

By Senator Stargel

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1 A bill to be entitled
2 An act relating to family law; amending s. 61.071,
3 F.S.; prohibiting a court from using certain
4 presumptive alimony guidelines in calculating alimony
5 pendente lite; amending s. 61.08, F.S.; defining
6 terms; requiring a court to make specified initial
7 written findings in a dissolution of marriage
8 proceeding where a party has requested alimony;
9 requiring a court to make specified findings before
10 ruling on a request for alimony; providing for
11 determination of presumptive alimony amount range and
12 duration range; providing presumptions concerning
13 alimony awards depending on the duration of marriages;
14 providing for imputation of income in certain
15 circumstances; providing for awards of nominal alimony
16 in certain circumstances; providing for taxability and
17 deductibility of alimony awards; prohibiting a
18 combined award of alimony and child support from
19 constituting more than a specified percentage of a
20 payor's net income; providing for termination and
21 payment of awards; amending s. 61.13, F.S.; creating a
22 presumption that approximately equal time-sharing by
23 both parents is in the best interests of the child;
24 revising a finite list of factors that a court must
25 evaluate when determining whether the presumption of
26 approximately equal time-sharing is overcome;
27 requiring a court order to be supported by written
28 findings of fact under certain circumstances; amending
29 s. 61.14, F.S.; providing that a party may pursue an

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30 immediate modification of alimony in certain
31 circumstances; revising factors to be considered in
32 determining whether an existing award of alimony
33 should be reduced or terminated because of an alleged
34 supportive relationship; providing for burden of proof
35 for claims concerning the existence of supportive
36 relationships; providing for the effective date of a
37 reduction or termination of an alimony award;
38 providing that the remarriage of an alimony obligor is
39 not a substantial change in circumstance; providing
40 that the financial information of a spouse of a party
41 paying or receiving alimony is inadmissible and
42 undiscoverable; providing an exception; providing for
43 modification or termination of an award based on a
44 party's retirement; providing a presumption upon a
45 finding of a substantial change in circumstance;
46 specifying factors to be considered in determining
47 whether to modify or terminate an award based on a
48 substantial change in circumstance; providing for a
49 temporary suspension of an obligor's payment of
50 alimony while his or her petition for modification or
51 termination is pending; providing for an effective
52 date of a modification or termination of an award;
53 providing for an award of attorney fees and costs for
54 unreasonably pursuing or defending a modification of
55 an award; amending s. 61.30, F.S.; providing that
56 whenever a combined alimony and child support award
57 constitutes more than a specified percentage of a
58 payor's net income, the child support award be

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59 adjusted to reduce the combined total; creating s.
60 61.192, F.S.; providing for motions to advance the
61 trial of certain actions if a specified period has
62 passed since the initial service on the respondent;
63 providing applicability; providing an effective date.
64

65 Be It Enacted by the Legislature of the State of Florida:
66

67 Section 1. Section 61.071, Florida Statutes, is amended to
68 read:

69 61.071 Alimony pendente lite; suit money.—In every
70 proceeding for dissolution of the marriage, a party may claim
71 alimony and suit money in the petition or by motion, and if the
72 petition is well founded, the court shall allow a reasonable sum
73 therefor. If a party in any proceeding for dissolution of
74 marriage claims alimony or suit money in his or her answer or by
75 motion, and the answer or motion is well founded, the court
76 shall allow a reasonable sum therefor. The court may not use the
77 presumptive alimony guidelines in s. 61.08 to calculate alimony
78 under this section.

