

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

27 termination of an alimony award; providing that the
28 remarriage of an alimony obligor is not a substantial
29 change in circumstance; providing that the financial
30 information of a spouse of a party paying or receiving
31 alimony is inadmissible and undiscoverable; providing
32 an exception; providing for modification or
33 termination of an award based on a party's retirement;
34 providing a presumption upon a finding of a
35 substantial change in circumstance; specifying factors
36 to be considered in determining whether to modify or
37 terminate an award based on a substantial change in
38 circumstance; providing for a temporary suspension of
39 an obligor's payment of alimony while his or her
40 petition for modification or termination is pending;
41 providing for an effective date of a modification or
42 termination of an award; providing for an award of
43 attorney fees and costs for unreasonably pursuing or
44 defending a modification of an award; amending s.
45 61.30, F.S.; providing that whenever a combined
46 alimony and child support award constitutes more than
47 a specified percentage of a payor's net income, the
48 child support award be adjusted to reduce the combined
49 total; creating s. 61.192, F.S.; providing for motions
50 to advance the trial of certain actions if a specified
51 period has passed since the initial service on the
52 respondent; providing applicability; providing an

53 effective date.

54

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

56

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

59 61.071 Alimony pendente lite; suit money.—In every
60 proceeding for dissolution of the marriage, a party may claim
61 alimony and suit money in the petition or by motion, and if the
62 petition is well founded, the court shall allow a reasonable sum
63 therefor. If a party in any proceeding for dissolution of
64 marriage claims alimony or suit money in his or her answer or by
65 motion, and the answer or motion is well founded, the court
66 shall allow a reasonable sum therefor. The court may not use the
67 presumptive alimony guidelines in s. 61.08 to calculate alimony
68 under this section.

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

71 61.08 Alimony.—
72 (Substantial rewording of section. See
73 s. 61.08, F.S., for present text.)

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

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

78 a. Income from salaries.

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

83 c. Commissions.

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

87 e. Bonuses.

88 f. Dividends.

89 g. Severance pay.

90 h. Pension payments and retirement benefits actually
 91 received.

92 i. Royalties.

93 j. Rents.

94 k. Interest.

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

97 m. Annuity payments.

98 n. Capital gains.

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

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

- 105 q. Workers' compensation benefits.
- 106 r. Unemployment insurance benefits.
- 107 s. Disability insurance benefits.
- 108 t. Funds payable from any health, accident, disability, or
 109 casualty insurance to the extent that such insurance replaces
 110 wages or provides income in lieu of wages.
- 111 u. Continuing monetary gifts.
- 112 v. Income from general partnerships, limited partnerships,
 113 closely held corporations, or limited liability companies;
 114 except that if a party is a passive investor, has a minority
 115 interest in the company, and does not have any managerial duties
 116 or input, the income to be recognized may be limited to actual
 117 cash distributions received.
- 118 w. Expense reimbursements or in-kind payments or benefits
 119 received by a party in the course of employment, self-
 120 employment, or operation of a business which reduces personal
 121 living expenses.
- 122 x. Overtime pay.
- 123 2. "Gross income" does not include:
- 124 a. Child support payments received.
- 125 b. Benefits received from public assistance programs.
- 126 c. Social security benefits received by a parent on behalf
 127 of a minor child as a result of the death or disability of a
 128 parent or stepparent.
- 129 d. Earnings or gains on retirement accounts, including
 130 individual retirement accounts; except that such earnings or

131 gains shall be included as income if a party takes a
132 distribution from the account. If a party is able to take a
133 distribution from the account without being subject to a federal
134 tax penalty for early distribution and the party chooses not to
135 take such a distribution, the court may consider the
136 distribution that could have been taken in determining the
137 party's gross income.

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

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

151 (b) "Potential income" means income which could be earned
152 by a party using his or her best efforts and includes potential
153 income from employment and potential income from the investment
154 of assets or use of property. Potential income from employment
155 is the income which a party could reasonably expect to earn by
156 working at a locally available, full-time job commensurate with

157 his or her education, training, and experience. Potential income
158 from the investment of assets or use of property is the income
159 which a party could reasonably expect to earn from the
160 investment of his or her assets or the use of his or her
161 property in a financially prudent manner.

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

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

171 a. Temporary and is reasonably expected to result in
172 higher income within the foreseeable future.

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

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

180 (2) INITIAL FINDINGS.—When a party has requested alimony
181 in a dissolution of marriage proceeding, before granting or
182 denying an award of alimony, the court shall make initial

183 written findings as to:

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

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

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

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

200
 201 (0.0125 x the years of marriage) x the difference between
 202 the monthly gross incomes of the parties

203
 204 The high end of the presumptive alimony amount range shall be
 205 calculated by using the following formula:

206
 207 (0.020 x the years of marriage) x the difference between
 208 the monthly gross incomes of the parties

209
 210 For purposes of calculating the presumptive alimony amount
 211 range, 20 years of marriage shall be used in calculating the low
 212 end and high end for marriages of 20 years or more. In
 213 calculating the difference between the parties' monthly gross
 214 income, the income of the party seeking alimony shall be
 215 subtracted from the income of the other party. If the
 216 application of the formulas to establish a guideline range
 217 results in a negative number, the presumptive alimony amount
 218 shall be \$0.

