

1                   A bill to be entitled  
2           An act relating to alimony; amending s. 61.08, F.S.;  
3           revising factors to be considered for alimony awards;  
4           capping awards of alimony at a certain percentage of  
5           the payor's monthly net income; requiring a court to  
6           make certain written findings concerning alimony;  
7           revising factors to be considered in whether to award  
8           alimony or maintenance; revising provisions for the  
9           tax treatment and consequences of alimony; revising  
10          provisions relating to the protection of awards of  
11          alimony; revising provisions for awards of bridge-the-  
12          gap alimony and durational alimony; redesignating  
13          permanent alimony as long-term alimony and revising  
14          provisions relating to its award; providing  
15          nonreinstatement of alimony awards due to supportive  
16          relationships; providing termination of alimony upon  
17          full retirement age; repealing s. 2, ch. 2010-199 and  
18          s. 80, ch. 2011-92, Laws of Florida, relating to the  
19          applicability of specified prior amendments to s.  
20          61.08, F.S.; providing applicability for amendments  
21          made by the act to s. 61.08, F.S.; providing for  
22          retroactive effect; amending s. 61.14, F.S.; revising  
23          provisions relating to the effect of cohabitation on  
24          an award of alimony; providing that in the event of  
25          the obligor's remarriage or residing with another  
26          person, income and assets of the obligor's spouse or  
27          person with whom the obligor resides may not be  
28          considered in the redetermination in a modification

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29 |       action; providing that if an alimony award has been  
 30 |       modified to terminate due to a supportive relationship  
 31 |       and that supportive relationship does not produce a  
 32 |       marriage, the alimony may not be reinstated; providing  
 33 |       that if the court orders alimony concurrent with a  
 34 |       child support order, the alimony award may not be  
 35 |       modified due to the termination of child support;  
 36 |       providing an effective date.

37 |

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

39 |

40 |       Section 1. Section 61.08, Florida Statutes, is amended to  
 41 |       read:

42 |       61.08 Alimony.—

43 |       (1) In a proceeding for dissolution of marriage under s.  
 44 |       61.052(1)(a), the court may grant alimony to either party, which  
 45 |       alimony may be bridge-the-gap, rehabilitative, durational, or  
 46 |       long-term permanent in nature ~~or any combination of these forms~~  
 47 |       ~~of alimony~~. In any award of alimony, the court may order  
 48 |       periodic payments or payments in lump sum or both, which may not  
 49 |       exceed 20 percent of the payor's monthly net income to include  
 50 |       all sources of income averaged over the last 3 years of the  
 51 |       marriage. ~~The court may consider the adultery of either spouse~~  
 52 |       ~~and the circumstances thereof in determining the amount of~~  
 53 |       ~~alimony, if any, to be awarded~~. In all dissolution actions, the  
 54 |       court shall include findings of fact relative to the factors  
 55 |       enumerated in subsection (2) supporting an award or denial of  
 56 |       alimony.

57 (2) In determining whether to award alimony or  
 58 maintenance, the court shall first make, in writing, a specific  
 59 factual determination as to whether either party has an actual  
 60 need for alimony or maintenance and whether either party has the  
 61 ability to pay alimony or maintenance. If the court finds that a  
 62 party has a need for alimony or maintenance and that the other  
 63 party has the ability to pay alimony or maintenance, then in  
 64 determining the proper type and amount of alimony or maintenance  
 65 under subsections (5)-(8), the court shall consider all relevant  
 66 factors, including, but not limited to:

67 ~~(a) The standard of living established during the~~  
 68 ~~marriage.~~

69 (a)~~(b)~~ The duration of the marriage.

70 (b)~~(c)~~ The age and the physical and emotional condition of  
 71 each party.

72 (c)~~(d)~~ The financial resources of each party, only to  
 73 include ~~including the nonmarital and the marital~~ assets and  
 74 liabilities acquired during the marriage ~~distributed to each.~~

75 (d)~~(e)~~ The earning capacities, educational levels,  
 76 vocational skills, and employability of the parties and, when  
 77 applicable, the time necessary for either party to acquire  
 78 sufficient education or training to enable such party to find  
 79 appropriate employment.

