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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2012	.	
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The Committee on Judiciary (Flores) recommended the following:

1           **Senate Substitute for Amendment (600742) (with title**  
2 **amendment)**

3  
4           Delete everything after the enacting clause  
5 and insert:

6           Section 1. Section 61.08, Florida Statutes, is amended to  
7 read:

8           61.08 Alimony.—

9           (1) In a proceeding for dissolution of marriage, the court  
10 may grant alimony to either party, which alimony may be bridge-  
11 the-gap, rehabilitative, durational, or long-term ~~permanent~~ in  
12 nature or any combination of these forms of alimony where  
13 appropriate. In any award of alimony, the court may order



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14 periodic payments or payments in lump sum or both. The court may  
15 consider the adultery of either spouse and the circumstances  
16 thereof in determining the amount of alimony, if any, to be  
17 awarded to the extent that the adultery caused a significant  
18 depletion in the marital assets or caused a significant  
19 reduction in the income of a party. In all dissolution actions,  
20 the court shall include findings of fact relative to the factors  
21 enumerated in subsection (2) supporting an award or denial of  
22 alimony.

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

34 (a) The standard of living established during the 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,



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43 the time necessary for either party to acquire sufficient  
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 the parties ~~they~~ have in common.

51 (h) The tax treatment and consequences to both parties of  
52 any alimony award, which may include the designation of all or a  
53 portion of the payment as nontaxable to the recipient and  
54 nondeductible to the payor ~~including the designation of all or a~~  
55 ~~portion of the payment as a nontaxable, nondeductible payment.~~

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

59 (j) The net income available to each party after the  
60 application of the alimony award.

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

65 (3) To the extent necessary to protect an award of alimony,  
66 the court may order any party who is ordered to pay alimony to  
67 purchase or maintain a life insurance policy or a bond, or to  
68 otherwise secure such alimony award with any other assets which  
69 may be suitable for that purpose in an amount adequate to secure  
70 the alimony award. Such security may be awarded only upon a  
71 showing of special circumstances. If the court finds special



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72 circumstances and awards such security, the court shall make  
73 specific evidentiary findings regarding the availability, cost,  
74 and financial impact on the obligated party. Any security may be  
75 modifiable if the underlying alimony award is modified.

76 (4) For purposes of determining alimony, there is a  
77 rebuttable presumption that a short-term marriage is a marriage  
78 having a duration of less than 7 years, a moderate-term marriage  
79 is a marriage having a duration of ~~greater than~~ 7 years or  
80 greater but less than 17 years, and long-term marriage is a  
81 marriage having a duration of 17 years or greater. The length of  
82 a marriage is the period of time from the date of marriage until  
83 the date of filing of an action for dissolution of marriage.

84 (5) Bridge-the-gap alimony may be awarded to assist a party  
85 by providing support to allow the party to make a transition  
86 from being married to being single. Bridge-the-gap alimony is  
87 designed to assist a party with legitimate identifiable short-  
88 term needs, and the length of an award may not exceed 2 years.  
89 An award of bridge-the-gap alimony terminates upon the death of  
90 either party or upon the remarriage of the party receiving  
91 alimony. An award of bridge-the-gap alimony shall not be  
92 modifiable in amount or duration.

93 (6) (a) Rehabilitative alimony may be awarded to assist a  
94 party in establishing the capacity for self-support through  
95 either:

- 96 1. The redevelopment of previous skills or credentials; or  
97 2. The acquisition of education, training, or work  
98 experience necessary to develop appropriate employment skills or  
99 credentials.

100 (b) In order to award rehabilitative alimony, there must be



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101 a specific and defined rehabilitative plan which shall be  
102 included as a part of any order awarding rehabilitative alimony.

103 (c) An award of rehabilitative alimony may be modified or  
104 terminated in accordance with s. 61.14 based upon a substantial  
105 change in circumstances, upon noncompliance with the  
106 rehabilitative plan, or upon completion of the rehabilitative  
107 plan.

108 (7) Durational alimony may be awarded when permanent  
109 periodic alimony is inappropriate. The purpose of durational  
110 alimony is to provide a party with economic assistance for a set  
111 period of time following a marriage of short or moderate  
112 duration or following a marriage of long duration if there is no  
113 ongoing need for support on a long-term ~~permanent~~ basis as  
114 provided in subsection (8). An award of durational alimony  
115 terminates upon the death of either party or upon the remarriage  
116 of the party receiving alimony. The amount of an award of  
117 durational alimony may be modified or terminated based upon a  
118 substantial change in circumstances in accordance with s. 61.14.  
119 However, The length of an award of durational alimony may not be  
120 modified except under exceptional circumstances and may not  
121 exceed the length of the marriage.