79 Section 2. Section 61.08, Florida Statutes, is amended to
80 read:

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

83 61.08 Alimony.—

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

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

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- 88 a. Income from salaries.
- 89 b. Wages, including tips declared by the individual for
90 purposes of reporting to the Internal Revenue Service or tips
91 imputed to bring the employee's gross earnings to the minimum
92 wage for the number of hours worked, whichever is greater.
- 93 c. Commissions.
- 94 d. Payments received as an independent contractor for labor
95 or services, which payments must be considered income from self-
96 employment.
- 97 e. Bonuses.
- 98 f. Dividends.
- 99 g. Severance pay.
- 100 h. Pension payments and retirement benefits actually
101 received.
- 102 i. Royalties.
- 103 j. Rents.
- 104 k. Interest.
- 105 l. Trust income and distributions which are regularly
106 received, relied upon, or readily available to the beneficiary.
- 107 m. Annuity payments.
- 108 n. Capital gains.
- 109 o. Any money drawn by a self-employed individual for
110 personal use that is deducted as a business expense, which
111 moneys must be considered income from self-employment.
- 112 p. Social security benefits, including social security
113 benefits actually received by a party as a result of the
114 disability of that party.
- 115 q. Workers' compensation benefits.
- 116 r. Unemployment insurance benefits.

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117 s. Disability insurance benefits.

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

121 u. Continuing monetary gifts.

122 v. Income from general partnerships, limited partnerships,
123 closely held corporations, or limited liability companies;
124 except that if a party is a passive investor, has a minority
125 interest in the company, and does not have any managerial duties
126 or input, the income to be recognized may be limited to actual
127 cash distributions received.

128 w. Expense reimbursements or in-kind payments or benefits
129 received by a party in the course of employment, self-
130 employment, or operation of a business which reduces personal
131 living expenses.

132 x. Overtime pay.

133 2. "Gross income" does not include:

134 a. Child support payments received.

135 b. Benefits received from public assistance programs.

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

139 d. Earnings or gains on retirement accounts, including
140 individual retirement accounts; except that such earnings or
141 gains shall be included as income if a party takes a
142 distribution from the account. If a party is able to take a
143 distribution from the account without being subject to a federal
144 tax penalty for early distribution and the party chooses not to
145 take such a distribution, the court may consider the

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146 distribution that could have been taken in determining the
147 party's gross income.

148 3.a. For income from self-employment, rent, royalties,
149 proprietorship of a business, or joint ownership of a
150 partnership or closely held corporation, the term "gross income"
151 equals gross receipts minus ordinary and necessary expenses, as
152 defined in sub-subparagraph b., which are required to produce
153 such income.

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

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

172 (c)1. "Underemployed" means a party is not working full-
173 time in a position which is appropriate, based upon his or her
174 educational training and experience, and available in the

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175 geographical area of his or her residence.

176 2. A party is not considered "underemployed" if he or she
177 is enrolled in an educational program that can be reasonably
178 expected to result in a degree or certification within a
179 reasonable period and that will result in a higher income, so
180 long as the educational program is:

181 a. Temporary and is reasonably expected to result in higher
182 income within the foreseeable future.

183 b. A good faith educational choice based upon the previous
184 education, training, skills, and experience of the party and the
185 availability of immediate employment based upon the educational
186 program being pursued.

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

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

194 (a) The amount of each party's monthly gross income,
195 including, but not limited to, the actual or potential income,
196 and also including actual or potential income from nonmarital or
197 marital property distributed to each party.

198 (b) The years of marriage as determined from the date of
199 marriage through the date of the filing of the action for
200 dissolution of marriage.

201 (3) ALIMONY GUIDELINES.—After making the initial findings
202 described in subsection (2), the court shall calculate the
203 presumptive alimony amount range and the presumptive alimony

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204 duration range. The court shall make written findings as to the
205 presumptive alimony amount range and presumptive alimony
206 duration range.

207 (a) Presumptive alimony amount range.—The low end of the
208 presumptive alimony amount range shall be calculated by using
209 the following formula:

210

211 (0.0125 x the years of marriage) x the difference between the
212 monthly gross incomes of the parties

213

214 The high end of the presumptive alimony amount range shall be
215 calculated by using the following formula:

216

217 (0.020 x the years of marriage) x the difference between the
218 monthly gross incomes of the parties

219

220 For purposes of calculating the presumptive alimony amount
221 range, 20 years of marriage shall be used in calculating the low
222 end and high end for marriages of 20 years or more. In
223 calculating the difference between the parties' monthly gross
224 income, the income of the party seeking alimony shall be
225 subtracted from the income of the other party. If the
226 application of the formulas to establish a guideline range
227 results in a negative number, the presumptive alimony amount
228 shall be \$0.

