

1 A bill to be entitled
2 An act relating to dissolution of marriage; amending
3 s. 61.071, F.S.; limiting awards of suit money in
4 dissolution of marriage cases; amending s. 61.08,
5 F.S.; revising factors to be considered for alimony
6 awards; requiring a court to make certain written
7 findings concerning alimony; revising factors to be
8 considered in whether to award alimony or maintenance;
9 revising provisions relating to the protection of
10 awards of alimony; revising provisions for awards of
11 bridge-the-gap alimony and durational alimony;
12 redesignating permanent alimony as long-term alimony
13 and revising provisions relating to its award;
14 requiring written findings regarding the standard of
15 living of the parties after dissolution of marriage;
16 amending s. 61.14, F.S.; revising provisions relating
17 to the effect of a supportive relationship on an award
18 of alimony; requiring refund of alimony paid and an
19 award of costs and fees if the recipient of alimony
20 denies the existence of a supportive relationship that
21 is later found to exist or denies material facts
22 relating to a supportive relationship that are later
23 found to be true; prohibiting a court from reserving
24 jurisdiction to reinstate an alimony award if the
25 supportive relationship ends; providing that income
26 and assets of the obligor's spouse or the person with
27 whom the obligor resides may not be considered in the
28 redetermination in a modification action; providing

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29 | that if the court orders alimony concurrent with a
30 | child support order, the alimony award may not be
31 | modified due to the later modification or termination
32 | of child support payments; providing that the
33 | attaining of retirement age is a substantial change in
34 | circumstances; creating a rebuttable presumption that
35 | alimony terminates upon retirement of the obligor;
36 | providing for a petition for termination or
37 | modification of the alimony award effective upon the
38 | retirement date; providing for recalculation of an
39 | alimony award if the presumption is rebutted;
40 | requiring a court to require an obligee to maximize
41 | both his or her reasonable potential for
42 | rehabilitation and reasonable earning capacity to
43 | impute all income to the obligee that could be
44 | reasonably earned after achieving maximum
45 | rehabilitation and reasonably increasing earning
46 | capacity; requiring written findings regarding
47 | rehabilitation; amending s. 61.19, F.S.; requiring
48 | bifurcation of a dissolution of marriage case if the
49 | case is more than 180 days past filing; providing
50 | legislative intent; providing an effective date.

51 |
52 | Be It Enacted by the Legislature of the State of Florida:

53 |
54 | Section 1. Section 61.071, Florida Statutes, is amended to
55 | read:

56 | 61.071 Alimony pendente lite; suit money.—In every

57 proceeding for dissolution of the marriage, a party may claim
 58 alimony and suit money in the petition or by motion, and if the
 59 petition is well founded, the court shall allow a reasonable sum
 60 therefor. If a party in any proceeding for dissolution of
 61 marriage claims alimony or suit money in his or her answer or by
 62 motion, and the answer or motion is well founded, the court
 63 shall allow a reasonable sum therefor. Suit money allowed under
 64 this section may not exceed the greater of \$7,000 or the
 65 reasonable value of the representation of the party paying the
 66 fee.

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

69 61.08 Alimony.—

70 (1) In a proceeding for dissolution of marriage under s.
 71 61.052(1)(a), the court may grant alimony to either party, which
 72 alimony may be bridge-the-gap, rehabilitative, durational, or
 73 long-term permanent in nature or a any combination of bridge-
 74 the-gap and rehabilitative ~~these forms of alimony where~~
 75 appropriate. In any award of alimony, the court may order
 76 periodic payments, ~~or~~ payments in lump sum, or both. ~~The court~~
 77 ~~may consider the adultery of either spouse and the circumstances~~
 78 ~~thereof in determining the amount of alimony, if any, to be~~
 79 ~~awarded~~. In all dissolution actions, the court shall include
 80 findings of fact relative to the factors enumerated in
 81 subsection (2) supporting an award or denial of alimony.

82 (2) In determining whether to award alimony or
 83 maintenance, the court shall first make, in writing, a specific
 84 factual determination as to whether either party has an actual

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85 | need for alimony or maintenance and whether either party has the
86 | ability to pay alimony or maintenance. If the court finds that a
87 | party has a need for alimony or maintenance and that the other
88 | party has the ability to pay alimony or maintenance, then in
89 | determining the proper type and amount of alimony or maintenance
90 | under subsections (5)-(8), the court shall consider and make
91 | written findings regarding all relevant factors, including, ~~but~~
92 | ~~not limited to:~~

93 | (a) The standard of living of each party established
94 | during the marriage.

95 | (b) The duration of the marriage.

96 | (c) The age and the physical and emotional condition of
97 | each party.

98 | (d) The financial resources of each party, only to include
99 | ~~including the nonmarital and~~ the marital assets and liabilities
100 | distributed to each.

