact that the
318 obligor's retirement is unreasonable.

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

323 (14) Agreements on alimony payments, whether voluntary or
324 court ordered, which allow for modification or termination of
325 alimony by virtue of either party reaching a certain age,
326 income, or other threshold, or agreements that establish a
327 limited period of time after which alimony is modifiable, are
328 considered agreements that are expressly modifiable or eligible
329 for termination for purposes of this section once the specified
330 condition is met.

331 Section 5. Section 61.19, Florida Statutes, is amended to
332 read:

333 61.19 Entry of judgment of dissolution of marriage;7 delay
334 period; separate adjudication of issues.-

335 (1) A ~~No~~ final judgment of dissolution of marriage may not
336 be entered until at least 20 days have elapsed from the date of
337 filing the original petition for dissolution of marriage,7 but
338 the court, on a showing that injustice would result from this

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339 delay, may enter a final judgment of dissolution of marriage at
340 an earlier date.

341 (2) If more than 365 days have elapsed after the date of
342 service of the original petition for dissolution of marriage,
343 absent a showing by either party that irreparable harm will
344 result from granting a final judgment of dissolution of
345 marriage, the court shall, upon request of either party, grant a
346 final judgment of dissolution of marriage with a reservation of
347 jurisdiction to subsequently determine all other substantive
348 issues. Before granting the judgment, the court shall enter
349 temporary orders necessary to protect the parties and their
350 children, which orders remain effective until all other issues
351 can be adjudicated by the court.

352 Section 6. This act applies to all actions pending on or
353 after July 1, 2021.

354 -----
355
356 **T I T L E A M E N D M E N T**

357 Remove lines 36-69 and insert:
358 amending s. 61.13, F.S.; creating a presumption that
359 equal time-sharing is in the best interests of a minor
360 child; providing an exception; amending s. 61.14,
361 F.S.; revising provisions relating to reducing or
362 terminating an award of alimony or ordering
363 reimbursement of certain alimony payments based on the

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364 existence of a supportive relationship; revising
365 factors a court may consider when determining whether
366 a supportive relationship exists or existed; providing
367 that an obligor's subsequent remarriage or
368 cohabitation is not a basis for modification of
369 alimony; prohibiting modification of an alimony award
370 under certain circumstances; requiring an alimony
371 award to terminate when the obligor reaches full
372 retirement age; providing an exception; providing
373 factors to be considered in determining whether an
374 obligor's retirement age is reasonable; authorizing an
375 obligor to prospectively file a petition for
376 modification or termination of an alimony award
377 effective upon his or her retirement; providing that
378 certain benefits received by an obligee constitute a
379 change in circumstances for which an obligor may seek
380 modification of an alimony award; providing that
381 certain agreements for alimony payments are considered
382 expressly modifiable or eligible for termination under
383 certain circumstances; amending s. 61.19, F.S.;

384 requiring the court to grant a final judgment of
385 dissolution of marriage and reserve jurisdiction to
386 subsequently determine all other substantive issues
387 under certain circumstances; requiring the court to
388 enter temporary orders to protect the parties and

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389 | their children; providing applicability; providing an
390 | effective date.
391 |

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