80 (e)~~(f)~~ The contribution of each party to the marriage,  
 81 including, but not limited to, services rendered in homemaking,  
 82 child care, education, and career building of the other party.

83 (f)~~(g)~~ The responsibilities each party will have with  
 84 regard to any minor children they have in common.

85 (g)~~(h)~~ The tax treatment and consequences to both parties  
 86 of any alimony award, including the designation of all ~~or a~~  
 87 ~~portion~~ of the payment as taxable to the recipient and  
 88 deductible to the payor ~~a nontaxable, nondeductible~~ payment.

89 (h)~~(i)~~ All sources of income available to either party,  
 90 including income available to either party through investments  
 91 of any asset held by that party that were acquired during the  
 92 marriage.

93 ~~(j) Any other factor necessary to do equity and justice~~  
 94 ~~between the parties.~~

95 (3) (a) The court may require the payor to maintain a life  
 96 insurance policy or bond to protect an award of alimony only if  
 97 there is a specific factual determination in writing as to  
 98 whether the recipient has an actual need. An order to secure a  
 99 life insurance policy or a bond to protect an award of alimony  
 100 shall be based upon due consideration of the following factors:

- 101 1. Age and insurability of the payor.
- 102 2. Cost of insurance, including decreasing term-life  
 103 insurance.
- 104 3. Amount of the judgment.
- 105 4. Policies carried during the marriage.
- 106 5. Duration of the alimony order.
- 107 6. Prevailing interest rates at the time of the order.
- 108 7. Other obligations of the payor.

109 (b) An order to protect an alimony award is modifiable  
 110 upon a substantial change in circumstance in accordance with s.  
 111 61.14 and terminates as provided in subsection (9) ~~To the extent~~  
 112 ~~necessary to protect an award of alimony, the court may order~~

113 ~~any party who is ordered to pay alimony to purchase or maintain~~  
 114 ~~a life insurance policy or a bond, or to otherwise secure such~~  
 115 ~~alimony award with any other assets which may be suitable for~~  
 116 ~~that purpose.~~

117 (4) For purposes of determining alimony, the court shall  
 118 recognize ~~there is a rebuttable presumption~~ that a short-term  
 119 marriage is a marriage having a duration of less than 7 years, a  
 120 moderate-term marriage is a marriage having a duration of  
 121 greater than 7 years but less than 20 ~~17~~ years, and long-term  
 122 marriage is a marriage having a duration of 20 ~~17~~ years or  
 123 greater. The length of a marriage is the period of time from the  
 124 date of marriage until the date of filing of an action for  
 125 dissolution of marriage.

126 (5) Bridge-the-gap alimony may be awarded to assist a  
 127 party by providing support to allow the party to make a  
 128 transition from being married to being single. Bridge-the-gap  
 129 alimony is designed to assist a party with legitimate  
 130 identifiable short-term needs, and the length of an award may  
 131 not exceed 2 years. An award of bridge-the-gap alimony  
 132 terminates upon the death of either party or upon the remarriage  
 133 of the party receiving alimony. An award of bridge-the-gap  
 134 alimony is ~~shall not be~~ modifiable in accordance with s. 61.14  
 135 ~~amount or duration.~~

136 (6) (a) Rehabilitative alimony may be awarded to assist a  
 137 party in establishing the capacity for self-support through  
 138 either:

- 139 1. The redevelopment of previous skills or credentials; or
- 140 2. The acquisition of education, training, or work

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141 | experience necessary to develop appropriate employment skills or  
 142 | credentials.

143 |         (b) In order to award rehabilitative alimony, there must  
 144 | be a specific and defined rehabilitative plan which shall be  
 145 | included as a part of any order awarding rehabilitative alimony.

146 |         (c) An award of rehabilitative alimony shall ~~may~~ be  
 147 | modified or terminated in accordance with s. 61.14 based upon a  
 148 | substantial change in circumstances, upon noncompliance with the  
 149 | rehabilitative plan, or upon completion of the rehabilitative  
 150 | plan.

