

1 A bill to be entitled
2 An act relating to family law; amending s. 61.071,
3 F.S.; requiring the use of specified factors in
4 calculating alimony pendente lite; requiring findings
5 by the court regarding such alimony; specifying that a
6 court may not use certain presumptive alimony
7 guidelines in calculating such alimony; amending s.
8 61.08, F.S.; providing definitions; requiring a court
9 to make specified findings before ruling on a request
10 for alimony; providing for determination of
11 presumptive alimony range and duration range;
12 providing presumptions concerning alimony awards
13 depending on the duration of marriages; providing for
14 imputation of income in certain circumstances;
15 providing for awards of nominal alimony in certain
16 circumstances; providing for taxability and
17 deductibility of alimony awards; specifying that a
18 combined award of alimony and child support may not
19 constitute more than a specified percentage of a
20 payor's net income; providing for security of awards
21 through specified means; providing for termination and
22 payment of awards; amending s. 61.14, F.S.; providing
23 that a party may pursue an immediate modification of
24 alimony in certain circumstances; revising factors to
25 be considered in determining whether an existing award
26 of alimony should be reduced or terminated because of

27 | an alleged supportive relationship; providing for
28 | burden of proof for claims concerning the existence of
29 | supportive relationships; providing for the effective
30 | date of a reduction or termination of an alimony
31 | award; providing that the remarriage of an alimony
32 | obligor is not a substantial change in circumstance;
33 | providing that the financial information of a
34 | subsequent spouse of a party paying or receiving
35 | alimony is inadmissible and undiscoverable; providing
36 | an exception; providing for modification or
37 | termination of an award based on a party's retirement;
38 | providing a presumption upon a finding of a
39 | substantial change in circumstance; specifying factors
40 | to be considered in determining whether to modify or
41 | terminate an award based on a substantial change in
42 | circumstance; providing for a temporary reduction or
43 | suspension of an obligor's payment of alimony while
44 | his or her petition for modification or termination is
45 | pending; providing for an award of attorney fees and
46 | costs for unreasonably pursuing or defending a
47 | modification of an award; providing for an effective
48 | date of a modification or termination of an award;
49 | amending s. 61.30, F.S.; providing that whenever a
50 | combined alimony and child support award constitutes
51 | more than a specified percentage of a payor's net
52 | income, the child support award be adjusted to reduce

53 the combined total; creating s. 61.192, F.S.;

54 providing for motions to advance the trial of certain

55 actions if a specified period has passed since the

56 initial service on the respondent; providing

57 applicability; providing an effective date.

58

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

60

61 Section 1. Section 61.071, Florida Statutes, is amended to

62 read:

63 61.071 Alimony pendente lite; suit money.—In every

64 proceeding for dissolution of the marriage, a party may claim

65 alimony and suit money in the petition or by motion, and if the

66 petition is well founded, the court shall allow a reasonable sum

67 therefor. If a party in any proceeding for dissolution of

68 marriage claims alimony or suit money in his or her answer or by

69 motion, and the answer or motion is well founded, the court

70 shall allow a reasonable sum therefor. After determining that

71 there is a need for alimony and that there is an ability to pay

72 alimony, the court shall consider the alimony factors in s.

73 61.08(4)(b)1.-15. and make specific written findings of fact

74 regarding the relevant factors that justify an award of alimony

75 under this section. The court may not use the presumptive

76 alimony guidelines in s. 61.08 to calculate alimony under this

77 section.

78 Section 2. Section 61.08, Florida Statutes, is amended to

79 read:

80 61.08 Alimony.—

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

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

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

87 a. Income from salaries.

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

92 c. Commissions.

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

96 e. Bonuses.

97 f. Dividends.

98 g. Severance pay.

99 h. Pension payments and retirement benefits actually
 100 received.

101 i. Royalties.

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

104 k. Interest.