101 | (e) The earning capacities, educational levels, vocational
102 | skills, and employability of the parties and, when applicable,
103 | the time necessary for either party to acquire sufficient
104 | education or training to enable such party to find appropriate
105 | employment.

106 | (f) The contribution of each party to the marriage,
107 | including, but not limited to, services rendered in homemaking,
108 | child care, education, and career building of the other party.

109 | (g) The responsibilities each party will have with regard
110 | to any minor children the parties ~~they~~ have in common.

111 | (h) The tax treatment and consequences to both parties of
112 | any alimony award, which award must be deductible by the obligor

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113 and taxable to the obligee, except that an award for the cost of
114 the obligee's education or training necessary to establish the
115 capacity for self support need not be deductible by the obligor
116 ~~including the designation of all or a portion of the payment as~~
117 ~~a nontaxable, nondeductible payment.~~

118 (i) All sources of income available to either party,
119 including income available to either party through investments
120 of any asset held by that party that were acquired during the
121 marriage.

122 (j) The standard of living of each party after the
123 application of the alimony award. There shall be a rebuttable
124 presumption that both parties will necessarily have a lower
125 standard of living after the dissolution of marriage than the
126 standard of living they enjoyed during the marriage.

127 ~~(k)-(j)~~ Any other factor necessary to do equity and justice
128 between the parties, if that factor is specifically identified
129 in the award with findings of fact justifying the application of
130 the factor.

131 (3) To the extent necessary to protect an award of
132 alimony, the court may order any party who is ordered to pay
133 alimony to purchase or maintain a life insurance policy or a
134 bond, or to otherwise secure such alimony award with any other
135 assets which may be suitable for that purpose. The cost of life
136 insurance or a bond shall be deducted from the alimony award.
137 The requirements of this subsection are separately modifiable
138 pursuant to s. 61.14 and terminate upon termination of the award
139 of alimony.

140 (4) For purposes of determining alimony, ~~there is a~~

141 ~~rebuttable presumption that~~ a short-term marriage is a marriage
 142 having a duration of less than 7 years, a moderate-term marriage
 143 is a marriage having a duration of greater than 7 years but less
 144 than 20 ~~17~~ years, and long-term marriage is a marriage having a
 145 duration of 20 ~~17~~ years or greater. The length of a marriage is
 146 the period of time from the date of marriage until the date of
 147 filing of an action for dissolution of marriage.

148 (5) Bridge-the-gap alimony may be awarded to assist a
 149 party by providing support to allow the party to make a
 150 transition from being married to being single. Bridge-the-gap
 151 alimony is designed to assist a party with legitimate
 152 identifiable short-term needs, and the length of an award may
 153 not exceed 2 years. An award of bridge-the-gap alimony
 154 terminates upon the death of either party or upon the remarriage
 155 of the party receiving alimony. An award of bridge-the-gap
 156 alimony shall not be modifiable in amount or duration.

157 (6) (a) Rehabilitative alimony may be awarded to assist a
 158 party in establishing the capacity for self-support through
 159 either:

- 160 1. The redevelopment of previous skills or credentials; or
- 161 2. The acquisition of education, training, or work
- 162 experience necessary to develop appropriate employment skills or
- 163 credentials.

164 (b) In order to award rehabilitative alimony, there must
 165 be a specific and defined rehabilitative plan which shall be
 166 included as a part of any order awarding rehabilitative alimony.

167 (c) An award of rehabilitative alimony shall ~~may~~ be
 168 modified or terminated in accordance with s. 61.14 based upon a

169 substantial change in circumstances, upon noncompliance with the
 170 rehabilitative plan, or upon completion of the rehabilitative
 171 plan.

172 (7) There shall be a presumption in favor of durational
 173 alimony over long-term ~~may be awarded when permanent periodic~~
 174 alimony ~~is inappropriate~~. The purpose of durational alimony is
 175 to provide a party with economic assistance for a set period of
 176 time following a marriage of ~~short or~~ moderate duration or
 177 following a marriage of long duration if there is no ongoing
 178 need for support on a long-term ~~permanent~~ basis as provided in
 179 subsection (8). An award of durational alimony terminates upon
 180 the death of either party or upon the remarriage of the party
 181 receiving alimony. The amount of an award of durational alimony
 182 shall ~~may~~ be modified or terminated based upon a substantial
 183 change in circumstances or upon the existence of a supportive
 184 relationship in accordance with s. 61.14. ~~However,~~ The length of
 185 an award of durational alimony may not ~~be modified except under~~
 186 ~~exceptional circumstances and may not~~ exceed the length of the
 187 marriage.