151 |         (7) Durational alimony may be awarded for a moderate-term  
 152 | or long-term marriage as defined in subsection (4) ~~when~~  
 153 | ~~permanent periodic alimony is inappropriate~~. The purpose of  
 154 | durational alimony is to provide a party with economic  
 155 | assistance for a set period of time following a marriage of  
 156 | ~~short or~~ moderate duration or following a marriage of long  
 157 | duration if there is no ongoing need for support on a long-term  
 158 | ~~permanent~~ basis as provided in subsection (8). An award of  
 159 | durational alimony terminates upon the death of either party or  
 160 | upon the remarriage of the party receiving alimony. The amount  
 161 | of an award of durational alimony shall ~~may~~ be modified ~~or~~  
 162 | ~~terminated~~ based upon a substantial change in circumstances or  
 163 | terminated upon the existence of a supportive relationship in  
 164 | accordance with s. 61.14. ~~However,~~ The length of an award of  
 165 | durational alimony may not exceed 50 percent of ~~be modified~~  
 166 | ~~except under exceptional circumstances and may not exceed the~~  
 167 | length of the marriage.

168 |         (8) Long-term ~~Permanent~~ alimony may be awarded for a

169 marriage having a duration of 20 years or greater as provided in  
 170 subsection (4), may not exceed 60 percent of the length of the  
 171 marriage, and may be extended as needed to continue support of a  
 172 receiving party who was disabled during the marriage. The  
 173 Division of Disability Determinations of the Department of  
 174 Health must authenticate each claim of disability under this  
 175 subsection. If the payor is certified as disabled by the  
 176 Division of Disability Determinations of the Department of  
 177 Health, the award of alimony shall be significantly reduced or  
 178 terminated to provide for the needs and necessities of life as  
 179 ~~they were established during the marriage of the parties for a~~  
 180 ~~party who lacks the financial ability to meet his or her needs~~  
 181 ~~and necessities of life following a dissolution of marriage.~~  
 182 ~~Permanent alimony may be awarded following a marriage of long~~  
 183 ~~duration if such an award is appropriate upon consideration of~~  
 184 ~~the factors set forth in subsection (2), following a marriage of~~  
 185 ~~moderate duration if such an award is appropriate based upon~~  
 186 ~~clear and convincing evidence after consideration of the factors~~  
 187 ~~set forth in subsection (2), or following a marriage of short~~  
 188 ~~duration if there are written findings of exceptional~~  
 189 ~~circumstances. In awarding permanent alimony, the court shall~~  
 190 ~~include a finding that no other form of alimony is fair and~~  
 191 ~~reasonable under the circumstances of the parties. An award of~~  
 192 long-term permanent alimony terminates upon the death of either  
 193 party, ~~or~~ upon the remarriage of the party receiving alimony, or  
 194 as provided in subsection (9). An award shall ~~may~~ be modified or  
 195 terminated based upon a substantial change in circumstances or  
 196 upon the existence of a supportive relationship in accordance

197 with s. 61.14.

198 (9) Any award of alimony terminates upon the payor  
 199 attaining the full retirement age when the payor is eligible for  
 200 the old-age retirement benefit under the federal Old-Age,  
 201 Survivors, and Disability Insurance Program, 42 U.S.C. s. 416,  
 202 as amended, as of the date of filing of an action for  
 203 dissolution of marriage. The payor's ability to work beyond that  
 204 age may not be used as a reason to extend alimony.

205 ~~(10)(9)~~ The award of alimony may not leave the payor with  
 206 significantly less net income than the net income of the  
 207 recipient ~~unless there are written findings of exceptional~~  
 208 ~~circumstances.~~

209 (11) In accordance with s. 61.14, if an alimony award has  
 210 been modified to terminate due to a supportive relationship and  
 211 that supportive relationship does not produce a marriage, the  
 212 recipient is not entitled to reinstatement of alimony from the  
 213 payor.

214 (12)(10)(a) With respect to any order requiring the  
 215 payment of alimony entered on or after January 1, 1985, unless  
 216 the provisions of paragraph (c) or paragraph (d) apply, the  
 217 court shall direct in the order that the payments of alimony be  
 218 made through the appropriate depository as provided in s.  
 219 61.181.

