

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.; requiring a court to consider certain alimony
4 factors and make specific written findings of fact
5 under certain circumstances; prohibiting a court from
6 using certain presumptive alimony guidelines in
7 calculating alimony pendente lite; amending s. 61.08,
8 F.S.; defining terms; requiring a court to make
9 specified initial written findings in a dissolution of
10 marriage proceeding where a party has requested
11 alimony; requiring a court to make specified findings
12 before ruling on a request for alimony; providing for
13 determinations of presumptive alimony amount range and
14 duration range; providing presumptions concerning
15 alimony awards depending on the duration of marriages;
16 providing for imputation of income in certain
17 circumstances; providing for awards of nominal alimony
18 in certain circumstances; providing for taxability and
19 deductibility of alimony awards; prohibiting a
20 combined award of alimony and child support from
21 constituting more than a specified percentage of a
22 payor's net income; authorizing the court to order a
23 party to protect an alimony award by specified means;
24 providing for termination of an award; authorizing a
25 court to modify or terminate the amount of an initial
26 alimony award; prohibiting a court from modifying the
27 duration of an alimony award; providing for payment of
28 awards; amending s. 61.13, F.S.; revising public
29 policy; revising the factors that are used to

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30 determine the best interests of a child; requiring a
31 court order to be supported by written findings of
32 fact for a specified initial permanent time-sharing
33 schedule; amending s. 61.14, F.S.; prohibiting a court
34 from changing the duration of alimony; authorizing a
35 party to pursue an immediate modification of alimony
36 in certain circumstances; revising factors to be
37 considered in determining whether an existing award of
38 alimony should be reduced or terminated because of an
39 alleged supportive relationship; providing for burden
40 of proof for claims concerning the existence of
41 supportive relationships; providing for the effective
42 date of a reduction or termination of an alimony
43 award; providing that the remarriage of an alimony
44 obligor is not a substantial change in circumstance;
45 providing that the financial information of a spouse
46 of a party paying or receiving alimony is inadmissible
47 and undiscoverable; providing an exception; providing
48 for modification or termination of an award based on a
49 party's retirement; providing a presumption upon a
50 finding of a substantial change in circumstance;
51 specifying factors to be considered in determining
52 whether to modify or terminate an award based on a
53 substantial change in circumstance; providing for a
54 temporary suspension of an obligor's payment of
55 alimony while his or her petition for modification or
56 termination is pending; providing for an award of
57 attorney fees and costs for unreasonably pursuing or
58 defending a modification of an award; providing for an

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59 effective date of a modification or termination of an
60 award; amending s. 61.30, F.S.; requiring that a child
61 support award be adjusted to reduce the combined
62 alimony and child support award under certain
63 circumstances; creating s. 61.192, F.S.; providing for
64 motions to advance the trial of certain actions if a
65 specified period has passed since the initial service
66 on the respondent; amending ss. 61.1827 and 409.2579,
67 F.S.; conforming cross-references; providing
68 applicability; providing an effective date.

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

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

74 61.071 Alimony pendente lite; suit money.—In every
75 proceeding for dissolution of the marriage, a party may claim
76 alimony and suit money in the petition or by motion, and if the
77 petition is well founded, the court shall allow a reasonable sum
78 therefor. If a party in any proceeding for dissolution of
79 marriage claims alimony or suit money in his or her answer or by
80 motion, and the answer or motion is well founded, the court
81 shall allow a reasonable sum therefor. After determining there
82 is a need for alimony and that there is an ability to pay
83 alimony, the court shall consider the alimony factors in s.
84 61.08(4)(b)1.-14. and make specific written findings of fact
85 regarding the relevant factors that justify an award of alimony
86 under this section. The court may not use the presumptive
87 alimony guidelines in s. 61.08 to calculate alimony under this

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88 section.

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

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

93 61.08 Alimony.—

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

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

98 a. Income from salaries.

99 b. Wages, including tips declared by the individual for
100 purposes of reporting to the Internal Revenue Service or tips
101 imputed to bring the employee's gross earnings to the minimum
102 wage for the number of hours worked, whichever is greater.

103 c. Commissions.

104 d. Payments received as an independent contractor for labor
105 or services, which payments must be considered income from self-
106 employment.

107 e. Bonuses.

108 f. Dividends.

109 g. Severance pay.

110 h. Pension payments and retirement benefits actually
111 received.

112 i. Royalties.

113 j. Rental income, which is gross receipts minus ordinary
114 and necessary expenses required to produce the income.

115 k. Interest.