122 (8) Long-term ~~Permanent~~ alimony may be awarded to provide  
123 for the needs and necessities of life as they were established  
124 during the marriage of the parties for a party who lacks the  
125 financial ability to meet his or her needs and necessities of  
126 life following a dissolution of marriage. Long-term ~~Permanent~~  
127 alimony may be awarded following a marriage of long duration if  
128 such an award is appropriate upon consideration of the factors  
129 set forth in subsection (2), following a marriage of moderate



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130 duration if such an award is appropriate based upon clear and  
131 convincing evidence after consideration of the factors set forth  
132 in subsection (2), or following a marriage of short duration if  
133 there are written findings of exceptional circumstances. In  
134 awarding long-term ~~permanent~~ alimony, the court shall include  
135 findings a finding that no other form of alimony will provide  
136 for the needs and necessities of life of the recipient as  
137 established during the marriage of the parties and that no other  
138 form is fair and reasonable under the circumstances of the  
139 parties. An award of long-term ~~permanent~~ alimony remains payable  
140 until terminates upon the death of either party or upon the  
141 remarriage of the party receiving alimony. An award may be  
142 modified or terminated based upon a substantial change in  
143 circumstances or upon the existence of a supportive relationship  
144 in accordance with s. 61.14.

145 (9) The award of alimony may not leave the payor with  
146 significantly less net income than the net income of the  
147 recipient unless there are written findings of exceptional  
148 circumstances.

149 (10) (a) With respect to any order requiring the payment of  
150 alimony entered on or after January 1, 1985, unless ~~the~~  
151 ~~provisions of~~ paragraph (c) or paragraph (d) applies ~~apply~~, the  
152 court shall direct in the order that the payments of alimony be  
153 made through the appropriate depository as provided in s.  
154 61.181.

155 (b) With respect to any order requiring the payment of  
156 alimony entered before January 1, 1985, upon the subsequent  
157 appearance, on or after that date, of one or both parties before  
158 the court having jurisdiction for the purpose of modifying or



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159 enforcing the order or in any other proceeding related to the  
160 order, or upon the application of either party, unless ~~the~~  
161 ~~provisions of~~ paragraph (c) or paragraph (d) applies ~~apply~~, the  
162 court shall modify the terms of the order as necessary to direct  
163 that payments of alimony be made through the appropriate  
164 depository as provided in s. 61.181.

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

167 (d)1. If there is a minor child of the parties and both  
168 parties so request, the court may order that alimony payments  
169 need not be directed through the depository. In this case, the  
170 order of support shall provide, or be deemed to provide, that  
171 either party may subsequently apply to the depository to require  
172 that payments be made through the depository. The court shall  
173 provide a copy of the order to the depository.

174 2. If ~~the provisions of~~ subparagraph 1. applies ~~apply~~,  
175 either party may subsequently file with the depository an  
176 affidavit alleging default or arrearages in payment and stating  
177 that the party wishes to initiate participation in the  
178 depository program. The party shall provide copies of the  
179 affidavit to the court and the other party or parties. Fifteen  
180 days after receipt of the affidavit, the depository shall notify  
181 all parties that future payments shall be directed to the  
182 depository.

183 3. In IV-D cases, the IV-D agency shall have the same  
184 rights as the obligee in requesting that payments be made  
185 through the depository.

186 Section 2. Paragraph (b) of subsection (1) of section  
187 61.14, Florida Statutes, is amended, and subsection (12) is



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188 added to that section, to read:

189 61.14 Enforcement and modification of support, maintenance,  
190 or alimony agreements or orders.—

191 (1)

192 (b)1. The court may reduce or terminate an award of alimony  
193 upon specific written findings by the court that since the  
194 granting of a divorce and the award of alimony a supportive  
195 relationship has existed between the obligee and a person with  
196 whom the obligee resides. On the issue of whether alimony should  
197 be reduced or terminated under this paragraph, the burden is on  
198 the obligor to prove by a preponderance of the evidence that a  
199 supportive relationship exists.

200 2. In determining whether an existing award of alimony  
201 should be reduced or terminated because of an alleged supportive  
202 relationship between an obligee and a person who is not related  
203 by consanguinity or affinity and with whom the obligee resides,  
204 the court shall elicit the nature and extent of the relationship  
205 in question. The court shall give consideration, without  
206 limitation, to circumstances, including, but not limited to, the  
207 following, in determining the relationship of an obligee to  
208 another person:

209 a. The extent to which the obligee and the other person  
210 have held themselves out as a married couple by engaging in  
211 conduct such as using the same last name, using a common mailing  
212 address, referring to each other in terms such as "my husband"  
213 or "my wife," or otherwise conducting themselves in a manner  
214 that evidences a permanent supportive relationship.

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





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217 c. The extent to which the obligee and the other person  
218 have pooled their assets or income or otherwise exhibited  
219 financial interdependence.

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

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

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

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

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

230 i. Evidence in support of a claim that the obligee and the  
231 other person have an express agreement regarding property  
232 sharing or support.

233 j. Evidence in support of a claim that the obligee and the  
234 other person have an implied agreement regarding property  
235 sharing or support.

236 k. Whether the obligee and the other person have provided  
237 support to the children of one another, regardless of any legal  
238 duty to do so.