- 105 l. Trust income and distributions which are regularly
106 received, relied upon, or readily available to the beneficiary.
- 107 m. Annuity payments.
- 108 n. Capital gains.
- 109 o. Any money drawn by a self-employed individual for
110 personal use that is deducted as a business expense, which
111 moneys must be considered income from self-employment.
- 112 p. Social security benefits, including social security
113 benefits actually received by a party as a result of the
114 disability of that party.
- 115 q. Workers' compensation benefits.
- 116 r. Unemployment insurance benefits.
- 117 s. Disability insurance benefits.
- 118 t. Funds payable from any health, accident, disability, or
119 casualty insurance to the extent that such insurance replaces
120 wages or provides income in lieu of wages.
- 121 u. Continuing monetary gifts.
- 122 v. Income from general partnerships, limited partnerships,
123 closely held corporations, or limited liability companies;
124 except that if a party is a passive investor, has a minority
125 interest in the company, and does not have any managerial duties
126 or input, the income to be recognized may be limited to actual
127 cash distributions received.
- 128 w. Expense reimbursements or in-kind payments or benefits
129 received by a party in the course of employment, self-
130 employment, or operation of a business which reduces personal

131 living expenses.

132 x. Overtime pay.

133 y. Income from royalties, trusts, or estates.

134 z. Spousal support received from a previous marriage.

135 aa. Gains derived from dealings in property, unless the

136 gain is nonrecurring.

137 2. "Gross income" does not include:

138 a. Child support payments received.

139 b. Benefits received from public assistance programs.

140 c. Social security benefits received by a parent on behalf

141 of a minor child as a result of the death or disability of a

142 parent or stepparent.

143 d. Earnings or gains on retirement accounts, including

144 individual retirement accounts; except that such earnings or

145 gains shall be included as income if a party takes a

146 distribution from the account. If a party is able to take a

147 distribution from the account without being subject to a federal

148 tax penalty for early distribution and the party chooses not to

149 take such a distribution, the court may consider the

150 distribution that could have been taken in determining the

151 party's gross income.

152 3.a. For income from self-employment, rent, royalties,

153 proprietorship of a business, or joint ownership of a

154 partnership or closely held corporation, the term "gross income"

155 equals gross receipts minus ordinary and necessary expenses, as

156 defined in sub-subparagraph b., which are required to produce

157 such income.

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

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

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

180 2. A party is not considered "underemployed" if he or she
181 is enrolled in an educational program that can be reasonably
182 expected to result in a degree or certification within a

183 reasonable period, so long as the educational program is:

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

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

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

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

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

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

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

209 duration range.

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

213
214 (0.0125 x the years of marriage) x the difference between
215 the monthly gross incomes of the parties

216
217 The high end of the presumptive alimony amount range shall be
218 calculated by using the following formula:

219
220 (0.020 x the years of marriage) x the difference between
221 the monthly gross incomes of the parties

222
223 For purposes of calculating the presumptive alimony amount
224 range, 20 years of marriage shall be used in calculating the low
225 end and high end for marriages of 20 years or more. In
226 calculating the difference between the parties' monthly gross
227 income, the income of the party seeking alimony shall be
228 subtracted from the income of the other party. If the
229 application of the formulas to establish a guideline range
230 results in a negative number, the presumptive alimony amount
231 shall be \$0. If a court establishes the duration of the alimony
232 award at 50 percent or less of the length of the marriage, the
233 court shall use the actual years of the marriage, up to a
234 maximum of 25 years, to calculate the high end of the

235 presumptive alimony amount range.

236 (b) Presumptive alimony duration range.—The low end of the
 237 presumptive alimony duration range shall be calculated by using
 238 the following formula:

239
 240 0.25 x the years of marriage

241
 242 The high end of the presumptive alimony duration range shall be
 243 calculated by using the following formula:

244
 245 0.75 x the years of marriage

246
 247 (4) ALIMONY AWARD.—

248 (a) Marriages of 2 years or less.—For marriages of 2 years
 249 or less, there is a rebuttable presumption that no alimony shall
 250 be awarded. The court may award alimony for a marriage with a
 251 duration of 2 years or less only if the court makes written
 252 findings that there is clear and convincing need for alimony,
 253 there is an ability to pay alimony, and that the failure to
 254 award alimony would be inequitable. The court shall then
 255 establish the alimony award in accordance with paragraph (b).