116 l. Trust income and distributions which are regularly

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- 117 received, relied upon, or readily available to the beneficiary.
- 118 m. Annuity payments.
- 119 n. Capital gains.
- 120 o. Any money drawn by a self-employed individual for
- 121 personal use that is deducted as a business expense, which
- 122 moneys must be considered income from self-employment.
- 123 p. Social security benefits, including social security
- 124 benefits actually received by a party as a result of the
- 125 disability of that party.
- 126 q. Workers' compensation benefits.
- 127 r. Unemployment insurance benefits.
- 128 s. Disability insurance benefits.
- 129 t. Funds payable from any health, accident, disability, or
- 130 casualty insurance to the extent that such insurance replaces
- 131 wages or provides income in lieu of wages.
- 132 u. Continuing monetary gifts.
- 133 v. Income from general partnerships, limited partnerships,
- 134 closely held corporations, or limited liability companies;
- 135 except that if a party is a passive investor, has a minority
- 136 interest in the company, and does not have any managerial duties
- 137 or input, the income to be recognized may be limited to actual
- 138 cash distributions received.
- 139 w. Expense reimbursements or in-kind payments or benefits
- 140 received by a party in the course of employment, self-
- 141 employment, or operation of a business which reduces personal
- 142 living expenses.
- 143 x. Overtime pay.
- 144 y. Income from royalties, trusts, or estates.
- 145 z. Spousal support received from a previous marriage.

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146 aa. Gains derived from dealings in property, unless the
147 gain is nonrecurring.

148 2. "Gross income" does not include:

149 a. Child support payments received.

150 b. Benefits received from public assistance programs.

151 c. Social security benefits received by a parent on behalf
152 of a minor child as a result of the death or disability of a
153 parent or stepparent.

154 d. Earnings or gains on retirement accounts, including
155 individual retirement accounts; except that such earnings or
156 gains shall be included as income if a party takes a
157 distribution from the account. If a party is able to take a
158 distribution from the account without being subject to a federal
159 tax penalty for early distribution and the party chooses not to
160 take such a distribution, the court may consider the
161 distribution that could have been taken in determining the
162 party's gross income.

163 3.a. For income from self-employment, rent, royalties,
164 proprietorship of a business, or joint ownership of a
165 partnership or closely held corporation, the term "gross income"
166 equals gross receipts minus ordinary and necessary expenses, as
167 defined in sub-subparagraph b., which are required to produce
168 such income.

169 b. "Ordinary and necessary expenses," as used in sub-
170 subparagraph a., does not include amounts allowable by the
171 Internal Revenue Service for the accelerated component of
172 depreciation expenses or investment tax credits or any other
173 business expenses determined by the court to be inappropriate
174 for determining gross income for purposes of calculating

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175 alimony.

176 (b) "Potential income" means income which could be earned
177 by a party using his or her best efforts and includes potential
178 income from employment and potential income from the investment
179 of assets or use of property. Potential income from employment
180 is the income which a party could reasonably expect to earn by
181 working at a locally available, full-time job commensurate with
182 his or her education, training, and experience. Potential income
183 from the investment of assets or use of property is the income
184 which a party could reasonably expect to earn from the
185 investment of his or her assets or the use of his or her
186 property in a financially prudent manner.

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

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

195 a. Expected to result in higher income within the
196 foreseeable future.

197 b. A good faith educational choice based upon the previous
198 education, training, skills, and experience of the party and the
199 availability of immediate employment based upon the educational
200 program being pursued.

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

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

208 (a) The amount of each party's monthly gross income,
209 including, but not limited to, the actual or potential income,
210 and also including actual or potential income from nonmarital or
211 marital property distributed to each party.

212 (b) The years of marriage as determined from the date of
213 marriage through the date of the filing of the action for
214 dissolution of marriage.

215 (3) ALIMONY GUIDELINES.—After making the initial findings
216 described in subsection (2), the court shall calculate the
217 presumptive alimony amount range and the presumptive alimony
218 duration range. The court shall make written findings as to the
219 presumptive alimony amount range and presumptive alimony
220 duration range.

221 (a) Presumptive alimony amount range.—The low end of the
222 presumptive alimony amount range shall be calculated by using
223 the following formula:

224
225 (0.015 x the years of marriage) x the difference between the
226 monthly gross incomes of the parties

227
228 The high end of the presumptive alimony amount range shall be
229 calculated by using the following formula:

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231 (0.020 x the years of marriage) x the difference between the
232 monthly gross incomes of the parties

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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

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

0.75 x the years of marriage

(4) ALIMONY AWARD.—

(a) Marriages of 2 years or less.—For marriages of 2 years or less, there is a rebuttable presumption that no alimony shall be awarded. The court may award alimony for a marriage with a

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262 duration of 2 years or less only if the court makes written
263 findings that there is a clear and convincing need for alimony,
264 there is an ability to pay alimony, and that the failure to
265 award alimony would be inequitable. The court shall then
266 establish the alimony award in accordance with paragraph (b).