220 (b) With respect to any order requiring the payment of  
 221 alimony entered before January 1, 1985, upon the subsequent  
 222 appearance, on or after that date, of one or both parties before  
 223 the court having jurisdiction for the purpose of modifying or  
 224 enforcing the order or in any other proceeding related to the

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225 order, or upon the application of either party, unless the  
226 provisions of paragraph (c) or paragraph (d) apply, the court  
227 shall modify the terms of the order as necessary to direct that  
228 payments of alimony be made through the appropriate depository  
229 as provided in s. 61.181.

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

232 (d)1. If there is a minor child of the parties and both  
233 parties so request, the court may order that alimony payments  
234 need not be directed through the depository. In this case, the  
235 order of support shall provide, or be deemed to provide, that  
236 either party may subsequently apply to the depository to require  
237 that payments be made through the depository. The court shall  
238 provide a copy of the order to the depository.

239 2. If the provisions of subparagraph 1. apply, either  
240 party may subsequently file with the depository an affidavit  
241 alleging default or arrearages in payment and stating that the  
242 party wishes to initiate participation in the depository  
243 program. The party shall provide copies of the affidavit to the  
244 court and the other party or parties. Fifteen days after receipt  
245 of the affidavit, the depository shall notify all parties that  
246 future payments shall be directed to the depository.

247 3. In IV-D cases, the IV-D agency shall have the same  
248 rights as the obligee in requesting that payments be made  
249 through the depository.

250 Section 2. Section 2 of chapter 2010-199 and section 80 of  
251 chapter 2011-92, Laws of Florida, are repealed.

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252           Section 3. The amendments to s. 61.08, Florida Statutes,  
253 made by this act constitute a material change of circumstance  
254 that warrants modification of existing alimony judgments that  
255 exceed durational limits set forth in s. 61.08(4)-(9), Florida  
256 Statutes, as amended by this act. Any modification filed by a  
257 payor pursuant to this section solely because the existing  
258 alimony judgment exceeds the durational limits set forth in s.  
259 61.08(4)-(9), Florida Statutes, as amended by this act, may be  
260 filed only as follows:

261           (1) A payor who was married to the alimony recipient for  
262 more than 7 years may file a modification action in accordance  
263 with s. 61.08(4), Florida Statutes, no earlier than 2 years  
264 after the effective date of this act.

265           (2) A payor who is eligible for the full old-age  
266 retirement benefit under the federal Old-Age, Survivors, and  
267 Disability Insurance Program, 42 U.S.C. s. 416, or who will  
268 become eligible for such benefit within 3 years after the  
269 effective date of this act, may file a modification action no  
270 earlier than 1 year after the effective date of this act.

271  
272 The amendments to s. 61.08, Florida Statutes, made by this act  
273 do not provide a right to seek or receive modification of an  
274 existing alimony judgment in which the parties have agreed in  
275 writing that their alimony judgment is not modifiable or in  
276 which the parties have expressed in writing their intention that  
277 their agreed alimony provisions survive the judgment and  
278 therefore are not modifiable.

279 Section 4. Paragraph (b) of subsection (1) of section  
 280 61.14, Florida Statutes, is amended, and paragraphs (c), (d),  
 281 and (e) are added to subsection (11) of that section, to read:

282 61.14 Enforcement and modification of support,  
 283 maintenance, or alimony agreements or orders.—

284 (1)

285 (b)1. The court must ~~may~~ reduce or terminate an award of  
 286 alimony if it determines ~~upon specific written findings by the~~  
 287 ~~court~~ that since the granting of a divorce and the award of  
 288 alimony a supportive relationship has existed between the  
 289 obligee and a person with whom the obligee resides. The court  
 290 shall make specific written findings that support such a  
 291 determination. ~~On the issue of whether alimony should be reduced~~  
 292 ~~or terminated under this paragraph, the burden is on the obligor~~  
 293 ~~to prove by a preponderance of the evidence that a supportive~~  
 294 ~~relationship exists.~~