256 (b) Marriages of more than 2 years.—Absent an agreement of
 257 the parties, alimony shall presumptively be awarded in an amount
 258 within the alimony amount range calculated in paragraph (3)(a).
 259 Absent an agreement of the parties, alimony shall presumptively
 260 be awarded for a duration within the alimony duration range

261 calculated in paragraph (3) (b). In determining the amount and
262 duration of the alimony award, the court shall consider all of
263 the following factors upon which evidence was presented:

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

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

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

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

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

286 6. Whether a party could become better able to support

287 himself or herself and reduce the need for ongoing alimony by
288 pursuing additional educational or vocational training along
289 with all of the details of such educational or vocational plan,
290 including, but not limited to, the length of time required and
291 the anticipated costs of such educational or vocational plan.

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

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

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

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

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

306 12. Significant economic or noneconomic contributions to
307 the marriage or to the economic, educational, or occupational
308 advancement of a party, including, but not limited to, services
309 rendered in homemaking, child care, education, and career
310 building of the other party, payment by one spouse of the other
311 spouse's separate debts, or enhancement of the other spouse's
312 personal or real property.

313 13. The tax consequence of the alimony award.

314 14. The adultery of either spouse and the circumstances
 315 thereof.

316 15. Any other factor necessary to do equity and justice
 317 between the parties.

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

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

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

339 (6) NOMINAL ALIMONY.—Notwithstanding subsections (1), (3),
340 and (4), the court may make an award of nominal alimony in the
341 amount of \$1 per year if, at the time of trial, a party who has
342 traditionally provided the primary source of financial support
343 to the family temporarily lacks the ability to pay support but
344 is reasonably anticipated to have the ability to pay support in
345 the future. The court may also award nominal alimony for an
346 alimony recipient that is presently able to work but for whom a
347 medical condition with a reasonable degree of medical certainty
348 may inhibit or prevent his or her ability to work during the
349 duration of the alimony period. The duration of the nominal
350 alimony shall be established within the presumptive durational
351 range based upon the length of the marriage subject to the
352 alimony factors in paragraph (4) (b). Before the expiration of
353 the durational period, nominal alimony may be modified in
354 accordance with s. 61.14 as to amount to a full alimony award
355 using the alimony guidelines and factors in accordance with s.
356 61.08.

357 (7) TAXABILITY AND DEDUCTIBILITY OF ALIMONY.—

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

363 (b) When making a judgment or order for alimony, the court
364 may, in its discretion after weighing the equities and tax

365 efficiencies, order alimony be nondeductible from income by the
366 payor and nonincludable in the income of the payee.

367 (c) The parties may, in a marital settlement agreement,
368 separation agreement, or related agreement, specifically agree
369 in writing that alimony be nondeductible from income by the
370 payor and nonincludable in the income of the payee.

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

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

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

391 the obligee.

392 (11) (a) PAYMENT OF AWARD.—With respect to an order
393 requiring the payment of alimony entered on or after January 1,
394 1985, unless paragraph (c) or paragraph (d) applies, the court
395 shall direct in the order that the payments of alimony be made
396 through the appropriate depository as provided in s. 61.181.

397 (b) With respect to an order requiring the payment of
398 alimony entered before January 1, 1985, upon the subsequent
399 appearance, on or after that date, of one or both parties before
400 the court having jurisdiction for the purpose of modifying or
401 enforcing the order or in any other proceeding related to the
402 order, or upon the application of either party, unless paragraph
403 (c) or paragraph (d) applies, the court shall modify the terms
404 of the order as necessary to direct that payments of alimony be
405 made through the appropriate depository as provided in s.
406 61.181.

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

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

416 2. If subparagraph 1. applies, either party may

417 subsequently file with the clerk of the court a verified motion
418 alleging a default or arrearages in payment stating that the
419 party wishes to initiate participation in the depository
420 program. The moving party shall provide a copy of the motion to
421 the other party. No later than 15 days after filing the motion,
422 the court shall conduct an evidentiary hearing establishing the
423 default and arrearages, if any, and issue an order directing the
424 clerk of the circuit court to establish, or amend an existing,
425 family law case history account, and further advising the
426 parties that future payments shall thereafter be directed
427 through the depository.