188 (8) Long-term ~~Permanent~~ alimony may be awarded to provide
 189 for the needs and necessities of life ~~as they were established~~
 190 ~~during the marriage of the parties~~ for a party who lacks the
 191 financial ability to meet his or her needs and necessities of
 192 life following a dissolution of marriage. Long-term ~~Permanent~~
 193 alimony may be awarded following a long-term marriage ~~of long~~
 194 ~~duration~~ if such an award is appropriate upon consideration of
 195 the factors set forth in subsection (2), following a moderate-
 196 term marriage ~~of moderate duration~~ if such an award is

197 appropriate based upon clear and convincing evidence after
 198 consideration of the factors set forth in subsection (2), or
 199 following a short-term marriage ~~of short duration~~ if there are
 200 written findings of exceptional circumstances. In awarding long-
 201 term ~~permanent~~ alimony, the court shall include findings a
 202 finding that no other form of alimony will provide for the needs
 203 and necessities of life of the recipient and that no other form
 204 is fair and reasonable under the circumstances of the parties.
 205 An award of long-term ~~permanent~~ alimony terminates upon the
 206 death of either party, ~~or~~ upon the remarriage of the party
 207 receiving alimony, or as provided in s. 61.14(12). An award
 208 shall ~~may~~ be modified or terminated based upon a substantial
 209 change in circumstances or upon the existence of a supportive
 210 relationship in accordance with s. 61.14.

211 (9) Notwithstanding any other law to the contrary, an ~~The~~
 212 award of alimony may not leave the payor with ~~significantly~~ less
 213 net income or with a lower standard of living than the net
 214 ~~income of the recipient unless there are written findings of~~
 215 ~~exceptional circumstances.~~ The court shall make written findings
 216 regarding the relative incomes and standards of living citing to
 217 evidence in the record and to this subsection.

218 (10) (a) With respect to any order requiring the payment of
 219 alimony entered on or after January 1, 1985, unless ~~the~~
 220 ~~provisions of~~ paragraph (c) or paragraph (d) applies ~~apply~~, the
 221 court shall direct in the order that the payments of alimony be
 222 made through the appropriate depository as provided in s.
 223 61.181.

224 (b) With respect to any order requiring the payment of

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225 alimony entered before January 1, 1985, upon the subsequent
226 appearance, on or after that date, of one or both parties before
227 the court having jurisdiction for the purpose of modifying or
228 enforcing the order or in any other proceeding related to the
229 order, or upon the application of either party, unless ~~the~~
230 ~~provisions of~~ paragraph (c) or paragraph (d) applies ~~apply~~, the
231 court shall modify the terms of the order as necessary to direct
232 that payments of alimony be made through the appropriate
233 depository as provided in s. 61.181.

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

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

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

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

253 | rights as the obligee in requesting that payments be made
 254 | through the depository.

255 | Section 3. Paragraph (b) of subsection (1) of section
 256 | 61.14, Florida Statutes, is amended, paragraphs (c) and (d) are
 257 | added to subsection (11) of that section, and subsections (12)
 258 | and (13) are added to that section, to read:

259 | 61.14 Enforcement and modification of support,
 260 | maintenance, or alimony agreements or orders.—

261 | (1)

262 | (b)1. The court must ~~may~~ reduce or terminate an award of
 263 | alimony upon specific written findings by the court that since
 264 | the granting of a divorce and the award of alimony a supportive
 265 | relationship has existed between the obligee and a person with
 266 | whom the obligee resides. On the issue of whether alimony should
 267 | be reduced or terminated under this paragraph, the burden is on
 268 | the obligor to prove by a preponderance of the evidence that a
 269 | supportive relationship exists.

270 | 2. In determining whether an existing award of alimony
 271 | should be reduced or terminated because of an alleged supportive
 272 | relationship between an obligee and a person who is not related
 273 | by consanguinity or affinity and with whom the obligee resides,
 274 | the court shall elicit the nature and extent of the relationship
 275 | in question. The court shall give consideration, without
 276 | limitation, to circumstances~~7~~ including, but not limited to, the
 277 | following~~7~~ in determining the relationship of an obligee to
 278 | another person:

279 | a. The extent to which the obligee and the other person
 280 | have held themselves out as a married couple by engaging in

281 | conduct such as using the same last name, using a common mailing
282 | address, referring to each other in terms such as "my husband"
283 | or "my wife," or otherwise conducting themselves in a manner
284 | that evidences a permanent supportive relationship.

285 | b. The period of time that the obligee has resided with
286 | the other person in a permanent place of abode.

287 | c. The extent to which the obligee and the other person
288 | have pooled their assets or income or otherwise exhibited
289 | financial interdependence.

290 | d. The extent to which the obligee or the other person has
291 | supported the other, in whole or in part.

292 | e. The extent to which the obligee or the other person has
293 | performed valuable services for the other.

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

296 | g. Whether the obligee and the other person have worked
297 | together to create or enhance anything of value.

298 | h. Whether the obligee and the other person have jointly
299 | contributed to the purchase of any real or personal property.

