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LEGISLATIVE ACTION

Senate

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House

Senator Gruters moved the following:

1 **Senate Substitute for Amendment (466290) (with title**
2 **amendment)**

3
4 Delete lines 252 - 485

5 and insert:

6 ~~(4) For purposes of determining alimony, there is a~~
7 ~~rebuttable presumption that a short-term marriage is a marriage~~
8 ~~having a duration of less than 7 years, a moderate-term marriage~~
9 ~~is a marriage having a duration of greater than 7 years but less~~
10 ~~than 17 years, and long-term marriage is a marriage having a~~
11 ~~duration of 17 years or greater. The length of a marriage is the~~



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12 ~~period of time from the date of marriage until the date of~~
13 ~~filing of an action for dissolution of marriage.~~

14 (5) Bridge-the-gap alimony may be awarded to assist a party
15 by providing support to allow the party to make a transition
16 from being married to being single. Bridge-the-gap alimony is
17 designed to assist a party with legitimate identifiable short-
18 term needs, and the length of an award of bridge-the-gap alimony
19 may not exceed 2 years. An award of bridge-the-gap alimony
20 terminates upon the death of either party or upon the remarriage
21 of the party receiving alimony. An award of bridge-the-gap
22 alimony is shall not be modifiable in amount or duration.

23 (6) (a) Rehabilitative alimony may be awarded to assist a
24 party in establishing the capacity for self-support through
25 either:

- 26 1. The redevelopment of previous skills or credentials; or
27 2. The acquisition of education, training, or work
28 experience necessary to develop appropriate employment skills or
29 credentials.

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

33 (c) The length of an award of rehabilitative alimony may
34 not exceed 5 years.

35 (d) An award of rehabilitative alimony may be modified or
36 terminated in accordance with s. 61.14 based upon a substantial
37 change in circumstances, upon noncompliance with the
38 rehabilitative plan, or upon completion of the rehabilitative
39 plan if the plan is completed before the length of the award of
40 rehabilitative alimony expires.



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41 (7) (a) Durational alimony may be awarded ~~when permanent~~
42 ~~periodic alimony is inappropriate. The purpose of durational~~
43 ~~alimony is to provide a party with economic assistance for a set~~
44 ~~period of time following a marriage of short or moderate~~
45 ~~duration or following a marriage of long duration if there is no~~
46 ~~ongoing need for support on a permanent basis. An award of~~
47 ~~durational alimony terminates upon the death of either party or~~
48 ~~upon the remarriage of the party receiving alimony. The amount~~
49 ~~of an award of durational alimony may be modified or terminated~~
50 ~~based upon a substantial change in circumstances in accordance~~
51 ~~with s. 61.14. Durational alimony may not be awarded following a~~
52 ~~marriage lasting fewer than 3 years. However, The length of an~~
53 ~~award of durational alimony may not ~~be modified except under~~~~
54 ~~~~exceptional circumstances and may not~~ exceed 50 percent of the~~
55 ~~length of ~~a the~~ marriage lasting between 3 and 10 years, 60~~
56 ~~percent of the length of a marriage lasting between 10 and 20~~
57 ~~years, or 75 percent of the length of a marriage lasting 20~~
58 ~~years or longer. However, if the party seeking alimony is either~~
59 ~~permanently mentally or physically disabled and unable to~~
60 ~~provide for his or her own support, either partially or fully,~~
61 ~~or is the full-time in-home caregiver to a fully and permanently~~
62 ~~mentally or physically disabled child who is common to the~~
63 ~~parties, the court may extend durational alimony beyond the~~
64 ~~thresholds established in this subsection based on the duration~~
65 ~~of the marriage until the death of the child or until the court~~
66 ~~determines that there is no longer a need for durational~~
67 ~~alimony. For purposes of this subsection, the length of a~~
68 ~~marriage is the period of time beginning on the date of marriage~~
69 ~~and ending on the date an action for dissolution of marriage is~~



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70 filed. When awarding durational alimony, the court must make
71 written findings that an award of another type of alimony, or a
72 combination of the other forms of alimony, is insufficient.