295 2. A person is deemed to maintain a supportive  
 296 relationship when he or she shares a primary residence together  
 297 with or without another person for a period of at least 3  
 298 continuous months in a common household. In determining whether  
 299 the obligee is maintaining a common household, the court may  
 300 consider any of the following factors ~~an existing award of~~  
 301 ~~alimony should be reduced or terminated because of an alleged~~  
 302 ~~supportive relationship between an obligee and a person who is~~  
 303 ~~not related by consanguinity or affinity and with whom the~~  
 304 ~~obligee resides, the court shall elicit the nature and extent of~~  
 305 ~~the relationship in question. The court shall give~~  
 306 ~~consideration, without limitation, to circumstances, including,~~

307 ~~but not limited to, the following, in determining the~~  
308 ~~relationship of an obligee to another person:~~

309 a. Oral or written statements or representations made to  
310 third parties regarding the relationship of the cohabitants.

311 b. The economic interdependence of the couple or economic  
312 dependence of one party on the other.

313 c. The common household couple engaging in conduct and  
314 collaborative roles in furtherance of their life together.

315 d. The benefit in the life of either or both of the common  
316 household parties from their relationship.

317 e. The community reputation of the parties as a couple.

318 f. Other relevant and material factors.

319 ~~a. The extent to which the obligee and the other person~~  
320 ~~have held themselves out as a married couple by engaging in~~  
321 ~~conduct such as using the same last name, using a common mailing~~  
322 ~~address, referring to each other in terms such as "my husband"~~  
323 ~~or "my wife," or otherwise conducting themselves in a manner~~  
324 ~~that evidences a permanent supportive relationship.~~

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

327 ~~e. The extent to which the obligee and the other person~~  
328 ~~have pooled their assets or income or otherwise exhibited~~  
329 ~~financial interdependence.~~

330 ~~d. The extent to which the obligee or the other person has~~  
331 ~~supported the other, in whole or in part.~~

332 ~~e. The extent to which the obligee or the other person has~~  
333 ~~performed valuable services for the other.~~

334 ~~f. The extent to which the obligee or the other person has~~

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335 ~~performed valuable services for the other's company or employer.~~

336 ~~g. Whether the obligee and the other person have worked~~  
337 ~~together to create or enhance anything of value.~~

338 ~~h. Whether the obligee and the other person have jointly~~  
339 ~~contributed to the purchase of any real or personal property.~~

340 ~~i. Evidence in support of a claim that the obligee and the~~  
341 ~~other person have an express agreement regarding property~~  
342 ~~sharing or support.~~

343 ~~j. Evidence in support of a claim that the obligee and the~~  
344 ~~other person have an implied agreement regarding property~~  
345 ~~sharing or support.~~

346 ~~k. Whether the obligee and the other person have provided~~  
347 ~~support to the children of one another, regardless of any legal~~  
348 ~~duty to do so.~~

349 ~~3. This paragraph does not abrogate the requirement that~~  
350 ~~every marriage in this state be solemnized under a license, does~~  
351 ~~not recognize a common law marriage as valid, and does not~~  
352 ~~recognize a de facto marriage. This paragraph recognizes only~~  
353 ~~that relationships do exist that provide economic support~~  
354 ~~equivalent to a marriage and that alimony terminable on~~  
355 ~~remarriage may be reduced or terminated upon the establishment~~  
356 ~~of equivalent equitable circumstances as described in this~~  
357 ~~paragraph. The existence of a conjugal relationship, though it~~  
358 ~~may be relevant to the nature and extent of the relationship, is~~  
359 ~~not necessary for the application of the provisions of this~~  
360 ~~paragraph.~~

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362           (c) If the obligor remarries or resides with another  
363 person, income and assets of the obligor's spouse or person with  
364 whom the obligor resides may not be considered in the  
365 redetermination in a modification action.

366           (d) If an alimony award has been modified to terminate due  
367 to a supportive relationship and that supportive relationship  
368 does not produce a marriage, the obligee is not entitled to  
369 reinstatement of alimony from the obligor.

370           (e) If the court orders alimony concurrent with a child  
371 support order, the alimony award may not be modified due to the  
372 termination of child support when the child support payments  
373 end.

374           Section 5. This act shall take effect July 1, 2012.