267 (b) Marriages of more than 2 years.—Absent an agreement of
268 the parties, alimony shall presumptively be awarded in an amount
269 within the alimony amount range calculated in paragraph (3)(a).
270 Absent an agreement of the parties, alimony shall presumptively
271 be awarded for a duration within the alimony duration range
272 calculated in paragraph (3)(b). In determining the amount and
273 duration of the alimony award, the court shall consider all of
274 the following factors upon which evidence was presented:

275 1. The financial resources of the recipient spouse,
276 including the actual or potential income from nonmarital or
277 marital property or any other source and the ability of the
278 recipient spouse to meet his or her reasonable needs
279 independently.

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

284 3. The standard of living of the parties during the
285 marriage with consideration that there will be two households to
286 maintain after the dissolution of the marriage and that neither
287 party may be able to maintain the same standard of living after
288 the dissolution of the marriage.

289 4. The equitable distribution of marital property,
290 including whether an unequal distribution of marital property

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291 was made to reduce or alleviate the need for alimony.

292 5. Both parties' income, employment, and employability,
293 obtainable through reasonable diligence and additional training
294 or education, if necessary, and any necessary reduction in
295 employment due to the needs of an unemancipated child of the
296 marriage or the circumstances of the parties.

297 6. Whether a party could become better able to support
298 himself or herself and reduce the need for ongoing alimony by
299 pursuing additional educational or vocational training along
300 with all of the details of such educational or vocational plan,
301 including, but not limited to, the length of time required and
302 the anticipated costs of such educational or vocational
303 training.

304 7. Whether one party has historically earned higher or
305 lower income than the income reflected at the time of trial and
306 the duration and consistency of income from overtime or
307 secondary employment.

308 8. Whether either party has foregone or postponed economic,
309 educational, or employment opportunities during the course of
310 the marriage.

311 9. Whether either party has caused the unreasonable
312 depletion or dissipation of marital assets.

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

315 11. The age, health, and physical and mental condition of
316 the parties, including consideration of significant health care
317 needs or uninsured or unreimbursed health care expenses.

318 12. Significant economic or noneconomic contributions to
319 the marriage or to the economic, educational, or occupational

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320 advancement of a party, including, but not limited to, services
321 rendered in homemaking, child care, education, and career
322 building of the other party, payment by one spouse of the other
323 spouse's separate debts, or enhancement of the other spouse's
324 personal or real property.

325 13. The tax consequence of the alimony award.

326 14. Any other factor necessary to do equity and justice
327 between the parties.

328 (c) Deviation from guidelines.—The court may establish an
329 award of alimony that is outside the presumptive alimony amount
330 or alimony duration ranges only if the court considers all of
331 the factors in paragraph (b) and makes specific written findings
332 concerning the relevant factors justifying that the application
333 of the presumptive alimony amount or alimony duration ranges, as
334 applicable, is inappropriate or inequitable.

335 (d) Order establishing alimony award.—After consideration
336 of the presumptive alimony amount and duration ranges in
337 accordance with paragraphs (3) (a) and (b) and the factors upon
338 which evidence was presented in accordance with paragraph (b),
339 the court may establish an alimony award. An order establishing
340 an alimony award must clearly set forth both the amount and the
341 duration of the award. The court shall also make a written
342 finding that the payor has the financial ability to pay the
343 award.

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

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349 (6) NOMINAL ALIMONY.—Notwithstanding subsections (1), (3),
350 and (4), the court may make an award of nominal alimony in the
351 amount of \$1 per year if, at the time of trial, a party who has
352 traditionally provided the primary source of financial support
353 to the family temporarily lacks the ability to pay support but
354 is reasonably anticipated to have the ability to pay support in
355 the future. The court may also award nominal alimony for an
356 alimony recipient who is presently able to work but for whom a
357 medical condition with a reasonable degree of medical certainty
358 may inhibit or prevent his or her ability to work during the
359 duration of the alimony period. The duration of the nominal
360 alimony shall be established within the presumptive durational
361 range based upon the length of the marriage subject to the
362 alimony factors in paragraph (4) (b). Before the expiration of
363 the durational period, nominal alimony may be modified in
364 accordance with s. 61.14 as to amount to a full alimony award
365 using the alimony guidelines and factors in accordance with s.
366 61.08.

367 (7) TAXABILITY AND DEDUCTIBILITY OF ALIMONY.—

368 (a) Unless otherwise stated in the judgment or order for
369 alimony or in an agreement incorporated thereby, alimony shall
370 be deductible from income by the payor under s. 215 of the
371 Internal Revenue Code and includable in the income of the payee
372 under s. 71 of the Internal Revenue Code.

