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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete lines 316 - 625
and insert:
combination of the other forms of alimony, is insufficient.

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

(c) In determining the length of an award of durational



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11 alimony, the court shall reduce the length of an award of
12 durational alimony for the length of time during which the
13 obligor made temporary support payments to the obligee, either
14 voluntarily or pursuant to a court order, after the date of
15 filing of a petition for dissolution of marriage.

16 (d) In determining the extent to which alimony should be
17 granted because a supportive relationship exists or has existed
18 between the party seeking alimony and another person who is not
19 related by consanguinity or affinity at any time since 180 days
20 before the filing of the petition of dissolution of marriage,
21 the court shall consider all relevant factors presented
22 concerning the nature and extent of the supportive relationship
23 in question. The burden is on the obligor to prove by a
24 preponderance of the evidence that a supportive relationship
25 exists. If a supportive relationship is proven to exist, the
26 burden shifts to the obligee to disprove by a preponderance of
27 the evidence that the court should deny or reduce the initial
28 award of alimony. The court must make written findings of fact
29 concerning the circumstances of the supportive relationship,
30 including, but not limited to, the factors set forth in s.
31 61.14(1)(b)2.

32 (e) In the event that the obligor reaches full retirement
33 age as determined by the Social Security Administration, so long
34 as the obligor is older than 55 years of age, or the customary
35 retirement age for his or her profession before the end of the
36 durational period indicated by paragraph (a), the durational
37 alimony shall end on such retirement date if all of the
38 following conditions are met:

39 1. The obligor files a notice of retirement and intent to



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40 terminate alimony with the court and personally serves the
41 alimony recipient and his or her last known attorney of record,
42 if such attorney is still practicing in the same county, at
43 least 1 year before the date that the obligor's retirement is
44 intended to become effective.

45 2. The obligee has not contested the notice of retirement
46 and intent to terminate alimony according to the factors
47 specified in s. 61.14(12)(b) or the court has determined that
48 such factors do not apply. If the court makes any of the
49 findings specified in s. 61.14(12)(b), the court must consider
50 and make written findings regarding the factors listed in s.
51 61.14(12)(c) to determine whether to extend the length of the
52 alimony award as set forth in s. 61.08(8)(a).

53
54 However, if the obligor continues to work beyond his or her
55 retirement age as provided under this paragraph and earns active
56 gross income of more than 50 percent of the obligor's average
57 preretirement annual active gross income for the 3 years
58 preceding his or her retirement age, the court may extend
59 alimony until the durational limitations established in this
60 subsection have been satisfied or the obligor retires and
61 reduces his or her active gross income below the 50 percent
62 threshold established in this paragraph.

63 (9)(a) A party against whom alimony is sought who has
64 attained his or her full retirement age as determined by the
65 Social Security Administration before the adjudication of the
66 petition for dissolution of marriage may not be ordered to pay
67 bridge-the-gap, rehabilitative, or durational alimony, unless
68 the court determines that:



69 1. As a result of the dissolution of marriage, the party
70 seeking alimony would have an income of less than 130 percent of
71 the federal poverty guidelines for a one-person household, as
72 published by the United States Department of Health and Human
73 Services, based on the income and investable assets available
74 after the dissolution is final, including any retirement assets
75 from which the obligee can access income without incurring early
76 withdrawal penalties;

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

81 3. The party seeking alimony is the full-time in-home
82 caregiver to a fully and permanently mentally or physically
83 disabled child who is common to the parties, or the party is
84 permanently and mentally or physically disabled and unable to
85 provide for his or her own support, either partially or fully.

86 (b) However, if the obligor continues to work beyond his or
87 her retirement age as provided under this subsection and earns
88 active gross income of more than 50 percent of the obligor's
89 average preretirement annual active gross income for the 3 years
90 preceding his or her retirement age, the court may award
91 durational alimony until the durational limitations established
92 in subsection (8) have been satisfied or the obligor retires and
93 reduces his or her active gross income below the 50 percent
94 threshold established in this paragraph.

95 (10) Notwithstanding any other law, alimony may not be
96 awarded to a party who has a monthly net income that is equal to
97 or more than the other party's monthly net income.



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98 (11) Social security retirement benefits may not be imputed
99 to the obligor as demonstrated by a social security retirement
100 benefits entitlement letter unless those benefits are actually
101 being paid.

102 (12) If the obligee alleges that a physical disability has
103 impaired his or her capability to earn income, the obligee must
104 have qualified for benefits under the Social Security
105 Administration Disability Insurance Program or, in the event the
106 obligee is not eligible for the program, must demonstrate that
107 his or her disability meets the disability qualification
108 standards of the Social Security Administration Disability
109 Insurance Program.