73 (b) The amount of durational alimony is the amount
74 determined to be the obligee's reasonable need or an amount not
75 to exceed 35 percent of the difference between the parties' net
76 incomes, whichever amount is less.

77 (c) In determining the length of an award of durational
78 alimony, the court shall reduce the length of an award of
79 durational alimony for the length of time during which the
80 obligor made temporary support payments to the obligee, either
81 voluntarily or pursuant to a court order, after the date of
82 filing of a petition for dissolution of marriage.

83 (d) In determining the extent to which alimony should be
84 granted because a supportive relationship exists or has existed
85 between the party seeking alimony and another person who is not
86 related by consanguinity or affinity at any time since 180 days
87 before the filing of the petition of dissolution of marriage,
88 the court shall consider all relevant factors presented
89 concerning the nature and extent of the supportive relationship
90 in question. The burden is on the obligor to prove by a
91 preponderance of the evidence that a supportive relationship
92 exists. If a supportive relationship is proven to exist, the
93 burden shifts to the obligee to disprove by a preponderance of
94 the evidence that the court should deny or reduce the initial
95 award of alimony. The court must make written findings of fact
96 concerning the circumstances of the supportive relationship,
97 including, but not limited to, the factors set forth in s.
98 61.14(1)(b)2.



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99 (e) In the event that the obligor reaches full retirement
100 age as determined by the Social Security Administration before
101 the end of the durational period indicated by paragraph (a), and
102 has reached at least 65 years of age, the durational alimony
103 shall end on such retirement date if all of the following
104 conditions are met:

105 1. The obligor files a notice of retirement and intent to
106 terminate alimony with the court and personally serves the
107 alimony recipient and his or her last known attorney of record,
108 if such attorney is still practicing in the same county, at
109 least 1 year before the date that the obligor's retirement is
110 intended to become effective.

111 2. The obligee has not contested the notice of retirement
112 and intent to terminate alimony according to the factors
113 specified in s. 61.14(12)(b) or the court has determined that
114 such factors do not apply. If the court makes any of the
115 findings specified in s. 61.14(12)(b), the court must consider
116 and make written findings regarding the factors listed in s.
117 61.14(12)(c) to determine whether to extend the length of the
118 alimony award as set forth in s. 61.08(7)(a).

119
120 However, if the obligor continues to work beyond his or her
121 retirement age as provided under this paragraph and earns active
122 gross income of more than 50 percent of the obligor's average
123 preretirement annual active gross income for the 3 years
124 preceding his or her retirement age, the court may extend
125 alimony until the durational limitations established in this
126 subsection have been satisfied or the obligor retires and
127 reduces his or her active gross income below the 50 percent



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128 threshold established in this paragraph.

129 (8) (a) A party against whom alimony is sought who has
130 attained his or her full retirement age as determined by the
131 Social Security Administration before the adjudication of the
132 petition for dissolution of marriage may not be ordered to pay
133 bridge-the-gap, rehabilitative, or durational alimony, unless
134 the court determines that:

135 1. As a result of the dissolution of marriage, the party
136 seeking alimony would have an income of less than 130 percent of
137 the federal poverty guidelines for a one-person household, as
138 published by the United States Department of Health and Human
139 Services, based on the income and investable assets available
140 after the dissolution is final, including any retirement assets
141 from which the obligee can access income without incurring early
142 withdrawal penalties;

143 2. The party seeking alimony would be left with the
144 inability to meet his or her basic needs and necessities of
145 life, including, but not limited to, housing, utilities, food,
146 and transportation; or

147 3. The party seeking alimony is the full-time in-home
148 caregiver to a fully and permanently mentally or physically
149 disabled child who is common to the parties, or the party is
150 permanently and mentally or physically disabled and unable to
151 provide for his or her own support, either partially or fully.

152 (b) However, if the obligor continues to work beyond his or
153 her retirement age as provided under this subsection and earns
154 active gross income of more than 50 percent of the obligor's
155 average preretirement annual active gross income for the 3 years
156 preceding his or her retirement age, the court may award



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157 durational alimony until the durational limitations established
158 in subsection (7) have been satisfied or the obligor retires and
159 reduces his or her active gross income below the 50 percent
160 threshold established in this paragraph.

