

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Porter offered the following:

2  
3 **Amendment (with title amendment)**

4 Remove lines 133-242 and insert:

5 Section 3. Subsections (1), (2), (3), (4), (7), (8), and  
6 (9) of section 61.08, Florida Statutes, are amended to read:

7 61.08 Alimony.—

8 (1) In a proceeding for dissolution of marriage, the court  
9 may grant alimony to either party, which alimony may be bridge-  
10 the-gap, rehabilitative, durational, or long-term ~~permanent~~ in  
11 nature or any combination of these forms of alimony. In any  
12 award of alimony, the court may order periodic payments or  
13 payments in lump sum or both. The court may consider the  
14 adultery of either spouse and the circumstances thereof in  
15 determining the amount of alimony, if any, to be awarded. In all  
16 dissolution actions, the court shall include findings of fact

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17 relative to the factors enumerated in subsection (2) supporting  
18 an award or denial of alimony. The court shall make written  
19 findings regarding the basis for awarding combinations of  
20 alimony, including the basis for the types and lengths of each  
21 award.

22 (2) In determining whether to award alimony or  
23 maintenance, the court shall first make, in writing, a specific  
24 factual determination as to whether either party has an actual  
25 need for alimony or maintenance and whether either party has the  
26 ability to pay alimony or maintenance. If the court finds that a  
27 party has a need for alimony or maintenance and that the other  
28 party has the ability to pay alimony or maintenance, then in  
29 determining the proper type and amount of alimony or maintenance  
30 under subsections (5)-(8), the court shall consider and make  
31 written findings regarding all relevant factors, including, but  
32 not limited to:

33 (a) The standard of living established during the  
34 marriage.

35 (b) The duration of the marriage.

36 (c) The age and the physical and emotional condition of  
37 each party.

38 (d) The financial resources of each party, including the  
39 nonmarital and the marital assets and liabilities distributed to  
40 each.

41 (e) The earning capacities, educational levels, vocational  
42 skills, and employability of the parties and, when applicable,  
43 the time necessary for either party to acquire sufficient

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44 education or training to enable such party to find appropriate  
45 employment.

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

49 (g) The responsibilities each party will have with regard  
50 to any minor children they have in common.

51 (h) The tax treatment and consequences to both parties of  
52 any alimony award, including the designation of all or a portion  
53 of the payment as a nontaxable, nondeductible payment.

54 (i) All sources of income available to either party,  
55 including income available to either party through investments  
56 of any asset held by that party.

57 (j) The net income and standard of living available to  
58 each party after the application of the alimony award. There  
59 shall be a rebuttable presumption that both parties will  
60 necessarily have a lower standard of living after the  
61 dissolution of marriage as compared to the standard of living  
62 they enjoyed during the marriage.

63 (k) Any other factor necessary to do equity and justice  
64 between the parties, if that factor is specifically identified  
65 in the award with findings of fact justifying the application of  
66 the factor.

67 (3) To the extent necessary to protect an award of  
68 alimony, the court may order any party who is ordered to pay  
69 alimony to purchase or maintain a life insurance policy or a  
70 bond, or to otherwise secure such alimony award with any other  
71 assets which may be suitable for that purpose in an amount

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72 adequate to secure the alimony award. Any such security may only  
73 be awarded upon a showing of special circumstances. If the court  
74 finds special circumstances and awards such security, the court  
75 must make specific evidentiary findings regarding the  
76 availability, cost, and financial impact on the obligated party.  
77 Any security may be modifiable in the event the underlying  
78 alimony award is modified and may be reduced in an amount  
79 commensurate with any reduction in the alimony award.

80 (4) For purposes of determining alimony, ~~there is a~~  
81 ~~rebuttable presumption that~~ a short-term marriage is a marriage  
82 having a duration equal to or ~~of~~ less than 7 years, a moderate-  
83 term marriage is a marriage having a duration of greater than 7  
84 years but less than 17 years, and long-term marriage is a  
85 marriage having a duration of 17 years or greater. The length of  
86 a marriage is the period of time from the date of marriage until  
87 the date of filing of an action for dissolution of marriage. If  
88 the parties have been married to each other more than once, the  
89 court may, for purposes of determining alimony, add the years of  
90 the marriages together to determine the duration of the  
91 marriage.