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



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127 ~~terminated based upon a substantial change in circumstances or~~
128 ~~upon the existence of a supportive relationship in accordance~~
129 ~~with s. 61.14.~~

130 ~~(9) The award of alimony may not leave the payor with~~
131 ~~significantly less net income than the net income of the~~
132 ~~recipient unless there are written findings of exceptional~~
133 ~~circumstances.~~

134 ~~(13) (a) (10) (a)~~ With respect to any order requiring the
135 payment of alimony entered on or after January 1, 1985, unless
136 ~~the provisions of paragraph (c) or paragraph (d) applies apply,~~
137 the court shall direct in the order that the payments of alimony
138 be made through the appropriate depository as provided in s.
139 61.181.

140 (b) With respect to any order requiring the payment of
141 alimony entered before January 1, 1985, upon the subsequent
142 appearance~~7~~ on or after that date~~7~~ of one or both parties before
143 the court having jurisdiction for the purpose of modifying or
144 enforcing the order or in any other proceeding related to the
145 order~~7~~ or upon the application of either party, unless ~~the~~
146 ~~provisions of paragraph (c) or paragraph (d) applies apply,~~ the
147 court shall modify the terms of the order as necessary to direct
148 that payments of alimony be made through the appropriate
149 depository as provided in s. 61.181.

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

152 (d)1. If there is a minor child of the parties and both
153 parties so request, the court may order that alimony payments
154 need not be directed through the depository. In this case, the
155 order of support must ~~shall~~ provide, or be deemed to provide,



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156 that either party may subsequently apply to the depository to
157 require that payments be made through the depository. The court
158 shall provide a copy of the order to the depository.

159 2. If ~~the provisions of~~ subparagraph 1. applies apply,
160 either party may subsequently file with the depository an
161 affidavit alleging default or arrearages in payment and stating
162 that the party wishes to initiate participation in the
163 depository program. The party shall provide copies of the
164 affidavit to the court and the other party or parties. Fifteen
165 days after receipt of the affidavit, the depository shall notify
166 all parties that future payments shall be directed to the
167 depository.

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

171 (14) The court shall apply this section to all petitions
172 for dissolution of marriage which have not been adjudicated
173 before July 1, 2022, and to any petitions for dissolution of
174 marriage filed on or after July 1, 2022.

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

177 61.13 Support of children; parenting and time-sharing;
178 powers of court.—

179 (2)

180 (c) The court shall determine all matters relating to
181 parenting and time-sharing of each minor child of the parties in
182 accordance with the best interests of the child and in
183 accordance with the Uniform Child Custody Jurisdiction and
184 Enforcement Act, except that modification of a parenting plan



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185 and time-sharing schedule requires a showing of a substantial,
186 material, and unanticipated change of circumstances.

187 1. It is the public policy of this state that each minor
188 child has frequent and continuing contact with both parents
189 after the parents separate or the marriage of the parties is
190 dissolved and to encourage parents to share the rights and
191 responsibilities, and joys, of childrearing. Unless otherwise
192 provided in this section or agreed to by the parties, there is a
193 presumption that equal time-sharing of a minor child is in the
194 best interests of the minor child who is common to the parties
195 ~~Except as otherwise provided in this paragraph, there is no~~
196 ~~presumption for or against the father or mother of the child or~~
197 ~~for or against any specific time-sharing schedule~~ when creating
198 or modifying the parenting plan of the child.

199 2. The court shall order that the parental responsibility
200 for a minor child be shared by both parents unless the court
201 finds that shared parental responsibility would be detrimental
202 to the child. The following evidence creates a rebuttable
203 presumption of detriment to the child:

204 a. A parent has been convicted of a misdemeanor of the
205 first degree or higher involving domestic violence, as defined
206 in s. 741.28 and chapter 775;

207 b. A parent meets the criteria of s. 39.806(1)(d); or

208 c. A parent has been convicted of or had adjudication
209 withheld for an offense enumerated in s. 943.0435(1)(h)1.a., and
210 at the time of the offense:

211 (I) The parent was 18 years of age or older.

212 (II) The victim was under 18 years of age or the parent
213 believed the victim to be under 18 years of age.



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214
215 If the presumption is not rebutted after the convicted parent is
216 advised by the court that the presumption exists, shared
217 parental responsibility, including time-sharing with the child,
218 and decisions made regarding the child, may not be granted to
219 the convicted parent. However, the convicted parent is not
220 relieved of any obligation to provide financial support. If the
221 court determines that shared parental responsibility would be
222 detrimental to the child, it may order sole parental
223 responsibility and make such arrangements for time-sharing as
224 specified in the parenting plan as will best protect the child
225 or abused spouse from further harm. Whether or not there is a
226 conviction of any offense of domestic violence or child abuse or
227 the existence of an injunction for protection against domestic
228 violence, the court shall consider evidence of domestic violence
229 or child abuse as evidence of detriment to the child.

