

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

27 duration of an alimony award; providing that a party  
28 may pursue an immediate modification of alimony in  
29 certain circumstances; revising factors to be  
30 considered in determining whether an existing award of  
31 alimony should be reduced or terminated because of an  
32 alleged supportive relationship; providing for the  
33 effective date of a reduction or termination of an  
34 alimony award based on the existence of a supportive  
35 relationship; providing that the remarriage of an  
36 alimony obligor is not a substantial change in  
37 circumstance; providing that the financial information  
38 of a subsequent spouse of a party paying or receiving  
39 alimony is inadmissible and undiscoverable; providing  
40 an exception; providing for modification or  
41 termination of an award based on a party's retirement;  
42 providing for a temporary reduction or suspension of  
43 an obligor's payment of alimony while his or her  
44 petition for modification or termination based on  
45 retirement is pending; providing for an award of  
46 attorney fees and costs for unreasonably pursuing or  
47 defending a modification of an award; establishing a  
48 rebuttable presumption that the modification of an  
49 alimony award is retroactive; providing applicability;  
50 providing an effective date.

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

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

61.071 Alimony pendente lite; suit money.—In every proceeding for dissolution of the marriage, a party may claim alimony and suit money in the petition or by motion, and if the petition is well founded, the court shall allow a reasonable sum therefor. If a party in any proceeding for dissolution of marriage claims alimony or suit money in his or her answer or by motion, and the answer or motion is well founded, the court shall allow a reasonable sum therefor. After determining that there is a need for alimony and that there is an ability to pay alimony, the court shall consider the alimony factors in s. 61.08(4)(b)1.-14. and make specific written findings of fact regarding the relevant factors that justify an award of alimony under this section. The court may not use the presumptive alimony guidelines in s. 61.08 to calculate alimony under this section.

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

61.08 Alimony.—

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

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

(a)1. "Gross income" means recurring income from any

- 79 source and includes, but is not limited to:
- 80 a. Income from salaries.
- 81 b. Wages, including tips declared by the individual for
- 82 purposes of reporting to the Internal Revenue Service or tips
- 83 imputed to bring the employee's gross earnings to the minimum
- 84 wage for the number of hours worked, whichever is greater.
- 85 c. Commissions.
- 86 d. Payments received as an independent contractor for
- 87 labor or services, which payments must be considered income from
- 88 self-employment.
- 89 e. Bonuses.
- 90 f. Dividends.
- 91 g. Severance pay.
- 92 h. Pension payments and retirement benefits actually
- 93 received.
- 94 i. Royalties.
- 95 j. Rental income, which is gross receipts minus ordinary
- 96 and necessary expenses required to produce the income.
- 97 k. Interest.
- 98 l. Trust income and distributions which are regularly
- 99 received, relied upon, or readily available to the beneficiary.
- 100 m. Annuity payments.
- 101 n. Capital gains.
- 102 o. Any money drawn by a self-employed individual for
- 103 personal use that is deducted as a business expense, which
- 104 moneys must be considered income from self-employment.

- 105        p. Social security benefits, including social security  
106 benefits actually received by a party as a result of the  
107 disability of that party.
- 108        q. Workers' compensation benefits.
- 109        r. Unemployment insurance benefits.
- 110        s. Disability insurance benefits.
- 111        t. Funds payable from any health, accident, disability, or  
112 casualty insurance to the extent that such insurance replaces  
113 wages or provides income in lieu of wages.
- 114        u. Continuing monetary gifts.
- 115        v. Income from general partnerships, limited partnerships,  
116 closely held corporations, or limited liability companies;  
117 except that if a party is a passive investor, has a minority  
118 interest in the company, and does not have any managerial duties  
119 or input, the income to be recognized may be limited to actual  
120 cash distributions received.
- 121        w. Expense reimbursements or in-kind payments or benefits  
122 received by a party in the course of employment, self-  
123 employment, or operation of a business which reduces personal  
124 living expenses.
- 125        x. Overtime pay.
- 126        y. Income from royalties, trusts, or estates.
- 127        z. Spousal support received from a previous marriage.
- 128        aa. Gains derived from dealings in property, unless the  
129 gain is nonrecurring.
- 130        2. "Gross income" does not include:

131 a. Child support payments received.