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

431 Section 3. Subsection (1) of section 61.14, Florida
432 Statutes, is amended to read:

433 61.14 Enforcement and modification of support,
434 maintenance, or alimony agreements or orders.—

435 (1) (a) When the parties enter into an agreement for
436 payments for, or instead of, support, maintenance, or alimony,
437 whether in connection with a proceeding for dissolution or
438 separate maintenance or with any voluntary property settlement,
439 or when a party is required by court order to make any payments,
440 and the circumstances or the financial ability of either party
441 changes or the child who is a beneficiary of an agreement or
442 court order as described herein reaches majority after the

443 execution of the agreement or the rendition of the order, either
444 party may apply to the circuit court of the circuit in which the
445 parties, or either of them, resided at the date of the execution
446 of the agreement or reside at the date of the application, or in
447 which the agreement was executed or in which the order was
448 rendered, for an order decreasing or increasing the amount of
449 support, maintenance, or alimony, and the court has jurisdiction
450 to make orders as equity requires, with due regard to the
451 changed circumstances or the financial ability of the parties or
452 the child, decreasing, increasing, or confirming the amount of
453 separate support, maintenance, or alimony provided for in the
454 agreement or order. A party is entitled to pursue an immediate
455 modification of alimony if the actual income earned by the other
456 party exceeds, by at least 10 percent, the amount imputed to
457 that party at the time the existing alimony award was determined
458 and such circumstance shall constitute a substantial change in
459 circumstances sufficient to support a modification of alimony.
460 However, an increase in an alimony obligor's income alone does
461 not constitute a basis for a modification to increase alimony
462 unless at the time the alimony award was established it was
463 determined that the obligor was underemployed or unemployed and
464 the court did not impute income to that party at his or her
465 maximum potential income. If an alimony obligor becomes
466 involuntarily underemployed or unemployed for a period of 6
467 months following the entry of the last order requiring the
468 payment of alimony, the obligor is entitled to pursue an

469 immediate modification of his or her existing alimony
470 obligations and such circumstance shall constitute a substantial
471 change in circumstance sufficient to support a modification of
472 alimony. A finding that medical insurance is reasonably
473 available or the child support guidelines schedule in s. 61.30
474 may constitute changed circumstances. Except as otherwise
475 provided in s. 61.30(11)(c), the court may modify an order of
476 support, maintenance, or alimony by increasing or decreasing the
477 support, maintenance, or alimony retroactively to the date of
478 the filing of the action or supplemental action for modification
479 as equity requires, giving due regard to the changed
480 circumstances or the financial ability of the parties or the
481 child.

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

492 2. In determining whether an existing award of alimony
493 should be reduced or terminated because of an alleged supportive
494 relationship between an obligee and a person who is not related

495 by consanguinity or affinity and ~~with whom the obligee resides,~~
496 the court shall elicit the nature and extent of the relationship
497 in question. The court shall give consideration, without
498 limitation, to circumstances, including, but not limited to, the
499 following, in determining the relationship of an obligee to
500 another person:

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

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

509 c. The extent to which the obligee and the other person
510 have pooled their assets or income or otherwise exhibited
511 financial interdependence.

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

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

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

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

520 h. Whether the obligee and the other person have jointly

521 contributed to the purchase of any real or personal property.

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

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

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

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

535 m. The need and extent to which an obligee provides
 536 caretaking assistance to a person related by consanguinity with
 537 whom the obligee resides, or receives caretaking assistance from
 538 that person.

539 3. In any proceeding to modify an alimony award based upon
 540 a supportive relationship, the obligor has the burden of proof
 541 to establish, by a preponderance of the evidence, that a
 542 supportive relationship exists or has existed within the
 543 previous year before the date of the filing of the petition for
 544 modification or termination. The obligor is not required to
 545 prove cohabitation of the obligee and the third party.

546 4. Notwithstanding paragraph (f), if a reduction or

547 termination is granted under this paragraph, the reduction or
548 termination is retroactive to the date of filing of the petition
549 for reduction or termination.

550 ~~5.3.~~ This paragraph does not abrogate the requirement that
551 every marriage in this state be solemnized under a license, does
552 not recognize a common law marriage as valid, and does not
553 recognize a de facto marriage. This paragraph recognizes only
554 that relationships do exist that provide economic support
555 equivalent to a marriage and that alimony terminable on
556 remarriage may be reduced or terminated upon the establishment
557 of equivalent equitable circumstances as described in this
558 paragraph. The existence of a conjugal relationship, though it
559 may be relevant to the nature and extent of the relationship, is
560 not necessary for the application of the provisions of this
561 paragraph.