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

377 (c) The parties may, in a marital settlement agreement,

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378 separation agreement, or related agreement, specifically agree
379 in writing that alimony be nondeductible from income by the
380 payor and nonincludable in the income of the payee.

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

385 (9) SECURITY OF AWARD.—To the extent necessary to protect
386 an award of alimony, the court may order any party who is
387 ordered to pay alimony to purchase or maintain a decreasing term
388 life insurance policy or a bond, or to otherwise secure such
389 alimony award with any other assets that may be suitable for
390 that purpose, in an amount adequate to secure the alimony award.
391 Any such security may be awarded only upon a showing of special
392 circumstances. If the court finds special circumstances and
393 awards such security, the court must make specific evidentiary
394 findings regarding the availability, cost, and financial impact
395 on the obligated party. Any security may be modifiable in the
396 event the underlying alimony award is modified and shall be
397 reduced in an amount commensurate with any reduction in the
398 alimony award.

399 (10) TERMINATION OF AWARD.—An alimony award shall terminate
400 upon the death of either party or the remarriage of the obligee.

401 (11) MODIFICATION OF AWARD.—A court may subsequently modify
402 or terminate the amount of an award of alimony initially
403 established under this section in accordance with s. 61.14.
404 However, a court may not modify the duration of an award of
405 alimony initially established under this section.

406 (12) PAYMENT OF AWARD.—

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407 (a) With respect to an order requiring the payment of
408 alimony entered on or after January 1, 1985, unless paragraph
409 (c) or paragraph (d) applies, the court shall direct in the
410 order that the payments of alimony be made through the
411 appropriate depository as provided in s. 61.181.

412 (b) With respect to an order requiring the payment of
413 alimony entered before January 1, 1985, upon the subsequent
414 appearance, on or after that date, of one or both parties before
415 the court having jurisdiction for the purpose of modifying or
416 enforcing the order or in any other proceeding related to the
417 order, or upon the application of either party, unless paragraph
418 (c) or paragraph (d) applies, the court shall modify the terms
419 of the order as necessary to direct that payments of alimony be
420 made through the appropriate depository as provided in s.
421 61.181.

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

424 (d)1. If there is a minor child of the parties and both
425 parties so request, the court may order that alimony payments do
426 not need to be directed through the depository. In this case,
427 the order of support shall provide, or be deemed to provide,
428 that either party may subsequently apply to the depository to
429 require that payments be made through the depository. The court
430 shall provide a copy of the order to the depository.

431 2. If subparagraph 1. applies, either party may
432 subsequently file with the clerk of the court a verified motion
433 alleging a default or arrearages in payment stating that the
434 party wishes to initiate participation in the depository
435 program. The moving party shall copy the other party with the

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436 motion. No later than 15 days after filing the motion, the court
437 shall conduct an evidentiary hearing establishing the default
438 and arrearages, if any, and issue an order directing the clerk
439 of the circuit court to establish, or amend an existing, family
440 law case history account, and further advising the parties that
441 future payments must thereafter be directed through the
442 depository.

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

446 Section 3. Paragraph (c) of subsection (2) and subsection
447 (3) of section 61.13, Florida Statutes, are amended, present
448 subsections (4) through (8) of that section are redesignated as
449 subsections (5) through (9), respectively, and a new subsection
450 (4) is added to that section, to read:

451 61.13 Support of children; parenting and time-sharing;
452 powers of court.-

453 (2)

454 (c) The court shall determine all matters relating to
455 parenting and time-sharing of each minor child of the parties in
456 accordance with the best interests of the child and in
457 accordance with the Uniform Child Custody Jurisdiction and
458 Enforcement Act, except that modification of a parenting plan
459 and time-sharing schedule requires a showing of a substantial,
460 material, and unanticipated change of circumstances.

461 1. Absent good cause, it is the public policy of this state
462 that the best interest of each minor child is served by a time-
463 sharing schedule that provides for substantially equal time-
464 sharing with both parents. It is the public policy of this state

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465 ~~that each minor child has frequent and continuing contact with~~
466 ~~both parents after the parents separate or the marriage of the~~
467 ~~parties is dissolved and to encourage parents to share the~~
468 rights and responsibilities, and joys, of childrearing. There is
469 no presumption for or against the father or mother of the child
470 or for or against any specific time-sharing schedule when
471 creating or modifying the parenting plan of the child.