300 | i. Evidence in support of a claim that the obligee and the
301 | other person have an express agreement regarding property
302 | sharing or support.

303 | j. Evidence in support of a claim that the obligee and the
304 | other person have an implied agreement regarding property
305 | sharing or support.

306 | k. Whether the obligee and the other person have provided
307 | support to the children of one another, regardless of any legal
308 | duty to do so.

309 3. This paragraph does not abrogate the requirement that
310 every marriage in this state be solemnized under a license, does
311 not recognize a common law marriage as valid, and does not
312 recognize a de facto marriage. This paragraph recognizes only
313 that relationships do exist that provide economic support
314 equivalent to a marriage and that alimony terminable on
315 remarriage may be reduced or terminated upon the establishment
316 of equivalent equitable circumstances as described in this
317 paragraph. The existence of a conjugal relationship, though it
318 may be relevant to the nature and extent of the relationship, is
319 not necessary for the application of ~~the provisions of~~ this
320 paragraph.

321 4. If the obligee denies or fails to admit any material
322 fact regarding the existence of a supportive relationship in
323 circumstances where the obligee knew or should have known about
324 the material fact and the obligor subsequently proves the
325 existence of the material fact, the court shall, in the form of
326 a civil judgment:

327 a. Order modification of the alimony award retroactive to
328 the beginning of the supportive relationship.

329 b. Award to the obligor a refund of all of the alimony the
330 obligor actually paid to the obligee from the beginning of the
331 supportive relationship.

332 c. Award to the obligor reasonable costs and attorney fees
333 incurred in proving the fact.

334 5. If the obligee denies the existence of a supportive
335 relationship and the obligor subsequently proves the existence
336 of a supportive relationship, the court shall order termination

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337 of the alimony award retroactive to the beginning of the
338 supportive relationship, award to the obligor a refund of all of
339 the alimony the obligor actually paid to the obligee from the
340 beginning of the supportive relationship, and award to the
341 obligor reasonable costs and attorney fees incurred in proving
342 the existence of the supportive relationship. An award under
343 this subparagraph shall be a civil judgment.

344 6. A court terminating an alimony award based on the
345 existence of a supportive relationship may not reserve
346 jurisdiction to later reinstate alimony.

347 (11)

348 (c) If the obligor remarries or resides with another
349 person, the income and assets of the obligor's spouse or the
350 person with whom the obligor resides may not be considered in a
351 modification action regarding such obligor.

352 (d) If the court orders alimony payable concurrent with a
353 child support order, the alimony award may not be modified
354 solely because of a later modification or termination of child
355 support payments.

356 (12) The fact that an obligor has reached the normal
357 retirement age shall be considered a substantial change in
358 circumstances as a matter of law. There is a rebuttable
359 presumption that the normal retirement age for purposes of this
360 subsection is 67 years of age. In anticipation of retirement,
361 the obligor may file a petition for termination or modification
362 of the alimony award effective upon the retirement date. There
363 is a rebuttable presumption that alimony terminates upon
364 retirement of the obligor, which may be overcome only by a

365 written finding of exceptional circumstances. If this
 366 presumption is overcome, the court shall modify the alimony
 367 award based on the circumstances of the parties after retirement
 368 of the obligor and based on the factors in subsection (2).

369 (13) In any alimony award, the court shall require an
 370 obligee to maximize both his or her reasonable potential for
 371 rehabilitation and reasonable earning capacity and shall impute
 372 all income to the obligee that could be reasonably earned after
 373 achieving maximum rehabilitation and reasonably increasing
 374 earning capacity. The court shall make written findings of fact
 375 concerning the reasonable potential of the obligee for
 376 rehabilitation and the amount of income that should be imputed
 377 to the obligee.

378 Section 4. Section 61.19, Florida Statutes, is amended to
 379 read:

380 61.19 Entry of judgment of dissolution of marriage; ~~7~~ delay
 381 period; bifurcation.—

382 (1) A ~~No~~ final judgment of dissolution of marriage may not
 383 be entered until at least 20 days have elapsed from the date of
 384 filing the original petition for dissolution of marriage, ~~17~~ but
 385 the court, on a showing that injustice would result from this
 386 delay, may enter a final judgment of dissolution of marriage at
 387 an earlier date.

388 (2) If more than 180 days has elapsed since the filing of
 389 an action for dissolution of marriage, upon the request of
 390 either spouse the court shall enter an order bifurcating the
 391 action and, if legal grounds for dissolution are proved, shall
 392 enter a judgment dissolving the marriage and reserving

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393 jurisdiction to determine all issues other than dissolution. It
394 is the intent of the Legislature that the decision in *Claughton*
395 *v. Claughton*, 393 So.2d 1061 (Fla. 1981), shall not prevent
396 bifurcation or entry of a final judgment pursuant to this
397 subsection.

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