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

565 2. The financial information, including, but not limited
566 to, information related to assets and income, of a subsequent
567 spouse of a party paying or receiving alimony is inadmissible
568 and may not be considered as a part of any modification action
569 unless a party is claiming that his or her income has decreased
570 since the marriage. If a party makes such a claim, the financial
571 information of the subsequent spouse is discoverable and
572 admissible only to the extent necessary to establish whether the

573 party claiming that his or her income has decreased is diverting
574 income or assets to the subsequent spouse that might otherwise
575 be available for the payment of alimony. However, this
576 subparagraph may not be used to prevent the discovery of or
577 admissibility in evidence of the income or assets of a party
578 when those assets are held jointly with a subsequent spouse.
579 This subparagraph is not intended to prohibit the discovery or
580 admissibility of a joint tax return filed by a party and his or
581 her subsequent spouse in connection with a modification of
582 alimony.

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

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

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

591 (II) The obligor has reached the customary retirement age
592 for his or her occupation and has retired from that occupation.

593 An obligor may file an action within 1 year of his or her
594 anticipated retirement date and the court shall determine the
595 customary retirement date for the obligor's profession. However,
596 a determination of the customary retirement age is not an
597 adjudication of a petition for a modification of an alimony
598 award.

599 b. If an obligor voluntarily retires before reaching any
 600 of the ages described in sub-subparagraph a., the court shall
 601 determine whether the obligor's retirement is reasonable upon
 602 consideration of the obligor's age, health, and motivation for
 603 retirement and the financial impact on the obligee. A finding of
 604 reasonableness by the court shall constitute a substantial
 605 change in circumstance.

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

- 613 a. The age of the parties.
- 614 b. The health of the parties.
- 615 c. The assets and liabilities of the parties.
- 616 d. The earned or imputed income of the parties as provided
 617 in s. 61.08(1)(a) and (5).
- 618 e. The ability of the parties to maintain part-time or
 619 full-time employment.
- 620 f. Any other factor deemed relevant by the court.

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

624 (e) A party who unreasonably pursues or defends an action

625 for modification of alimony shall be required to pay the
 626 reasonable attorney fees and costs of the prevailing party.
 627 Further, a party obligated to pay prevailing party attorney fees
 628 and costs in connection with unreasonably pursuing or defending
 629 an action for modification is not entitled to an award of
 630 attorney fees and cost in accordance with s. 61.16.

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

635 (g)~~(e)~~ For each support order reviewed by the department
 636 as required by s. 409.2564(11), if the amount of the child
 637 support award under the order differs by at least 10 percent but
 638 not less than \$25 from the amount that would be awarded under s.
 639 61.30, the department shall seek to have the order modified and
 640 any modification shall be made without a requirement for proof
 641 or showing of a change in circumstances.

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

644 Section 4. Paragraph (d) is added to subsection (11) of
 645 section 61.30, Florida Statutes, to read:

646 61.30 Child support guidelines; retroactive child
 647 support.—

648 (11)

649 (d) Whenever a combined alimony and child support award
 650 constitutes more than 55 percent of the payor's net income,

651 calculated without any consideration of alimony or child support
652 obligations, the court shall adjust the award of child support
653 to ensure that the 55 percent cap is not exceeded.

654 Section 5. Section 61.192, Florida Statutes, is created to
655 read:

656 61.192 Advancing trial.—In an action brought pursuant to
657 this chapter, if more than 2 years have passed since the initial
658 petition was served on the respondent, either party may move the
659 court to advance the trial of their action on the docket. This
660 motion may be made at any time after 2 years have passed since
661 the petition was served, and once made the court must give the
662 case priority on the court's calendar.

663 Section 6. The amendments made by this act to chapter 61,
664 Florida Statutes, with the exception of amendments relating to
665 the calculation of the duration of an alimony award, apply to
666 all alimony modification petitions pending as of the effective
667 date of this act and to all alimony modification petitions filed
668 on or after the effective date of this act. The changes to the
669 law made by this act do not constitute a substantial change in
670 circumstances and may not serve as the sole basis to seek a
671 modification of an alimony award made before the effective date
672 of this act.

673 Section 7. This act shall take effect October 1, 2015.