132 b. Benefits received from public assistance programs.

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

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

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

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

157 alimony.

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

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

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

177 a. Expected to result in higher income within the  
178 foreseeable future.

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

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

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

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

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

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

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

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207            (0.015 x the years of marriage) x the difference between  
208 the monthly gross incomes of the parties



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

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

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

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

0.25 x the years of marriage

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

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 240 (4) ALIMONY AWARD.—

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

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

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

261 independently.

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

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

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

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

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

285 7. Whether one party has historically earned higher or  
286 lower income than the income reflected at the time of trial and

287 the duration and consistency of income from overtime or  
288 secondary employment.

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

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

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

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

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

306 13. The tax consequence of the alimony award.

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

309 (c) Deviation from guidelines.—The court may establish an  
310 award of alimony that is outside the presumptive alimony amount  
311 or alimony duration ranges only if the court considers all of  
312 the factors in paragraph (b) and makes specific written findings

313 concerning the relevant factors that justify that the  
314 application of the presumptive alimony amount or alimony  
315 duration ranges, as applicable, is inappropriate or inequitable.

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

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

330 (6) NOMINAL ALIMONY.—Notwithstanding subsections (1), (3),  
331 and (4), the court may make an award of nominal alimony in the  
332 amount of \$1 per year if, at the time of trial, a party who has  
333 traditionally provided the primary source of financial support  
334 to the family temporarily lacks the ability to pay support but  
335 is reasonably anticipated to have the ability to pay support in  
336 the future. The court may also award nominal alimony for an  
337 alimony recipient that is presently able to work but for whom a  
338 medical condition with a reasonable degree of medical certainty

339 may inhibit or prevent his or her ability to work during the  
340 duration of the alimony period. The duration of the nominal  
341 alimony shall be established within the presumptive durational  
342 range based upon the length of the marriage subject to the  
343 alimony factors in paragraph (4) (b). Before the expiration of  
344 the durational period, nominal alimony may be modified in  
345 accordance with s. 61.14 as to amount to a full alimony award  
346 using the alimony guidelines and factors in this section.

347 (7) TAXABILITY AND DEDUCTIBILITY OF ALIMONY.—

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

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

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

361 (8) MAXIMUM COMBINED AWARD.—In no event shall a combined  
362 award of alimony and child support constitute more than 55  
363 percent of the payor's net income, calculated without any  
364 consideration of alimony or child support obligations. If the

365 combined award exceeds the maximum percentage of the payor's net  
366 income, the court shall adjust the award of child support to  
367 ensure that the 55-percent cap is not exceeded.

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

382 (10) MODIFICATION OF AWARD.—A court may subsequently  
383 modify or terminate the amount of an award of alimony initially  
384 established under this section in accordance with s. 61.14.  
385 However, a court may not modify the duration of an award of  
386 alimony initially established under this section.

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

390 (12) (a) PAYMENT OF AWARD.—With respect to an order

391 requiring the payment of alimony entered on or after January 1,  
392 1985, unless paragraph (c) or paragraph (d) applies, the court  
393 shall direct in the order that the payments of alimony be made  
394 through the appropriate depository as provided in s. 61.181.

395 (b) With respect to an order requiring the payment of  
396 alimony entered before January 1, 1985, upon the subsequent  
397 appearance, on or after that date, of one or both parties before  
398 the court having jurisdiction for the purpose of modifying or  
399 enforcing the order or in any other proceeding related to the  
400 order, or upon the application of either party, unless paragraph  
401 (c) or paragraph (d) applies, the court shall modify the terms  
402 of the order as necessary to direct that payments of alimony be  
403 made through the appropriate depository as provided in s.  
404 61.181.