472 2. The court shall order that the parental responsibility
473 for a minor child be shared by both parents unless the court
474 finds that shared parental responsibility would be detrimental
475 to the child. Evidence that a parent has been convicted of a
476 misdemeanor of the first degree or higher involving domestic
477 violence, as defined in s. 741.28 and chapter 775, or meets the
478 criteria of s. 39.806(1)(d), creates a rebuttable presumption of
479 detriment to the child. If the presumption is not rebutted after
480 the convicted parent is advised by the court that the
481 presumption exists, shared parental responsibility, including
482 time-sharing with the child, and decisions made regarding the
483 child, may not be granted to the convicted parent. However, the
484 convicted parent is not relieved of any obligation to provide
485 financial support. If the court determines that shared parental
486 responsibility would be detrimental to the child, it may order
487 sole parental responsibility and make such arrangements for
488 time-sharing as specified in the parenting plan as will best
489 protect the child or abused spouse from further harm. Whether or
490 not there is a conviction of any offense of domestic violence or
491 child abuse or the existence of an injunction for protection
492 against domestic violence, the court shall consider evidence of
493 domestic violence or child abuse as evidence of detriment to the

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494 child.

495 a. In ordering shared parental responsibility, the court
496 may consider the expressed desires of the parents and may grant
497 to one party the ultimate responsibility over specific aspects
498 of the child's welfare or may divide those responsibilities
499 between the parties based on the best interests of the child.
500 Areas of responsibility may include education, health care, and
501 any other responsibilities that the court finds unique to a
502 particular family.

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

506 3. Access to records and information pertaining to a minor
507 child, including, but not limited to, medical, dental, and
508 school records, may not be denied to either parent. Full rights
509 under this subparagraph apply to either parent unless a court
510 order specifically revokes these rights, including any
511 restrictions on these rights as provided in a domestic violence
512 injunction. A parent having rights under this subparagraph has
513 the same rights upon request as to form, substance, and manner
514 of access as are available to the other parent of a child,
515 including, without limitation, the right to in-person
516 communication with medical, dental, and education providers.

517 (3) For purposes of establishing or modifying parental
518 responsibility and creating, developing, approving, or modifying
519 a parenting plan, including a time-sharing schedule, which
520 governs each parent's relationship with his or her minor child
521 and the relationship between each parent with regard to his or
522 her minor child, the best interest of the child shall be the

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523 primary consideration. A determination of parental
524 responsibility, a parenting plan, or a time-sharing schedule may
525 not be modified without a showing of a substantial, material,
526 and unanticipated change in circumstances and a determination
527 that the modification is in the best interests of the child.
528 Determination of the best interests of the child shall be made
529 by evaluating all of the factors affecting the welfare and
530 interests of the particular minor child and the circumstances of
531 that family, including, ~~but not limited to:~~

532 (a) The demonstrated capacity or ~~and~~ disposition of each
533 parent to facilitate and encourage a close and continuing
534 parent-child relationship, to honor the time-sharing schedule,
535 and to be reasonable when changes are required.

536 (b) The anticipated division of parental responsibilities
537 after the litigation, including the extent to which parental
538 responsibilities will be delegated to third parties.

539 (c) The demonstrated capacity and disposition of each
540 parent to determine, consider, and act upon the needs of the
541 child as opposed to the needs or desires of the parent.

542 (d) The length of time the child has lived in a stable,
543 satisfactory environment and the desirability of maintaining
544 continuity.

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

550 (f) The moral fitness of the parents.

551 (g) The mental and physical health of the parents.

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552 (h) The home, school, and community record of the child.

553 (i) The reasonable preference of the child, if the court
554 deems the child to be of sufficient intelligence, understanding,
555 and experience to express a preference.

556 (j) The demonstrated knowledge, capacity, or ~~and~~
557 disposition of each parent to be informed of the circumstances
558 of the minor child, including, but not limited to, the child's
559 friends, teachers, medical care providers, daily activities, and
560 favorite things.

561 (k) The demonstrated capacity or ~~and~~ disposition of each
562 parent to provide a consistent routine for the child, such as
563 discipline, and daily schedules for homework, meals, and
564 bedtime.

565 (l) The demonstrated capacity of each parent to communicate
566 with the other parent and keep the other parent informed of
567 issues and activities regarding the minor child, and the
568 willingness of each parent to adopt a unified front on all major
569 issues when dealing with the child.

570 (m) Evidence of domestic violence, sexual violence, child
571 abuse, child abandonment, or child neglect, regardless of
572 whether a prior or pending action relating to those issues has
573 been brought. If the court accepts evidence of prior or pending
574 actions regarding domestic violence, sexual violence, child
575 abuse, child abandonment, or child neglect, the court must
576 specifically acknowledge in writing that such evidence was
577 considered when evaluating the best interests of the child.

578 (n) Evidence that either parent has knowingly provided
579 false information to the court regarding any prior or pending
580 action regarding domestic violence, sexual violence, child

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581 abuse, child abandonment, or child neglect.

582 (o) The demonstrated capacity or disposition of each parent
583 to perform or ensure the performance of particular parenting
584 tasks customarily performed by the other ~~each~~ parent and the
585 division of parental responsibilities before the institution of
586 litigation and during the pending litigation, including the
587 extent to which parenting responsibilities were undertaken by
588 third parties.