239 3. This paragraph does not abrogate the requirement that  
240 every marriage in this state be solemnized under a license, does  
241 not recognize a common law marriage as valid, and does not  
242 recognize a de facto marriage. This paragraph recognizes only  
243 that relationships do exist that provide economic support  
244 equivalent to a marriage and that alimony terminable on  
245 remarriage may be reduced or terminated upon the establishment



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246 of equivalent equitable circumstances as described in this  
247 paragraph. The existence of a conjugal relationship, though it  
248 may be relevant to the nature and extent of the relationship, is  
249 not necessary for the application of ~~the provisions of this~~  
250 paragraph.

251 4. A court terminating an alimony award based on the  
252 existence of a supportive relationship may not reserve  
253 jurisdiction to later reinstate alimony.

254 5. A modification or termination of an alimony award is  
255 retroactive to the date of filing.

256 (12) The fact that an obligor has reached the normal  
257 retirement age for his or her profession, has retired, and has  
258 no intent to return to work shall be considered a substantial  
259 change in circumstance as a matter of law. In determining  
260 whether the obligor's retirement is reasonable, the court shall  
261 consider the following factors of the payor:

262 (a) Age.

263 (b) Health.

264 (c) Motivation for retirement.

265 (d) Type of work.

266 (e) Normal retirement age for that type of work.

267 Section 3. Section 61.19, Florida Statutes, is amended to  
268 read:

269 61.19 Entry of judgment of dissolution of marriage; ~~;~~ delay  
270 period; bifurcation.—

271 (1) A ~~Ne~~ final judgment of dissolution of marriage may not  
272 be entered until at least 20 days have elapsed following ~~from~~  
273 the date of filing the original petition for dissolution of  
274 marriage, ~~;~~ but the court, on a showing that injustice would



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275 result from this delay, may enter a final judgment of  
276 dissolution of marriage at an earlier date.

277 (2) During the first 180 days following the date of service  
278 of the original petition for dissolution of marriage, the court  
279 may not grant a final dissolution of marriage with a reservation  
280 of jurisdiction to subsequently determine all other substantive  
281 issues except in exceptional circumstances when it is clearly  
282 necessary for the best interests of the parties or their  
283 children. The desire of one of the parties to remarry does not  
284 justify the use of this process. If more than 180 days have  
285 elapsed following the date of service of the original petition  
286 for dissolution of marriage, the court may grant a final  
287 dissolution of marriage with a reservation of jurisdiction to  
288 subsequently determine all other substantive issues only if the  
289 court enters such other temporary orders as are necessary to  
290 protect the interests of the parties and their children, which  
291 shall remain effective until such time as all other issues can  
292 be adjudicated by the court. The temporary orders necessary to  
293 protect the interests of the children and the parties, which may  
294 be entered before the granting of a dissolution of marriage  
295 without an adjudication of all substantive issues, may include,  
296 but need not be limited to, temporary orders that:

- 297 (a) Restrict the sale or disposition of property.  
298 (b) Protect and preserve the marital assets.  
299 (c) Establish support.  
300 (d) Provide for maintenance of health insurance.  
301 (e) Provide for maintenance of life insurance.

302  
303 The court is not required to enter temporary orders to protect



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304 the parties and their children if the court enters a final  
305 judgment of dissolution of marriage which adjudicates  
306 substantially all of the substantive issues between the parties  
307 but reserves jurisdiction to address ancillary issues, such as  
308 the entry of a qualified domestic relations order or the  
309 adjudication of attorney fees and costs.

310 Section 4. This act shall take effect July 1, 2012.

311  
312 ===== T I T L E A M E N D M E N T =====

313 And the title is amended as follows:

314 Delete everything before the enacting clause  
315 and insert:

316 A bill to be entitled

317 An act relating to dissolution of marriage; amending  
318 s. 61.08, F.S.; revising the factors to be considered  
319 for alimony awards, including adultery; requiring a  
320 court to make certain written findings concerning  
321 alimony; providing that if the court orders a party to  
322 provide security to protect an award of alimony, the  
323 court may so order only upon a showing of special  
324 circumstances; requiring that the court make specific  
325 evidentiary findings regarding the availability, cost,  
326 and financial impact on the obligated party to support  
327 the award of security; revising provisions for an  
328 award of durational alimony; redesignating permanent  
329 alimony as long-term alimony and revising provisions  
330 relating to its award; amending s. 61.14, F.S.;  
331 prohibiting a court from reserving jurisdiction to  
332 reinstate an alimony award if a supportive



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333 relationship ends; providing that a modification or  
334 termination of an alimony award is retroactive to the  
335 date of filing; requiring the court to consider  
336 certain specified factors in determining if the  
337 obligor's retirement is reasonable; amending s. 61.19,  
338 F.S.; prohibiting the court from granting a final  
339 dissolution of marriage with a reservation of  
340 jurisdiction during the first 180 days after the date  
341 of service of the original petition for dissolution of  
342 marriage to subsequently determine all other  
343 substantive issues except in exceptional  
344 circumstances; authorizing the court to grant a final  
345 dissolution of marriage with a reservation of  
346 jurisdiction to subsequently determine all other  
347 substantive issues only if the court enters such other  
348 temporary orders as are necessary to protect the  
349 interests of the parties and their children; providing  
350 circumstances in which the court is not required to  
351 enter a temporary order; providing an effective date.