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

232

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233 0.25 x the years of marriage

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

237
238 0.75 x the years of marriage

239
240 (c) Actual years of marriage calculation.—If a court
241 establishes the duration of the alimony award at 50 percent or
242 less of the length of the marriage, then notwithstanding
243 paragraph (a), the court may use the actual years of the
244 marriage to calculate the high end of the presumptive alimony
245 amount range.

246 (4) ALIMONY AWARD.—

247 (a) Marriages of 2 years or less.—For marriages of 2 years
248 or less, there is a rebuttable presumption that no alimony shall
249 be awarded. The court may award alimony for a marriage with a
250 duration of 2 years or less only if the court makes written
251 findings that there is a clear and convincing need for alimony,
252 there is an ability to pay alimony, and that the failure to
253 award alimony would be inequitable. The court shall then
254 establish the alimony award in accordance with paragraph (b).

255 (b) Marriages of more than 2 years.—Absent an agreement of
256 the parties, alimony shall presumptively be awarded in an amount
257 within the alimony amount range calculated in paragraph (3) (a).
258 Absent an agreement of the parties, alimony shall presumptively
259 be awarded for a duration within the alimony duration range
260 calculated in paragraph (3) (b). In determining the amount and
261 duration of the alimony award, the court shall consider all of

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262 the following factors upon which evidence was presented:

263 1. The financial resources of the recipient spouse,
264 including the actual or potential income from nonmarital or
265 marital property or any other source and the ability of the
266 recipient spouse to meet his or her reasonable needs
267 independently.

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

272 3. The standard of living of the parties during the
273 marriage with consideration that there will be two households to
274 maintain after the dissolution of the marriage and that neither
275 party may be able to maintain the same standard of living after
276 the dissolution of the marriage.

277 4. The equitable distribution of marital property,
278 including whether an unequal distribution of marital property
279 was made to reduce or alleviate the need for alimony.

280 5. Both parties' income, employment, and employability,
281 obtainable through reasonable diligence and additional training
282 or education, if necessary, and any necessary reduction in
283 employment due to the needs of an unemancipated child of the
284 marriage or the circumstances of the parties.

285 6. Whether a party could become better able to support
286 himself or herself and reduce the need for ongoing alimony by
287 pursuing additional educational or vocational training along
288 with all of the details of such educational or vocational plan,
289 including, but not limited to, the length of time required and
290 the anticipated costs of such educational or vocational

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291 training.

292 7. Whether one party has historically earned higher or
293 lower income than the income reflected at the time of trial and
294 the duration and consistency of income from overtime or
295 secondary employment.

296 8. Whether either party has foregone or postponed economic,
297 educational, or employment opportunities during the course of
298 the marriage.

299 9. Whether either party has caused the unreasonable
300 depletion or dissipation of marital assets.

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

303 11. The age, health, and physical and mental condition of
304 the parties, including consideration of significant health care
305 needs or uninsured or unreimbursed health care expenses.

306 12. Significant economic or noneconomic contributions to
307 the marriage or to the economic, educational, or occupational
308 advancement of a party, including, but not limited to, services
309 rendered in homemaking, child care, education, and career
310 building of the other party, payment by one spouse of the other
311 spouse's separate debts, or enhancement of the other spouse's
312 personal or real property.

313 13. The tax consequence of the alimony award.

314 14. Any other factor necessary to do equity and justice
315 between the parties.

316 (c) Deviation from guidelines.—The court may establish an
317 award of alimony that is outside either or both of the
318 presumptive alimony amount and alimony duration ranges only if
319 the court makes specific written findings that the application

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320 of the presumptive alimony amount and alimony duration ranges is
321 inappropriate or inequitable after considering all of the
322 factors in paragraph (b).