589 (p) The demonstrated capacity and disposition of each
590 parent to participate and be involved in the child's school and
591 extracurricular activities.

592 (q) The demonstrated capacity and disposition of each
593 parent to maintain an environment for the child which is free
594 from substance abuse.

595 (r) The capacity and disposition of each parent to protect
596 the child from the ongoing litigation as demonstrated by not
597 discussing the litigation with the child, not sharing documents
598 or electronic media related to the litigation with the child,
599 and refraining from disparaging comments about the other parent
600 to the child.

601 (s) The developmental stages and needs of the child and the
602 demonstrated capacity and disposition of each parent to meet the
603 child's developmental needs.

604 (t) The amount of time-sharing requested by each parent.

605 (u) The frequency that a parent would likely leave the
606 child in the care of a nonrelative on evenings and weekends when
607 the other parent would be available and willing to provide care.

608 (v) ~~(t)~~ Any other factor that is relevant to the
609 determination of a specific parenting plan, including the time-

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610 sharing schedule.

611 (4) A court order must be supported by written findings of
612 fact if the order establishes an initial permanent time-sharing
613 schedule that does not provide for substantially equal time-
614 sharing.

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

617 61.14 Enforcement and modification of support, maintenance,
618 or alimony agreements or orders.—

619 (1) (a) When the parties enter into an agreement for
620 payments for, or instead of, support, maintenance, or alimony,
621 whether in connection with a proceeding for dissolution or
622 separate maintenance or with any voluntary property settlement,
623 or when a party is required by court order to make any payments,
624 and the circumstances or the financial ability of either party
625 changes or the child who is a beneficiary of an agreement or
626 court order as described herein reaches majority after the
627 execution of the agreement or the rendition of the order, either
628 party may apply to the circuit court of the circuit in which the
629 parties, or either of them, resided at the date of the execution
630 of the agreement or reside at the date of the application, or in
631 which the agreement was executed or in which the order was
632 rendered, for an order decreasing or increasing the amount of
633 support, maintenance, or alimony, and the court has jurisdiction
634 to make orders as equity requires, with due regard to the
635 changed circumstances or the financial ability of the parties or
636 the child, decreasing, increasing, or confirming the amount of
637 separate support, maintenance, or alimony provided for in the
638 agreement or order. However, a court may not decrease or

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639 increase the duration of alimony provided for in the agreement
640 or order. A party is entitled to pursue an immediate
641 modification of alimony if the actual income earned by the other
642 party exceeds by at least 10 percent the amount imputed to that
643 party at the time the existing alimony award was determined and
644 such circumstance shall constitute a substantial change in
645 circumstances sufficient to support a modification of alimony.
646 However, an increase in an alimony obligor's income alone does
647 not constitute a basis for a modification to increase alimony
648 unless at the time the alimony award was established it was
649 determined that the obligor was underemployed or unemployed and
650 the court did not impute income to that party at his or her
651 maximum potential income. If an alimony obligor becomes
652 involuntarily underemployed or unemployed for a period of 6
653 months following the entry of the last order requiring the
654 payment of alimony, the obligor is entitled to pursue an
655 immediate modification of his or her existing alimony
656 obligations and such circumstance shall constitute a substantial
657 change in circumstance sufficient to support a modification of
658 alimony. A finding that medical insurance is reasonably
659 available or the child support guidelines schedule in s. 61.30
660 may constitute changed circumstances. Except as otherwise
661 provided in s. 61.30(11)(c), the court may modify an order of
662 support, maintenance, or alimony by increasing or decreasing the
663 support, maintenance, or alimony retroactively to the date of
664 the filing of the action or supplemental action for modification
665 as equity requires, giving due regard to the changed
666 circumstances or the financial ability of the parties or the
667 child.

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668 (b)1. The court may reduce or terminate an award of alimony
669 upon specific written findings by the court that since the
670 granting of a divorce and the award of alimony a supportive
671 relationship exists or has existed within the previous year
672 before the date of the filing of the petition for modification
673 or termination between the obligee and another a person ~~with~~
674 ~~whom the obligee resides. On the issue of whether alimony should~~
675 ~~be reduced or terminated under this paragraph, the burden is on~~
676 ~~the obligor to prove by a preponderance of the evidence that a~~
677 ~~supportive relationship exists.~~

678 2. In determining whether an existing award of alimony
679 should be reduced or terminated because of an alleged supportive
680 relationship between an obligee and a person who is not related
681 by consanguinity or affinity ~~and with whom the obligee resides,~~
682 the court shall elicit the nature and extent of the relationship
683 in question. The court shall give consideration, without
684 limitation, to circumstances, including, but not limited to, the
685 following, in determining the relationship of an obligee to
686 another person:

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

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

695 c. The extent to which the obligee and the other person
696 have pooled their assets or income or otherwise exhibited

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697 financial interdependence.

