An act relating to family law; amending s. 61.071, F.S.; requiring a court to consider certain alimony factors and make specific written findings of fact under certain circumstances; prohibiting a court from using certain presumptive alimony guidelines in calculating alimony pendente lite; amending s. 61.08, F.S.; defining terms; requiring a court to make specified initial written findings in a dissolution of marriage proceeding where a party has requested alimony; requiring a court to make specified findings before ruling on a request for alimony; providing for determinations of presumptive alimony amount range and duration range; providing presumptions concerning alimony awards depending on the duration of marriages; providing for imputation of income in certain circumstances; specifying exceptions to the guidelines for the amount and duration of alimony awards; providing for awards of nominal alimony in certain circumstances; providing for taxability and deductibility of alimony awards; prohibiting a combined award of alimony and child support from constituting more than a specified percentage of a payor's net income; authorizing the court to order a party to protect an alimony award by specified means; providing for termination of an award; authorizing a court to modify or terminate the amount of an initial alimony award; prohibiting a court from modifying the duration of an alimony award; providing for payment of

awards; amending s. 61.13, F.S.; specifying a premise that a minor child should spend approximately equal amounts of time with each parent; revising a finite list of factors that a court must evaluate when establishing or modifying parental responsibility or a parenting plan; requiring a court order to be supported by written findings of fact under certain circumstances; providing for prospective application of provisions of the act which relate to parenting plans and time-sharing; amending s. 61.14, F.S.; prohibiting a court from changing the duration of alimony; authorizing a party to pursue an immediate modification of alimony in certain circumstances; revising factors to be considered in determining whether an existing award of alimony should be reduced or terminated because of an alleged supportive relationship; providing for burden of proof for claims concerning the existence of supportive relationships; providing for the effective date of a reduction or termination of an alimony award; providing that the remarriage of an alimony obligor is not a substantial change in circumstance; providing that the financial information of a spouse of a party paying or receiving alimony is inadmissible and undiscoverable; providing an exception; providing for modification or termination of an award based on a party's retirement; providing a presumption upon a finding of a substantial change in circumstance; specifying factors to be considered in determining whether to modify or

terminate an award based on a substantial change in circumstance; providing for a temporary suspension of an obligor's payment of alimony while his or her petition for modification or termination is pending; providing for an award of attorney fees and costs for unreasonably pursuing or defending a modification of an award; providing for an effective date of a modification or termination of an award; amending s. 61.30, F.S.; requiring that a child support award be adjusted to reduce the combined alimony and child support award under certain circumstances; creating s. 61.192, F.S.; providing for motions to advance the trial of certain actions if a specified period has passed since the initial service on the respondent; amending ss. 61.1827 and 409.2579, F.S.; conforming cross-references; providing applicability; providing an effective date.

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

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

61.071 Alimony pendente lite; suit money.—In every proceeding for dissolution of the marriage, a party may claim alimony and suit money in the petition or by motion, and if the petition is well founded, the court shall allow a reasonable sum therefor. If a party in any proceeding for dissolution of marriage claims alimony or suit money in his or her answer or by motion, and the answer or motion is well founded, the court

shall allow a reasonable sum therefor. After determining there is a need for alimony and that there is an ability to pay alimony, the court shall consider the alimony factors in s. 61.08(4)(b)1.-14. and make specific written findings of fact regarding the relevant factors that justify an award of alimony under this section. The court may not use the presumptive alimony guidelines in s. 61.08 to calculate alimony under this section.

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

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

61.08 Alimony.—

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

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

a. Income from salaries.

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

c. Commissions.

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

e. Bonuses.

f. Dividends.

g. Severance pay.

h. Pension payments and retirement benefits actually received.

i. Royalties.