323 (d) Order establishing alimony award.—After consideration
324 of the presumptive alimony amount and duration ranges in
325 accordance with paragraphs (3) (a), (b), and (c) and the factors
326 upon which evidence was presented in accordance with paragraph
327 (b), the court may establish an alimony award. An order
328 establishing an alimony award must clearly set forth both the
329 amount and the duration of the award. The court shall also make
330 a written finding that the payor has the financial ability to
331 pay the award.

332 (5) IMPUTATION OF INCOME.—If a party is voluntarily
333 unemployed or underemployed, alimony shall be calculated based
334 on a determination of potential income unless there are
335 circumstances that make it inequitable to impute income.

336 (6) NOMINAL ALIMONY.—Notwithstanding subsections (1), (3),
337 and (4), the court may make an award of nominal alimony in the
338 amount of \$1 per year if, at the time of trial, a party who has
339 traditionally provided the primary source of financial support
340 to the family temporarily lacks the ability to pay support but
341 is reasonably anticipated to have the ability to pay support in
342 the future. The court may also award nominal alimony for an
343 alimony recipient who is presently able to work but for whom a
344 medical condition with a reasonable degree of medical certainty
345 may inhibit or prevent his or her ability to work during the
346 duration of the alimony period. The duration of the nominal
347 alimony shall be established within the presumptive durational
348 range based upon the length of the marriage subject to the

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349 alimony factors in paragraph (4) (b). Before the expiration of
350 the durational period, nominal alimony may be modified in
351 accordance with s. 61.14 as to amount to a full alimony award
352 using the alimony guidelines and factors in accordance with s.
353 61.08.

354 (7) TAXABILITY AND DEDUCTIBILITY OF ALIMONY.—

355 (a) Unless otherwise stated in the judgment or order for
356 alimony or in an agreement incorporated thereby, alimony shall
357 be deductible from income by the payor under s. 215 of the
358 Internal Revenue Code and includable in the income of the payee
359 under s. 71 of the Internal Revenue Code.

360 (b) When making a judgment or order for alimony, the court
361 may, in its discretion, order alimony be nondeductible from
362 income by the payor and nonincludable in the income of the
363 payee.

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

368 (8) MAXIMUM COMBINED AWARD.—In no event shall a combined
369 award of alimony and child support constitute more than 55
370 percent of the payor's net income.

371 (9) TERMINATION OF AWARD.—An alimony award shall terminate
372 upon the death of either party or the remarriage of the obligee.

373 (10) PAYMENT OF AWARD.—

374 (a) With respect to an order requiring the payment of
375 alimony entered on or after January 1, 1985, unless paragraph
376 (c) or paragraph (d) applies, the court shall direct in the
377 order that the payments of alimony be made through the

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378 appropriate depository as provided in s. 61.181.

379 (b) With respect to an order requiring the payment of
380 alimony entered before January 1, 1985, upon the subsequent
381 appearance, on or after that date, of one or both parties before
382 the court having jurisdiction for the purpose of modifying or
383 enforcing the order or in any other proceeding related to the
384 order, or upon the application of either party, unless paragraph
385 (c) or paragraph (d) applies, the court shall modify the terms
386 of the order as necessary to direct that payments of alimony be
387 made through the appropriate depository as provided in s.
388 61.181.

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

391 (d)1. If there is a minor child of the parties and both
392 parties so request, the court may order that alimony payments do
393 not need to be directed through the depository. In this case,
394 the order of support shall provide, or be deemed to provide,
395 that either party may subsequently apply to the depository to
396 require that payments be made through the depository. The court
397 shall provide a copy of the order to the depository.

398 2. If subparagraph 1. applies, either party may
399 subsequently file with the depository an affidavit alleging
400 default or arrearages in payment and stating that the party
401 wishes to initiate participation in the depository program. The
402 party shall provide copies of the affidavit to the court and the
403 other party or parties. Fifteen days after receipt of the
404 affidavit, the depository shall notify all parties that future
405 payments shall be directed to the depository.