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

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

241 5. There is a rebuttable presumption against granting time-
242 sharing with a minor child if a parent has been convicted of or



243 had adjudication withheld for an offense enumerated in s.
244 943.0435(1)(h)1.a., and at the time of the offense:

245 a. The parent was 18 years of age or older.

246 b. The victim was under 18 years of age or the parent
247 believed the victim to be under 18 years of age.

248

249 A parent may rebut the presumption upon a specific finding in
250 writing by the court that the parent poses no significant risk
251 of harm to the child and that time-sharing is in the best
252 interests of the minor child. If the presumption is rebutted,
253 the court shall consider all time-sharing factors in subsection
254 (3) when developing a time-sharing schedule.

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

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



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272 primary consideration. A determination of parental
273 responsibility, a parenting plan, or a time-sharing schedule may
274 not be modified without a showing of a substantial, material,
275 and unanticipated change in circumstances and a determination
276 that the modification is in the best interests of the child. For
277 purposes of the modification of a parenting plan and time-
278 sharing schedule, a parent's permanent relocation to a residence
279 within 50 miles of the primary residence of the child is
280 presumed to be a substantial, material, and unanticipated change
281 in circumstances. Determination of the best interests of the
282 child shall be made by evaluating all of the factors affecting
283 the welfare and interests of the particular minor child and the
284 circumstances of that family, including, but not limited to:
285 (a) The demonstrated capacity and disposition of each
286 parent to facilitate and encourage a close and continuing
287 parent-child relationship, to honor the time-sharing schedule,
288 and to be reasonable when changes are required.
289 (b) The anticipated division of parental responsibilities
290 after the litigation, including the extent to which parental
291 responsibilities will be delegated to third parties.
292 (c) The demonstrated capacity and disposition of each
293 parent to determine, consider, and act upon the needs of the
294 child as opposed to the needs or desires of the parent.
295 (d) The length of time the child has lived in a stable,
296 satisfactory environment and the desirability of maintaining
297 continuity.
298 (e) The geographic viability of the parenting plan, with
299 special attention paid to the needs of school-age children and
300 the amount of time to be spent traveling to effectuate the



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301 parenting plan. This factor does not create a presumption for or
302 against relocation of either parent with a child.

303 (f) The moral fitness of the parents.

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

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

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

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

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

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

323 (m) Evidence of domestic violence, sexual violence, child
324 abuse, child abandonment, or child neglect, regardless of
325 whether a prior or pending action relating to those issues has
326 been brought. If the court accepts evidence of prior or pending
327 actions regarding domestic violence, sexual violence, child
328 abuse, child abandonment, or child neglect, the court must
329 specifically acknowledge in writing that such evidence was



330 considered when evaluating the best interests of the child.

331 (n) Evidence that either parent has knowingly provided
332 false information to the court regarding any prior or pending
333 action regarding domestic violence, sexual violence, child
334 abuse, child abandonment, or child neglect.

335 (o) The particular parenting tasks customarily performed by
336 each parent and the division of parental responsibilities before
337 the institution of litigation and during the pending litigation,
338 including the extent to which parenting responsibilities were
339 undertaken by third parties.

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

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

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

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

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

358 Section 4. Paragraph (b) of subsection (1) of section



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359 61.14, Florida Statutes, is amended, and paragraph (c) is added
360 to subsection (11) of that section, and subsections (12), (13),
361 and (14) are added to that section, to read:

362 61.14 Enforcement and modification of support, maintenance,
363 or alimony agreements or orders.—

364 (1)

365 (b)1. The court may reduce or terminate an award of alimony
366 or order reimbursement to the obligor for any amount the court
367 determines is equitable upon specific written findings by the
368 court that since the granting of a divorce and the award of
369 alimony, a supportive relationship exists or has existed between
370 the obligee and another a person at any time during the 180 days
371 before the filing of a petition for modification of alimony with
372 whom the obligee resides. On the issue of whether alimony should
373 be reduced or terminated under this paragraph, the burden is on
374 the obligor to prove by a preponderance of the evidence that a
375 supportive relationship exists or existed. If a supportive
376 relationship is proven to exist or have existed, the burden
377 shifts to the obligee to disprove, by a preponderance of the
378 evidence, that the court should terminate an existing award of
379 alimony.