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

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

414 2. If subparagraph 1. applies, either party may  
415 subsequently file with the clerk of the court a verified motion  
416 alleging a default or arrearages in payment stating that the



417 party wishes to initiate participation in the depository  
418 program. The moving party shall provide a copy of the motion to  
419 the other party. No later than 15 days after filing the motion,  
420 the court shall conduct an evidentiary hearing establishing the  
421 default and arrearages, if any, and issue an order directing the  
422 clerk of the circuit court to establish, or amend an existing,  
423 family law case history account, and further advising the  
424 parties that future payments shall thereafter be directed  
425 through the depository.

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

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

431 61.14 Enforcement and modification of support,  
432 maintenance, or alimony agreements or orders.—

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

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

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

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

492 2. In determining whether an existing award of alimony  
493 should be reduced or terminated because of an alleged supportive  
494 relationship between an obligee and a person who is not related

495 by consanguinity or affinity ~~and with whom the obligee resides,~~  
496 the court shall elicit the nature and extent of the relationship  
497 in question. The court shall give consideration, without  
498 limitation, to circumstances, including, but not limited to, the  
499 following, in determining the relationship of an obligee to  
500 another person:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

546 5.3- This paragraph does not abrogate the requirement that

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

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

561 2. The financial information, including, but not limited  
562 to, information related to assets and income, of a subsequent  
563 spouse of a party paying or receiving alimony is inadmissible  
564 and may not be considered as a part of any modification action  
565 unless a party is claiming that his or her income has decreased  
566 since the marriage. If a party makes such a claim, the financial  
567 information of the subsequent spouse is discoverable and  
568 admissible only to the extent necessary to establish whether the  
569 party claiming that his or her income has decreased is diverting  
570 income or assets to the subsequent spouse that might otherwise  
571 be available for the payment of alimony. However, this  
572 subparagraph may not be used to prevent the discovery of or

573 admissibility in evidence of the income or assets of a party  
574 when those assets are held jointly with a subsequent spouse.  
575 This subparagraph is not intended to prohibit the discovery or  
576 admissibility of a joint tax return filed by a party and his or  
577 her subsequent spouse in connection with a modification of  
578 alimony.

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

582 a. A substantial change in circumstance is deemed to exist  
583 if:

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

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

595 b. If an obligor voluntarily retires before reaching any  
596 of the ages described in sub-subparagraph a., the court shall  
597 determine whether the obligor's retirement is reasonable upon  
598 consideration of the obligor's age, health, and motivation for

599 retirement and the financial impact on the obligee. A finding of  
600 reasonableness by the court shall constitute a substantial  
601 change in circumstance.

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

- 609 a. The age of the parties.  
610 b. The health of the parties.  
611 c. The assets and liabilities of the parties.  
612 d. The earned or imputed income of the parties as provided  
613 in s. 61.08(1)(a) and (5).  
614 e. The ability of the parties to maintain part-time or  
615 full-time employment.  
616 f. Any other factor deemed relevant by the court.

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

620 (e) A party who unreasonably pursues or defends an action  
621 for modification of alimony shall be required to pay the  
622 reasonable attorney fees and costs of the prevailing party.  
623 Further, a party obligated to pay prevailing party attorney fees  
624 and costs in connection with unreasonably pursuing or defending



625 an action for modification is not entitled to an award of  
626 attorney fees and cost in accordance with s. 61.16.

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

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

638 (h)-(d) The department may ~~shall have authority to~~ adopt  
639 rules to implement this section.

640 Section 4. The amendments made by this act to chapter 61,  
641 Florida Statutes, apply to all initial determinations of alimony  
642 and all alimony modification actions that are pending on October  
643 1, 2016, or that are brought on or after October 1, 2016. The  
644 changes to the law made by this act do not constitute a  
645 substantial change in circumstances and may not serve as the  
646 sole basis to seek a modification of an alimony award made  
647 before the effective date of this act.

648 Section 5. This act shall take effect October 1, 2016.