406 3. In IV-D cases, the Title IV-D agency shall have the same

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407 rights as the obligee in requesting that payments be made
408 through the depository.

409 Section 3. Subsection (3) of section 61.13, Florida
410 Statutes, is amended to read:

411 61.13 Support of children; parenting and time-sharing;
412 powers of court.—

413 (3) For purposes of establishing or modifying parental
414 responsibility and creating, developing, approving, or modifying
415 a parenting plan, including a time-sharing schedule, which
416 governs each parent's relationship with his or her minor child
417 and the relationship between each parent with regard to his or
418 her minor child, the best interest of the child shall be the
419 primary consideration.

420 (a) Approximately equal time-sharing with a minor child by
421 both parents is presumed to be in the best interest of the
422 child. In determining whether the presumption is overcome, the
423 court shall evaluate the evidence based on ~~A determination of~~
424 ~~parental responsibility, a parenting plan, or a time-sharing~~
425 ~~schedule may not be modified without a showing of a substantial,~~
426 ~~material, and unanticipated change in circumstances and a~~
427 ~~determination that the modification is in the best interests of~~
428 ~~the child. Determination of the best interests of the child~~
429 ~~shall be made by evaluating~~ all of the factors affecting the
430 welfare and interests of the particular minor child and the
431 circumstances of that family, including, ~~but not limited to:~~

432 1. (a) The demonstrated capacity or ~~and~~ disposition of each
433 parent to facilitate and encourage a close and continuing
434 parent-child relationship, to honor the time-sharing schedule,
435 and to be reasonable when changes are required.

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436 2.~~(b)~~ The anticipated division of parental responsibilities
437 after the litigation, including the extent to which parental
438 responsibilities will be delegated to third parties.

439 3.~~(e)~~ The demonstrated capacity and disposition of each
440 parent to determine, consider, and act upon the needs of the
441 child as opposed to the needs or desires of the parent.

442 4.~~(d)~~ The length of time the child has lived in a stable,
443 satisfactory environment and the desirability of maintaining
444 continuity.

445 5.~~(e)~~ The geographic viability of the parenting plan, with
446 special attention paid to the needs of school-age children and
447 the amount of time to be spent traveling to carry out ~~effectuate~~
448 the parenting plan. This factor does not create a presumption
449 for or against relocation of either parent with a child.

450 6.~~(f)~~ The moral fitness of the parents.

451 7.~~(g)~~ The mental and physical health of the parents.

452 8.~~(h)~~ The home, school, and community record of the child.

453 9.~~(i)~~ The reasonable preference of the child~~,~~ if the court
454 deems the child to be of sufficient intelligence, understanding,
455 and experience to express a preference.

456 10.~~(j)~~ The demonstrated knowledge, capacity, or ~~and~~
457 disposition of each parent to be informed of the circumstances
458 of the minor child, including, but not limited to, the child's
459 friends, teachers, medical care providers, daily activities, and
460 favorite things.

461 11.~~(k)~~ The demonstrated capacity or ~~and~~ disposition of each
462 parent to provide a consistent routine for the child, such as
463 discipline~~,~~ and daily schedules for homework, meals, and
464 bedtime.

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465 ~~12.(1)~~ The demonstrated capacity of each parent to
466 communicate with the other parent and keep the other parent
467 informed of issues and activities regarding the minor child, and
468 the willingness of each parent to adopt a unified front on all
469 major issues when dealing with the child.

470 ~~13.(m)~~ Evidence of domestic violence, sexual violence,
471 child abuse, child abandonment, or child neglect, regardless of
472 whether a prior or pending action relating to those issues has
473 been brought. If the court accepts evidence of prior or pending
474 actions regarding domestic violence, sexual violence, child
475 abuse, child abandonment, or child neglect, the court must
476 specifically acknowledge in writing that such evidence was
477 considered when evaluating the best interests of the child.