92 (7) Durational alimony may be awarded when long-term  
93 ~~permanent~~ periodic alimony is inappropriate. The purpose of  
94 durational alimony is to provide a party with economic  
95 assistance for a set period of time following a marriage of  
96 short or moderate duration or following a marriage of long  
97 duration if there is no ongoing need for support on a long-term  
98 ~~permanent~~ basis. An award of durational alimony terminates upon  
99 the death of either party or upon the remarriage of the party

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100 receiving alimony. The amount of an award of durational alimony  
101 may be modified or terminated based upon a substantial change in  
102 circumstances in accordance with s. 61.14. ~~However,~~ The length  
103 of an award of durational alimony may not ~~be modified except~~  
104 ~~under exceptional circumstances and may not~~ exceed the length of  
105 the marriage. If the court awards durational alimony for a  
106 length of time greater than 50 percent of the length of the  
107 marriage, the court must make written findings stating the  
108 circumstances warranting the length of the award.

109 (8) Long-term ~~Permanent~~ alimony may be awarded to provide  
110 for the needs and necessities of life as they were established  
111 during the marriage of the parties for a party who lacks the  
112 financial ability to meet his or her needs and necessities of  
113 life following a dissolution of marriage. Long-term ~~Permanent~~  
114 alimony may be awarded following a marriage of long duration if  
115 such an award is appropriate upon consideration of the factors  
116 set forth in subsection (2), following a marriage of moderate  
117 duration if such an award is appropriate based upon clear and  
118 convincing evidence after consideration of the factors set forth  
119 in subsection (2), or following a marriage of short duration if  
120 there are written findings of exceptional circumstances. In  
121 awarding long-term ~~permanent~~ alimony, the court shall include a  
122 finding that no other form of alimony is fair and reasonable  
123 under the circumstances of the parties. An award of long-term  
124 ~~permanent~~ alimony terminates upon the death of either party or  
125 upon the remarriage of the party receiving alimony. An award may  
126 be modified or terminated based upon a substantial change in

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127 | circumstances or upon the existence of a supportive relationship  
128 | in accordance with s. 61.14.

129 |       (9) Notwithstanding any other law to the contrary, an ~~The~~  
130 | award of alimony may not leave the payor with ~~significantly~~ less  
131 | net income than the ~~net income of the~~ recipient unless there are  
132 | written findings of exceptional circumstances. The court shall  
133 | make written findings regarding the relative incomes of the  
134 | parties.

135 |       Section 4. Paragraph (b) of subsection (1) of section  
136 | 61.14, Florida Statutes, is amended, and subsections (12) and  
137 | (13) are added to that section, to read:

138 |       61.14 Enforcement and modification of support,  
139 | maintenance, or alimony agreements or orders.-

140 |       (1)

141 |       (b)1. The court may reduce or terminate an award of  
142 | alimony upon specific written findings by the court that since  
143 | the granting of a divorce and the award of alimony a supportive  
144 | relationship has existed between the obligee and a person with  
145 | whom the obligee resides. On the issue of whether alimony should  
146 | be reduced or terminated under this paragraph, the burden is on  
147 | the obligor to prove by a preponderance of the evidence that a  
148 | supportive relationship exists.

149 |       2. In determining whether an existing award of alimony  
150 | should be reduced or terminated because of an alleged supportive  
151 | relationship between an obligee and a person who is not related  
152 | by consanguinity or affinity and with whom the obligee resides,  
153 | the court shall elicit the nature and extent of the relationship  
154 | in question. The court shall give consideration, without

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155 limitation, to circumstances, including, but not limited to, the  
156 following, in determining the relationship of an obligee to  
157 another person:

158 a. The extent to which the obligee and the other person  
159 have held themselves out as a married couple by engaging in  
160 conduct such as using the same last name, using a common mailing  
161 address, referring to each other in terms such as "my husband"  
162 or "my wife," or otherwise conducting themselves in a manner  
163 that evidences a permanent supportive relationship.