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

k. Interest.

l. Trust income and distributions which are regularly received, relied upon, or readily available to the beneficiary.

m. Annuity payments.

n. Capital gains.

o. Any money drawn by a self-employed individual for personal use that is deducted as a business expense, which moneys must be considered income from self-employment.

p. Social security benefits, including social security benefits actually received by a party as a result of the disability of that party.

q. Workers' compensation benefits.

r. Unemployment insurance benefits.

s. Disability insurance benefits.

t. Funds payable from any health, accident, disability, or casualty insurance to the extent that such insurance replaces wages or provides income in lieu of wages.

u. Continuing monetary gifts.

v. Income from general partnerships, limited partnerships, closely held corporations, or limited liability companies; except that if a party is a passive investor, has a minority interest in the company, and does not have any managerial duties or input, the income to be recognized may be limited to actual cash distributions received.

w. Expense reimbursements or in-kind payments or benefits received by a party in the course of employment, self-employment, or operation of a business which reduces personal living expenses.

x. Overtime pay.

y. Income from royalties, trusts, or estates.

z. Spousal support received from a previous marriage.

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

2. "Gross income" does not include:

a. Child support payments received.

b. Benefits received from public assistance programs.

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

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

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

such income.

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

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

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

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

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

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

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

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

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

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

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

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

(0.015 x the years of marriage) x the difference between the

monthly gross incomes of the parties

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

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

For purposes of calculating the presumptive alimony amount range, 20 years of marriage shall be used in calculating the low end and high end for marriages of 20 years or more. In calculating the difference between the parties' monthly gross income, the income of the party seeking alimony shall be subtracted from the income of the other party. If the application of the formulas to establish a guideline range results in a negative number, the presumptive alimony amount shall be $0.

(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

(c) *Exceptions to alimony guidelines.*—

1. 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.

2. A court may award alimony in an amount that equalizes the income of the parties until the obligor retires upon reaching the age for eligibility for full retirement benefits under s. 216 of the Social Security Act, 42 U.S.C. s. 416, or upon reaching the customary retirement age for his or her occupation if:

a. The duration of the marriage was at least 20 years;

b. Pursuant to the mutual agreement or consent of the parties to the marriage, one spouse substantially refrained from economic, educational, or employment opportunities primarily for the purpose of contributing to the marriage through homemaking or child care activities; and

c. The spouse seeking alimony even with additional education faces dramatically reduced opportunities to advance in a career.

This subparagraph should not be applied in a manner that discourages a spouse from seeking additional education or employment opportunities.

(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 duration of 2 years or less only if the court makes written

findings that there is a clear and convincing need for alimony, there is an ability to pay alimony, and that the failure to award alimony would be inequitable. The court shall then establish the alimony award in accordance with paragraph (b).

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

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

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

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

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

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

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

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

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

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

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

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

12. Significant economic or noneconomic contributions to the marriage or to the economic, educational, or occupational advancement of a party, including, but not limited to, services

rendered in homemaking, child care, education, and career building of the other party, payment by one spouse of the other spouse's separate debts, or enhancement of the other spouse's personal or real property.

13. The tax consequence of the alimony award.

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

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

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

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

(6) NOMINAL ALIMONY.—Notwithstanding subsections (1), (3),

and (4), the court may make an award of nominal alimony in the amount of $1 per year if, at the time of trial, a party who has traditionally provided the primary source of financial support to the family temporarily lacks the ability to pay support but is reasonably anticipated to have the ability to pay support in the future. The court may also award nominal alimony for an alimony recipient who is presently able to work but for whom a medical condition with a reasonable degree of medical certainty may inhibit or prevent his or her ability to work during the duration of the alimony period. The duration of the nominal alimony shall be established within the presumptive durational range based upon the length of the marriage subject to the alimony factors in paragraph (4)(b). Before the expiration of the durational period, nominal alimony may be modified in accordance with s. 61.14 as to amount to a full alimony award using the alimony guidelines and factors in accordance with s. 61.08.