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

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

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

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

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

708 i. Evidence in support of a claim that the obligee and the
709 other person have an express agreement regarding property
710 sharing or support.

711 j. Evidence in support of a claim that the obligee and the
712 other person have an implied agreement regarding property
713 sharing or support.

714 k. Whether the obligee and the other person have provided
715 support to the children of one another, regardless of any legal
716 duty to do so.

717 1. Whether the obligor's failure, in whole or in part, to
718 comply with all court-ordered financial obligations to the
719 obligee constituted a significant factor in the establishment of
720 the supportive relationship.

721 3. In any proceeding to modify an alimony award based upon
722 a supportive relationship, the obligor has the burden of proof
723 to establish, by a preponderance of the evidence, that a
724 supportive relationship exists or has existed within the
725 previous year before the date of the filing of the petition for

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726 modification or termination. The obligor is not required to
727 prove cohabitation of the obligee and the third party.

728 4. Notwithstanding paragraph (f), if a reduction or
729 termination is granted under this paragraph, the reduction or
730 termination is retroactive to the date of filing of the petition
731 for reduction or termination.

732 5.3. This paragraph does not abrogate the requirement that
733 every marriage in this state be solemnized under a license, does
734 not recognize a common law marriage as valid, and does not
735 recognize a de facto marriage. This paragraph recognizes only
736 that relationships do exist that provide economic support
737 equivalent to a marriage and that alimony terminable on
738 remarriage may be reduced or terminated upon the establishment
739 of equivalent equitable circumstances as described in this
740 paragraph. The existence of a conjugal relationship, though it
741 may be relevant to the nature and extent of the relationship, is
742 not necessary for the application of the provisions of this
743 paragraph.

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

747 2. The financial information, including, but not limited
748 to, information related to assets and income, of a subsequent
749 spouse of a party paying or receiving alimony is inadmissible
750 and may not be considered as a part of any modification action
751 unless a party is claiming that his or her income has decreased
752 since the marriage. If a party makes such a claim, the financial
753 information of the subsequent spouse is discoverable and
754 admissible only to the extent necessary to establish whether the

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755 party claiming that his or her income has decreased is diverting
756 income or assets to the subsequent spouse that might otherwise
757 be available for the payment of alimony. However, this
758 subparagraph may not be used to prevent the discovery of or
759 admissibility in evidence of the income or assets of a party
760 when those assets are held jointly with a subsequent spouse.
761 This subparagraph is not intended to prohibit the discovery or
762 admissibility of a joint tax return filed by a party and his or
763 her subsequent spouse in connection with a modification of
764 alimony.

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

768 a. A substantial change in circumstance is deemed to exist
769 if:

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

773 (II) The obligor has reached the customary retirement age
774 for his or her occupation and has retired from that occupation.
775 An obligor may file an action within 1 year of his or her
776 anticipated retirement date and the court shall determine the
777 customary retirement date for the obligor's profession. However,
778 a determination of the customary retirement age is not an
779 adjudication of a petition for a modification of an alimony
780 award.

781 b. If an obligor voluntarily retires before reaching any of
782 the ages described in sub-subparagraph a., the court shall
783 determine whether the obligor's retirement is reasonable upon

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784 consideration of the obligor's age, health, and motivation for
785 retirement and the financial impact on the obligee. A finding of
786 reasonableness by the court shall constitute a substantial
787 change in circumstance.

788 2. Upon a finding of a substantial change in circumstance,
789 there is a rebuttable presumption that an obligor's existing
790 alimony obligation shall be modified or terminated. The court
791 shall modify or terminate the alimony obligation, or make a
792 determination regarding whether the rebuttable presumption has
793 been overcome, based upon the following factors applied to the
794 current circumstances of the obligor and obligee:

795 a. The age of the parties.

796 b. The health of the parties.

797 c. The assets and liabilities of the parties.

798 d. The earned or imputed income of the parties as provided
799 in s. 61.08(1) (a) and (5).

800 e. The ability of the parties to maintain part-time or
801 full-time employment.

802 f. Any other factor deemed relevant by the court.

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

806 (e) A party who unreasonably pursues or defends an action
807 for modification of alimony shall be required to pay the
808 reasonable attorney fees and costs of the prevailing party.
809 Further, a party obligated to pay prevailing party attorney fees
810 and costs in connection with unreasonably pursuing or defending
811 an action for modification is not entitled to an award of
812 attorney fees and costs in accordance with s. 61.16.