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

166 c. The extent to which the obligee and the other person  
167 have pooled their assets or income or otherwise exhibited  
168 financial interdependence.

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

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

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

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

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

179 i. Evidence in support of a claim that the obligee and the  
180 other person have an express agreement regarding property  
181 sharing or support.

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182 j. Evidence in support of a claim that the obligee and the  
183 other person have an implied agreement regarding property  
184 sharing or support.

185 k. Whether the obligee and the other person have provided  
186 support to the children of one another, regardless of any legal  
187 duty to do so.

188 3. This paragraph does not abrogate the requirement that  
189 every marriage in this state be solemnized under a license, does  
190 not recognize a common law marriage as valid, and does not  
191 recognize a de facto marriage. This paragraph recognizes only  
192 that relationships do exist that provide economic support  
193 equivalent to a marriage and that alimony terminable on  
194 remarriage may be reduced or terminated upon the establishment  
195 of equivalent equitable circumstances as described in this  
196 paragraph. The existence of a conjugal relationship, though it  
197 may be relevant to the nature and extent of the relationship, is  
198 not necessary for the application of the provisions of this  
199 paragraph.

200 4. In any action for modification or termination of  
201 alimony, the court may retroactively modify or terminate the  
202 alimony award to the date of the filing of the petition. In an  
203 action under this section, if it is determined that a party  
204 unnecessarily or unreasonably litigated the underlying petition  
205 for modification or termination, the court shall award the other  
206 party his or her reasonable attorney fees and costs.

207 5. A court terminating an alimony award based on the  
208 existence of a supportive relationship may not reserve  
209 jurisdiction to later reinstate alimony.

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210       (12) The fact that an obligor has reached a reasonable  
 211 retirement age for his or her profession, has retired, and has  
 212 no intent to return to work shall be considered a substantial  
 213 change in circumstances as a matter of law. In determining  
 214 whether the obligor's retirement age is reasonable, the court  
 215 shall consider the obligor's age, health, motivation for  
 216 retirement, type of work, and the normal retirement age for that  
 217 type of work.

218       (13) Except in cases of long-term marriages, in any  
 219 alimony award, the court shall impute income to the obligee  
 220 based on the analysis and factors set forth in s. 61.30(2)(b).

221       Section 5. Subsection (1) of section 61.18, Florida  
 222 Statutes, is amended to read:

223       61.18 Alimony and child support; default in undertaking of  
 224 bond posted to ensure payment.—

225       (1) ~~If~~ ~~When~~ there is a breach of the condition of any bond  
 226 posted to ensure the payment of alimony or child support ~~to,~~  
 227 ~~either temporary or permanent, for~~ a party or for minor children  
 228 of the parties, the court in which the order was issued may  
 229 order payment to the party entitled thereto of the principal of  
 230 the bond or the part thereof necessary to cure the existing  
 231 default without further notice from time to time where the  
 232 amount is liquidated.

233  
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235                   **T I T L E   A M E N D M E N T**

236       Remove lines 21-30 and insert:

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237 durational alimony; changing the term "permanent  
238 alimony" to "long-term alimony"; requiring written  
239 findings regarding the incomes of the parties after  
240 dissolution of marriage; crating a rebuttable  
241 presumption concerning the standard of living after  
242 dissolution of marriage; revising provisions relating  
243 to security of alimony awards; providing for  
244 calculation of duration of marriages of parties  
245 married to each other more than once; requiring  
246 written findings for certain awards of durational  
247 alimony; amending s. 61.14, F.S.; revising provisions  
248 relating to the effect of a supportive relationship on  
249 an award of alimony; authorizing a court to award an  
250 obligor attorney fees and costs under certain  
251 circumstances; providing that the fact that an obligor  
252 has reached a reasonable retirement age for his or her  
253 profession, has retired, and has no intent to return  
254 to work is a substantial change in circumstances as a  
255 matter of law; requiring a court to impute income to  
256 the obligee based on the analysis and factors set  
257 forth in specified provisions; amending s. 61.18,  
258 F.S.; conforming provisions to changes made by act;  
259 amending s. 61.19, F.S.;

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