478 ~~14.(n)~~ Evidence that either parent has knowingly provided
479 false information to the court regarding any prior or pending
480 action regarding domestic violence, sexual violence, child
481 abuse, child abandonment, or child neglect.

482 ~~15.(o)~~ The demonstrated capacity or disposition of each
483 parent to perform or ensure the performance of particular
484 parenting tasks customarily performed by the other ~~each~~ parent
485 and the division of parental responsibilities before the
486 institution of litigation and during the pending litigation,
487 including the extent to which parenting responsibilities were
488 undertaken by third parties.

489 ~~16.(p)~~ The demonstrated capacity and disposition of each
490 parent to participate and be involved in the child's school and
491 extracurricular activities.

492 ~~17.(q)~~ The demonstrated capacity and disposition of each
493 parent to maintain an environment for the child which is free

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494 from substance abuse.

495 18.~~(r)~~ The capacity and disposition of each parent to
496 protect the child from the ongoing litigation as demonstrated by
497 not discussing the litigation with the child, not sharing
498 documents or electronic media related to the litigation with the
499 child, and refraining from disparaging comments about the other
500 parent to the child.

501 19.~~(s)~~ The developmental stages and needs of the child and
502 the demonstrated capacity and disposition of each parent to meet
503 the child's developmental needs.

504 20. The amount of time-sharing requested by each parent.

505 21. The frequency that a parent would likely leave the
506 child in the care of a nonrelative on evenings and weekends when
507 the other parent would be available and willing to provide care.

508 22.~~(t)~~ Any other factor that is relevant to the
509 determination of a specific parenting plan, including the time-
510 sharing schedule.

511 (b) A court order must be supported by written findings of
512 fact if the order establishes an initial permanent time-sharing
513 schedule that does not provide for approximately equal time-
514 sharing.

515 (c) A determination of parental responsibility, a parenting
516 plan, or a time-sharing schedule may not be modified without a
517 determination that such modification is in the best interest of
518 the child and upon a showing of a substantial, material, and
519 unanticipated change in circumstances.

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

522 61.14 Enforcement and modification of support, maintenance,

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523 or alimony agreements or orders.-

524 (1) (a) When the parties enter into an agreement for
525 payments for, or instead of, support, maintenance, or alimony,
526 whether in connection with a proceeding for dissolution or
527 separate maintenance or with any voluntary property settlement,
528 or when a party is required by court order to make any payments,
529 and the circumstances or the financial ability of either party
530 changes or the child who is a beneficiary of an agreement or
531 court order as described herein reaches majority after the
532 execution of the agreement or the rendition of the order, either
533 party may apply to the circuit court of the circuit in which the
534 parties, or either of them, resided at the date of the execution
535 of the agreement or reside at the date of the application, or in
536 which the agreement was executed or in which the order was
537 rendered, for an order decreasing or increasing the amount of
538 support, maintenance, or alimony, and the court has jurisdiction
539 to make orders as equity requires, with due regard to the
540 changed circumstances or the financial ability of the parties or
541 the child, decreasing, increasing, or confirming the amount of
542 separate support, maintenance, or alimony provided for in the
543 agreement or order. A party is entitled to pursue an immediate
544 modification of alimony if the actual income earned by the other
545 party exceeds the amount imputed to that party at the time the
546 existing alimony award was determined and such circumstance
547 shall constitute a substantial change in circumstances
548 sufficient to support a modification of alimony. However, an
549 increase in an alimony obligor's income does not constitute a
550 basis for a modification to increase alimony unless at the time
551 the alimony award was established it was determined that the

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552 obligor was underemployed or unemployed and the court did not
553 impute income to that party at his or her maximum potential
554 income. If an alimony obligor becomes involuntarily
555 underemployed or unemployed for a period of 6 months following
556 the entry of the last order requiring the payment of alimony,
557 the obligor is entitled to an immediate modification of his or
558 her existing alimony obligations, and such circumstance shall
559 constitute a substantial change in circumstance sufficient to
560 support a modification of alimony. A finding that medical
561 insurance is reasonably available or the child support
562 guidelines schedule in s. 61.30 may constitute changed
563 circumstances. Except as otherwise provided in s. 61.30(11)(c),
564 the court may modify an order of support, maintenance, or
565 alimony by increasing or decreasing the support, maintenance, or
566 alimony retroactively to the date of the filing of the action or
567 supplemental action for modification as equity requires, giving
568 due regard to the changed circumstances or the financial ability
569 of the parties or the child.