(7) TAXABILITY AND DEDUCTIBILITY OF ALIMONY.—

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

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

(c) The parties may, in a marital settlement agreement, separation agreement, or related agreement, specifically agree

in writing that alimony be nondeductible from income by the payor and nonincludable in the income of the payee.

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

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

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

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

(12) PAYMENT OF AWARD.—

(a) With respect to an order requiring the payment of

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

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

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

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

2. If subparagraph 1. applies, either party may subsequently file with the clerk of the court a verified motion alleging a default or arrearages in payment stating that the party wishes to initiate participation in the depository program. The moving party shall copy the other party with the motion. No later than 15 days after filing the motion, the court

shall conduct an evidentiary hearing establishing the default and arrearages, if any, and issue an order directing the clerk of the circuit court to establish, or amend an existing, family law case history account, and further advising the parties that future payments must thereafter be directed through the depository.

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

Section 3. Paragraph (c) of subsection (2) and subsection (3) of section 61.13, Florida Statutes, are amended to read:

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

(2)

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

1. In establishing a parenting plan and time-sharing schedule, the court shall begin with the premise that a minor child should spend approximately equal amounts of time with each parent. Using this premise as a starting point, the court shall formulate a parenting plan and time-sharing schedule taking into account the best interest of the child after considering all of the relevant factors in subsection (3). It is the public policy of this state ~~that each minor child has frequent and continuing~~

~~contact with both parents after the parents separate or the marriage of the parties is dissolved and~~ to encourage parents to share the rights and responsibilities, and joys, of childrearing. ~~There is no presumption for or against the father or mother of the child or for or against any specific time-sharing schedule when creating or modifying the parenting plan of the child.~~

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

child.

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

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

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

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

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

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

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

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

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

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

(f) The moral fitness of the parents.

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

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

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

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

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

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

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

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

abuse, child abandonment, or child neglect.

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

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

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

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

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

(t) Any other factor that is relevant to the determination of a specific parenting plan, including the time-sharing schedule.

The court shall make detailed written findings of fact which support and justify any parenting plan or time-sharing schedule

that is not based on an agreement between the parents.

Section 4. The amendments by this act to s. 61.13, Florida Statutes, apply only to proceedings in which the initial petition for dissolution of marriage or initial petition to establish a parenting plan or time-sharing schedule is filed on or after October 1, 2016.

Section 5. Subsection (1) of section 61.14, Florida Statutes, is amended to read:

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

(1)(a) When the parties enter into an agreement for payments for, or instead of, support, maintenance, or alimony, whether in connection with a proceeding for dissolution or separate maintenance or with any voluntary property settlement, or when a party is required by court order to make any payments, and the circumstances or the financial ability of either party changes or the child who is a beneficiary of an agreement or court order as described herein reaches majority after the execution of the agreement or the rendition of the order, either party may apply to the circuit court of the circuit in which the parties, or either of them, resided at the date of the execution of the agreement or reside at the date of the application, or in which the agreement was executed or in which the order was rendered, for an order decreasing or increasing the amount of support, maintenance, or alimony, and the court has jurisdiction to make orders as equity requires, with due regard to the changed circumstances or the financial ability of the parties or the child, decreasing, increasing, or confirming the amount of separate support, maintenance, or alimony provided for in the

agreement or order. However, a court may not decrease or increase the duration of alimony provided for in the agreement or order. A party is entitled to pursue an immediate modification of alimony if the actual income earned by the other party exceeds by at least 10 percent the amount imputed to that party at the time the existing alimony award was determined and such circumstance shall constitute a substantial change in circumstances sufficient to support a modification of alimony. However, an increase in an alimony obligor's income alone does not constitute a basis for a modification to increase alimony unless at the time the alimony award was established it was determined that the obligor was underemployed or unemployed and the court did not impute income to that party at his or her maximum potential income. If an alimony obligor becomes involuntarily underemployed or unemployed for a period of 6 months following the entry of the last order requiring the payment of alimony, the obligor is entitled to pursue an immediate modification of his or her existing alimony obligations and such circumstance shall constitute a substantial change in circumstance sufficient to support a modification of alimony. A finding that medical insurance is reasonably available or the child support guidelines schedule in s. 61.30 may constitute changed circumstances. Except as otherwise provided in s. 61.30(11)(c), the court may modify an order of support, maintenance, or alimony by increasing or decreasing the support, maintenance, or alimony retroactively to the date of the filing of the action or supplemental action for modification as equity requires, giving due regard to the changed circumstances or the financial ability of the parties or the

child.