161 (9) Notwithstanding any other law, alimony may not be
162 awarded to a party who has a monthly net income that is equal to
163 or more than the other party's monthly net income.

164 (10) Social security retirement benefits may not be imputed
165 to the obligor as demonstrated by a social security retirement
166 benefits entitlement letter unless those benefits are actually
167 being paid.

168 (11) If the obligee alleges that a physical disability has
169 impaired his or her capability to earn income, the obligee must
170 have qualified for benefits under the Social Security
171 Administration Disability Insurance Program or, in the event the
172 obligee is not eligible for the program, must demonstrate that
173 his or her disability meets the disability qualification
174 standards of the Social Security Administration Disability
175 Insurance Program.

176 ~~(8) Permanent alimony may be awarded to provide for the~~
177 ~~needs and necessities of life as they were established during~~
178 ~~the marriage of the parties for a party who lacks the financial~~
179 ~~ability to meet his or her needs and necessities of life~~
180 ~~following a dissolution of marriage. Permanent alimony may be~~
181 ~~awarded following a marriage of long duration if such an award~~
182 ~~is appropriate upon consideration of the factors set forth in~~
183 ~~subsection (2), following a marriage of moderate duration if~~
184 ~~such an award is appropriate based upon clear and convincing~~
185 ~~evidence after consideration of the factors set forth in~~



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186 ~~subsection (2), or following a marriage of short duration if~~
187 ~~there are written findings of exceptional circumstances. In~~
188 ~~awarding permanent alimony, the court shall include a finding~~
189 ~~that no other form of alimony is fair and reasonable under the~~
190 ~~circumstances of the parties. An award of permanent alimony~~
191 ~~terminates upon the death of either party or upon the remarriage~~
192 ~~of the party receiving alimony. An award may be modified or~~
193 ~~terminated based upon a substantial change in circumstances or~~
194 ~~upon the existence of a supportive relationship in accordance~~
195 ~~with s. 61.14.~~

196 ~~(9) The award of alimony may not leave the payor with~~
197 ~~significantly less net income than the net income of the~~
198 ~~recipient unless there are written findings of exceptional~~
199 ~~circumstances.~~

200 ~~(12) (a) (10) (a) With respect to any order requiring the~~
201 ~~payment of alimony entered on or after January 1, 1985, unless~~
202 ~~the provisions of paragraph (c) or paragraph (d) applies ~~apply,~~~~
203 ~~the court shall direct in the order that the payments of alimony~~
204 ~~be made through the appropriate depository as provided in s.~~
205 ~~61.181.~~

206 ~~(b) With respect to any order requiring the payment of~~
207 ~~alimony entered before January 1, 1985, upon the subsequent~~
208 ~~appearance₇ on or after that date₇ of one or both parties before~~
209 ~~the court having jurisdiction for the purpose of modifying or~~
210 ~~enforcing the order or in any other proceeding related to the~~
211 ~~order₇ or upon the application of either party, unless ~~the~~~~
212 ~~provisions of paragraph (c) or paragraph (d) applies ~~apply,~~ the~~
213 ~~court shall modify the terms of the order as necessary to direct~~
214 ~~that payments of alimony be made through the appropriate~~



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215 depository as provided in s. 61.181.

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

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

225 2. If ~~the provisions of~~ subparagraph 1. applies ~~apply~~,
226 either party may subsequently file with the depository an
227 affidavit alleging default or arrearages in payment and stating
228 that the party wishes to initiate participation in the
229 depository program. The party shall provide copies of the
230 affidavit to the court and the other party or parties. Fifteen
231 days after receipt of the affidavit, the depository shall notify
232 all parties that future payments shall be directed to the
233 depository.

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

237 (13) The court shall apply this section to all petitions
238

239 ===== T I T L E A M E N D M E N T =====

240 And the title is amended as follows:

241 Delete line 22

242 and insert:

243 repealing certain rebuttable presumptions related to