570 (b)1. The court may reduce or terminate an award of alimony
571 upon specific written findings by the court that since the
572 granting of a divorce and the award of alimony a supportive
573 relationship exists or has existed within the previous year
574 before the date of the filing of the petition for modification
575 or termination between the obligee and another a person with
576 ~~whom the obligee resides. On the issue of whether alimony should~~
577 ~~be reduced or terminated under this paragraph, the burden is on~~
578 ~~the obligor to prove by a preponderance of the evidence that a~~
579 ~~supportive relationship exists.~~

580 2. In determining whether an existing award of alimony

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581 should be reduced or terminated because of an alleged supportive
582 relationship between an obligee and a person who is not related
583 by consanguinity or affinity ~~and with whom the obligee resides,~~
584 the court shall elicit the nature and extent of the relationship
585 in question. The court shall give consideration, without
586 limitation, to circumstances, including, but not limited to, the
587 following, in determining the relationship of an obligee to
588 another person:

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

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

597 c. The extent to which the obligee and the other person
598 have pooled their assets or income or otherwise exhibited
599 financial interdependence.

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

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

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

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

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

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610 i. Evidence in support of a claim that the obligee and the
611 other person have an express agreement regarding property
612 sharing or support.

613 j. Evidence in support of a claim that the obligee and the
614 other person have an implied agreement regarding property
615 sharing or support.

616 k. Whether the obligee and the other person have provided
617 support to the children of one another, regardless of any legal
618 duty to do so.

619 1. Whether the obligor's failure, in whole or in part, to
620 comply with all court-ordered financial obligations to the
621 obligee constituted a significant factor in the establishment of
622 the supportive relationship.

623 m. The need and extent to which an obligee provides
624 caretaking assistance to a person related by consanguinity with
625 whom the obligee resides, or receives caretaking assistance from
626 that person.

627 3. In any proceeding to modify an alimony award based upon
628 a supportive relationship, the obligor has the burden of proof
629 to establish, by a preponderance of the evidence, that a
630 supportive relationship exists or has existed within the
631 previous year before the date of the filing of the petition for
632 modification or termination. Once the supportive relationship is
633 demonstrated by a preponderance of the evidence, the burden of
634 proof is on the obligee to disprove the supportive nature of the
635 relationship. The obligor is not required to prove cohabitation
636 of the obligee and the third party.

637 4. Notwithstanding paragraph (f), if a reduction or
638 termination is granted under this paragraph, the reduction or

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639 termination is retroactive to the date of filing of the petition
640 for reduction or termination.

641 ~~5.3.~~ This paragraph does not abrogate the requirement that
642 every marriage in this state be solemnized under a license, does
643 not recognize a common law marriage as valid, and does not
644 recognize a de facto marriage. This paragraph recognizes only
645 that relationships do exist that provide economic support
646 equivalent to a marriage and that alimony terminable on
647 remarriage may be reduced or terminated upon the establishment
648 of equivalent equitable circumstances as described in this
649 paragraph. The existence of a conjugal relationship, though it
650 may be relevant to the nature and extent of the relationship, is
651 not necessary for the application of the provisions of this
652 paragraph.