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813 (f) There is a rebuttable presumption that a modification
814 or termination of an alimony award is retroactive to the date of
815 the filing of the petition, unless the obligee demonstrates that
816 the result is inequitable.

817 (g)~~(e)~~ For each support order reviewed by the department as
818 required by s. 409.2564(11), if the amount of the child support
819 award under the order differs by at least 10 percent but not
820 less than \$25 from the amount that would be awarded under s.
821 61.30, the department shall seek to have the order modified and
822 any modification shall be made without a requirement for proof
823 or showing of a change in circumstances.

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

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

828 61.30 Child support guidelines; retroactive child support.-
829 (11)

830 (d) Whenever a combined alimony and child support award
831 constitutes more than 55 percent of the payor's net income,
832 calculated without any consideration of alimony or child support
833 obligations, the court shall adjust the award of child support
834 to ensure that the 55 percent cap is not exceeded.

835 Section 6. Section 61.192, Florida Statutes, is created to
836 read:

837 61.192 Advancing trial.-In an action brought pursuant to
838 this chapter, if more than 2 years have passed since the initial
839 petition was served on the respondent, either party may move the
840 court to advance the trial of their action on the docket. This
841 motion may be made at any time after 2 years have passed since

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842 the petition was served, and once made the court must give the
843 case priority on the court's calendar.

844 Section 7. Subsection (1) of section 61.1827, Florida
845 Statutes, is amended to read:

846 61.1827 Identifying information concerning applicants for
847 and recipients of child support services.—

848 (1) Any information that reveals the identity of applicants
849 for or recipients of child support services, including the name,
850 address, and telephone number of such persons, held by a non-
851 Title IV-D county child support enforcement agency is
852 confidential and exempt from s. 119.07(1) and s. 24(a) of Art. I
853 of the State Constitution. The use or disclosure of such
854 information by the non-Title IV-D county child support
855 enforcement agency is limited to the purposes directly connected
856 with:

857 (a) Any investigation, prosecution, or criminal or civil
858 proceeding connected with the administration of any non-Title
859 IV-D county child support enforcement program;

860 (b) Mandatory disclosure of identifying and location
861 information as provided in s. 61.13(8) ~~s. 61.13(7)~~ by the non-
862 Title IV-D county child support enforcement agency when
863 providing non-Title IV-D services;

864 (c) Mandatory disclosure of information as required by ss.
865 409.2577, 61.181, 61.1825, and 61.1826 and Title IV-D of the
866 Social Security Act; or

867 (d) Disclosure to an authorized person, as defined in 45
868 C.F.R. s. 303.15, for purposes of enforcing any state or federal
869 law with respect to the unlawful taking or restraint of a child
870 or making or enforcing a parenting plan. As used in this

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871 paragraph, the term "authorized person" includes a parent with
872 whom the child does not currently reside, unless a court has
873 entered an order under s. 741.30, s. 741.31, or s. 784.046.

874 Section 8. Subsection (1) of section 409.2579, Florida
875 Statutes, is amended to read:

876 409.2579 Safeguarding Title IV-D case file information.—

877 (1) Information concerning applicants for or recipients of
878 Title IV-D child support services is confidential and exempt
879 from the provisions of s. 119.07(1). The use or disclosure of
880 such information by the IV-D program is limited to purposes
881 directly connected with:

882 (a) The administration of the plan or program approved
883 under part A, part B, part D, part E, or part F of Title IV;
884 under Title II, Title X, Title XIV, Title XVI, Title XIX, or
885 Title XX; or under the supplemental security income program
886 established under Title XVI of the Social Security Act;

887 (b) Any investigation, prosecution, or criminal or civil
888 proceeding connected with the administration of any such plan or
889 program;

890 (c) The administration of any other federal or federally
891 assisted program which provides service or assistance, in cash
892 or in kind, directly to individuals on the basis of need;

893 (d) Reporting to an appropriate agency or official,
894 information on known or suspected instances of physical or
895 mental injury, child abuse, sexual abuse or exploitation, or
896 negligent treatment or maltreatment of a child who is the
897 subject of a support enforcement activity under circumstances
898 which indicate that the child's health or welfare is threatened
899 thereby; and

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900 (e) Mandatory disclosure of identifying and location
901 information as provided in s. 61.13(8) ~~s. 61.13(7)~~ by the IV-D
902 program when providing Title IV-D services.

903 Section 9. The amendments made by this act to chapter 61,
904 Florida Statutes, apply to all initial determinations of alimony
905 and all alimony modification actions that are pending as of the
906 effective date of this act, and to all initial determinations of
907 alimony and all alimony modification actions brought on or after
908 the effective date of this act. The enacting of this act may not
909 serve as the sole basis for a party to seek a modification of an
910 alimony award existing before the effective date of this act.

911 Section 10. This act shall take effect October 1, 2016.