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

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

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

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

c. The extent to which the obligee and the other person

have pooled their assets or income or otherwise exhibited financial interdependence.

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

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

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

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

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

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

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

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

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

3. In any proceeding to modify an alimony award based upon a supportive relationship, the obligor has the burden of proof to establish, by a preponderance of the evidence, that a supportive relationship exists or has existed within the

previous year before the date of the filing of the petition for modification or termination. The obligor is not required to prove cohabitation of the obligee and the third party.

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

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

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

2. The financial information, including, but not limited to, information related to assets and income, of a subsequent spouse of a party paying or receiving alimony is inadmissible and may not be considered as a part of any modification action unless a party is claiming that his or her income has decreased since the marriage. If a party makes such a claim, the financial information of the subsequent spouse is discoverable and

admissible only to the extent necessary to establish whether the party claiming that his or her income has decreased is diverting income or assets to the subsequent spouse that might otherwise be available for the payment of alimony. However, this subparagraph may not be used to prevent the discovery of or admissibility in evidence of the income or assets of a party when those assets are held jointly with a subsequent spouse. This subparagraph is not intended to prohibit the discovery or admissibility of a joint tax return filed by a party and his or her subsequent spouse in connection with a modification of alimony.

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

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

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

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

b. If an obligor voluntarily retires before reaching any of the ages described in sub-subparagraph a., the court shall

determine whether the obligor's retirement is reasonable upon consideration of the obligor's age, health, and motivation for retirement and the financial impact on the obligee. A finding of reasonableness by the court shall constitute a substantial change in circumstance.

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

a. The age of the parties.

b. The health of the parties.

c. The assets and liabilities of the parties.

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

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

f. Any other factor deemed relevant by the court.

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

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

attorney fees and costs in accordance with s. 61.16.

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

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

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

Section 6. Paragraph (d) is added to subsection (11) of section 61.30, Florida Statutes, to read:

61.30 Child support guidelines; retroactive child support.—

(11)

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

Section 7. Section 61.192, Florida Statutes, is created to read:

61.192 Advancing trial.—In an action brought pursuant to this chapter, if more than 2 years have passed since the initial petition was served on the respondent, either party may move the court to advance the trial of their action on the docket. This

motion may be made at any time after 2 years have passed since the petition was served, and once made the court must give the case priority on the court's calendar.

Section 8. Subsection (1) of section 61.1827, Florida Statutes, is amended to read:

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

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

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

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

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

(d) Disclosure to an authorized person, as defined in 45 C.F.R. s. 303.15, for purposes of enforcing any state or federal law with respect to the unlawful taking or restraint of a child

or making or enforcing a parenting plan. As used in this paragraph, the term "authorized person" includes a parent with whom the child does not currently reside, unless a court has entered an order under s. 741.30, s. 741.31, or s. 784.046.

Section 9. Subsection (1) of section 409.2579, Florida Statutes, is amended to read:

409.2579 Safeguarding Title IV-D case file information.—

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

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

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

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

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

thereby; and

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

Section 10. The amendments made by this act to chapter 61, Florida Statutes, apply to all initial determinations of alimony and all alimony modification actions that are pending as of the effective date of this act, and to all initial determinations of alimony and all alimony modification actions brought on or after the effective date of this act. The enacting of this act may not serve as the sole basis for a party to seek a modification of an alimony award existing before the effective date of this act.

Section 11. This act shall take effect October 1, 2016.