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

656 2. The financial information, including, but not limited
657 to, information related to assets and income, of a subsequent
658 spouse of a party paying or receiving alimony is inadmissible
659 and may not be considered as a part of any modification action
660 unless a party is claiming that his or her income has decreased
661 since the marriage. If a party makes such a claim, the financial
662 information of the subsequent spouse is discoverable and
663 admissible only to the extent necessary to establish whether the
664 party claiming that his or her income has decreased is diverting
665 income or assets to the subsequent spouse that might otherwise
666 be available for the payment of alimony. However, this
667 subparagraph may not be used to prevent the discovery of or

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668 admissibility in evidence of the income or assets of a party
669 when those assets are held jointly with a subsequent spouse.
670 This subparagraph is not intended to prohibit the discovery or
671 admissibility of a joint tax return filed by a party and his or
672 her subsequent spouse in connection with a modification of
673 alimony.

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

677 a. A substantial change in circumstance is deemed to exist
678 if:

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

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

684 b. If an obligor voluntarily retires before reaching any of
685 the ages described in sub-subparagraph a., the court shall
686 determine whether the obligor's retirement is reasonable upon
687 consideration of the obligor's age, health, and motivation for
688 retirement and the financial impact on the obligee. A finding of
689 reasonableness by the court shall constitute a substantial
690 change in circumstance.

691 2. Upon a finding of a substantial change in circumstance,
692 there is a rebuttable presumption that an obligor's existing
693 alimony obligation shall be modified or terminated. The court
694 shall modify or terminate the alimony obligation, or make a
695 determination regarding whether the rebuttable presumption has
696 been overcome, based upon the following factors applied to the

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697 current circumstances of the obligor and obligee:
698 a. The age of the parties.
699 b. The health of the parties.
700 c. The assets and liabilities of the parties.
701 d. The earned or imputed income of the parties as provided
702 in s. 61.08(1)(a) and (5).
703 e. The ability of the parties to maintain part-time or
704 full-time employment.
705 f. Any other factor deemed relevant by the court.
706 3. The court shall temporarily suspend the obligor's
707 payment of alimony while his or her petition for modification or
708 termination under this paragraph is pending.
709 (e) A party who unreasonably pursues or defends an action
710 for modification of alimony shall be required to pay the
711 reasonable attorney fees and costs of the prevailing party.
712 Further, a party obligated to pay prevailing party attorney fees
713 and costs in connection with unreasonably pursuing or defending
714 an action for modification is not entitled to an award of
715 attorney fees and cost in accordance with s. 61.16.
716 (f) There is a rebuttable presumption that a modification
717 or termination of an alimony award is retroactive to the date of
718 the filing of the petition, unless the obligee demonstrates that
719 the result is inequitable.
720 (g)-(e) For each support order reviewed by the department as
721 required by s. 409.2564(11), if the amount of the child support
722 award under the order differs by at least 10 percent but not
723 less than \$25 from the amount that would be awarded under s.
724 61.30, the department shall seek to have the order modified and
725 any modification shall be made without a requirement for proof

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726 or showing of a change in circumstances.

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

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

731 61.30 Child support guidelines; retroactive child support.-

732 (11)

733 (d) Whenever a combined alimony and child support award
734 constitutes more than 55 percent of the payor's net income, the
735 court shall adjust the award of child support to ensure that the
736 55 percent cap is not exceeded.

737 Section 6. Section 61.192, Florida Statutes, is created to
738 read:

739 61.192 Advancing trial.-In an action brought pursuant to
740 this chapter, if more than 2 years have passed since the initial
741 petition was served on the respondent, either party may move the
742 court to advance the trial of their action on the docket. This
743 motion may be made at any time after 2 years have passed since
744 the petition was served, and once made the court must give the
745 case priority on the court's calendar.

746 Section 7. The amendments made by this act to chapter 61,
747 Florida Statutes, with the exception of amendments relating to
748 the calculation of the duration of an alimony award, apply to
749 all alimony modification petitions pending as of the effective
750 date of this act and to all alimony modification petitions filed
751 on or after the effective date of this act. The enacting of this
752 act may not serve as the sole basis for a party to seek a
753 modification of an alimony award existing before the effective
754 date of this act.

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Section 8. This act shall take effect October 1, 2015.