380 2. In determining the extent to which whether an existing
381 award of alimony should be reduced or terminated because of an
382 alleged supportive relationship between an obligee and a person
383 who is not related by consanguinity or affinity and with whom
384 the obligee resides, the court must make written findings of
385 fact concerning the nature and the extent of the supportive
386 relationship in question and the circumstances of the supportive
387 relationship, including, but not limited to, the following



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388 ~~factors shall elicit the nature and extent of the relationship~~
389 ~~in question. The court shall give consideration, without~~
390 ~~limitation, to circumstances, including, but not limited to, the~~
391 ~~following, in determining the relationship of an obligee to~~
392 ~~another person:~~

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

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

401 c. The extent to which the obligee and the other person
402 have pooled their assets or income or otherwise exhibited
403 financial interdependence.

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

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

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

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

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

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



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

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

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

435 (11)

436 (c) An obligor's subsequent remarriage or cohabitation does
437 not constitute a basis for either party to seek a modification
438 of an alimony award.

439 (12) (a) Up to 12 months before seeking to terminate alimony
440 as provided under this section, an obligor may file a notice of
441 retirement and intent to terminate alimony with the court and
442 shall personally serve the obligee and his or her last known
443 attorney of record, if such attorney is still practicing in the
444 same county, with such notice.

445 (b) The obligee shall have 20 days after the date of



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446 service of the notice to request the court to enter findings
447 that as of the date of filing of the notice:

448 1. The reduction or termination of alimony would result in
449 any of the following:

450 a. The obligee's income would be less than 130 percent of
451 the federal poverty guidelines for a one-person household, as
452 published by the United States Department of Health and Human
453 Services, based on the obligee's income and investable assets,
454 including any retirement assets from which the obligee can
455 access income without incurring early withdrawal penalties.

456 b. The obligee would be left with the inability to meet the
457 obligee's basic needs and necessities of life, including, but
458 not limited to, housing, utilities, food, and transportation.

459 c. A violation of the terms of the marital settlement
460 agreement between the parties because the marital settlement
461 agreement either does not allow for modification or termination
462 of the alimony award or the proposed reduction in alimony does
463 not comply with applicable terms for modification of alimony
464 specified in the agreement;

465 2. The obligee is the full-time in-home caregiver to a
466 fully and permanently mentally or physically disabled child who
467 is common to the parties; or

468 3. The obligee is permanently mentally or physically
469 disabled and unable to provide for his or her own support,
470 either partially or fully.

471 (c) If the court makes any of the findings specified in
472 paragraph (b), the court must consider and make written findings
473 regarding the following factors when deciding whether to reduce
474 either the amount or duration of alimony:



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- 475 1. The duration of the marriage.
- 476 2. The financial resources of the obligee, including the
477 nonmarital and marital assets and liabilities distributed to the
478 obligee, as well as the obligee's role in conserving or
479 depleting the marital assets distributed at the dissolution of
480 marriage.
- 481 3. The sources of income available to the obligee,
482 including income available to the obligee through investments of
483 any asset, including retirement assets from which the obligee
484 can access income without incurring early withdrawal penalties.
- 485 4. The effort and sacrifices of time and leisure necessary
486 for the obligor to continue to provide such alimony and
487 consideration of the presumption that the obligor has a right to
488 retire when attaining full retirement age as per the Social
489 Security Administration.
- 490 5. The age and health of the obligor.
- 491 6. The terms of the marital settlement agreement between
492 the parties which govern modification of alimony.
- 493 (d) If the court does not make any of the findings
494 specified in paragraph (b), the alimony award amount shall
495 decrease by 25 percent on the date the obligor reaches 65 years
496 of age or 1 year after the date on which the notice of
497 retirement and intent to terminate alimony is filed, whichever
498 occurs later, and shall continue to decrease by 25 percent each
499 year thereafter until the date the obligor reaches 68 years of
500 age or 4 years after the date on which the notice is filed,
501 whichever occurs later, at which time alimony shall terminate.
- 502 (e) Notwithstanding paragraphs (a)-(d), if the obligor
503 continues to work beyond full retirement age as determined by



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504 the United States Social Security Administration or beyond the
505 reasonable retirement age for his or her profession or line of
506 work as determined in paragraph (f), whichever occurs earlier,
507 and earns active gross income of more than 50 percent of the
508 obligor's average preretirement annual active gross income for
509 the 3 years preceding his or her retirement age, actual
510 retirement date, or reasonable retirement age, as applicable,
511 the court may extend alimony until the obligor retires and
512 reduces his or her active gross income below the 50 percent
513 active gross income threshold established under this paragraph.

514 (f) If an obligor, so long as he or she is older than 55
515 years of age, seeks to retire at an age that is

516
517 ===== T I T L E A M E N D M E N T =====

518 And the title is amended as follows:

519 Between lines 61 and 62

520 insert:

521 s. 61.13, F.S.; creating a presumption that equal
522 time-sharing is in the best interest of the child,
523 with exceptions; creating a presumption for purposes
524 of modifying a parenting plan or time-sharing
525 schedule; amending