219 (b) Presumptive alimony duration range.—The low end of the
 220 presumptive alimony duration range shall be calculated by using
 221 the following formula:

222
 223 0.25 x the years of marriage

224
 225 The high end of the presumptive alimony duration range shall be
 226 calculated by using the following formula:

227
 228 0.75 x the years of marriage

229
 230 (c) If a court establishes the duration of the alimony
 231 award at 50 percent or less of the length of the marriage, then
 232 notwithstanding paragraph (a), the court may use the actual
 233 years of the marriage to calculate the high end of the
 234 presumptive alimony amount range.

235 (4) ALIMONY AWARD.—

236 (a) Marriages of 2 years or less.—For marriages of 2 years
237 or less, there is a rebuttable presumption that no alimony shall
238 be awarded. The court may award alimony for a marriage with a
239 duration of 2 years or less only if the court makes written
240 findings that there is clear and convincing need for alimony,
241 there is an ability to pay alimony, and that the failure to
242 award alimony would be inequitable. The court shall then
243 establish the alimony award in accordance with paragraph (b).

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

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

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

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

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

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

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

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

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

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

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

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

294 12. Significant economic or noneconomic contributions to
295 the marriage or to the economic, educational, or occupational
296 advancement of a party, including, but not limited to, services
297 rendered in homemaking, child care, education, and career
298 building of the other party, payment by one spouse of the other
299 spouse's separate debts, or enhancement of the other spouse's
300 personal or real property.

301 13. The tax consequence of the alimony award.

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

304 (c) Deviation from guidelines.—The court may establish an
305 award of alimony that is outside either or both of the
306 presumptive alimony amount and alimony duration ranges only if
307 the court makes specific written findings that the application
308 of the presumptive alimony amount and alimony duration ranges is
309 inappropriate or inequitable after considering all of the
310 factors in paragraph (b).

311 (d) Order establishing alimony award.—After consideration
312 of the presumptive alimony amount and duration ranges in

313 accordance with paragraphs (3)(a), (b), and (c) and the factors
314 upon which evidence was presented in accordance with paragraph
315 (b), the court may establish an alimony award. An order
316 establishing an alimony award must clearly set forth both the
317 amount and the duration of the award. The court shall also make
318 a written finding that the payor has the financial ability to
319 pay the award.

320 (5) IMPUTATION OF INCOME.—If a party is voluntarily
321 unemployed or underemployed, alimony shall be calculated based
322 on a determination of potential income unless there are
323 circumstances that make it inequitable to impute income.

324 (6) NOMINAL ALIMONY.—Notwithstanding subsections (1), (3),
325 and (4), the court may make an award of nominal alimony in the
326 amount of \$1 per year if, at the time of trial, a party who has
327 traditionally provided the primary source of financial support
328 to the family temporarily lacks the ability to pay support but
329 is reasonably anticipated to have the ability to pay support in
330 the future. The court may also award nominal alimony for an
331 alimony recipient that is presently able to work but for whom a
332 medical condition with a reasonable degree of medical certainty
333 may inhibit or prevent his or her ability to work during the
334 duration of the alimony period. The duration of the nominal
335 alimony shall be established within the presumptive durational
336 range based upon the length of the marriage subject to the
337 alimony factors in paragraph (4)(b). Before the expiration of
338 the durational period, nominal alimony may be modified in

339 accordance with s. 61.14 as to amount to a full alimony award
340 using the alimony guidelines and factors in accordance with s.
341 61.08.

342 (7) TAXABILITY AND DEDUCTIBILITY OF ALIMONY.—

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

348 (b) When making a judgment or order for alimony, the court
349 may, in its discretion, order alimony be nondeductible from
350 income by the payor and nonincludable in the income of the
351 payee.

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

356 (8) MAXIMUM COMBINED AWARD.—In no event shall a combined
357 award of alimony and child support constitute more than 55
358 percent of the payor's net income.

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

361 (10) (a) PAYMENT OF AWARD.—With respect to an order
362 requiring the payment of alimony entered on or after January 1,
363 1985, unless paragraph (c) or paragraph (d) applies, the court
364 shall direct in the order that the payments of alimony be made

365 through the appropriate depository as provided in s. 61.181.

366 (b) With respect to an order requiring the payment of
367 alimony entered before January 1, 1985, upon the subsequent
368 appearance, on or after that date, of one or both parties before
369 the court having jurisdiction for the purpose of modifying or
370 enforcing the order or in any other proceeding related to the
371 order, or upon the application of either party, unless paragraph
372 (c) or paragraph (d) applies, the court shall modify the terms
373 of the order as necessary to direct that payments of alimony be
374 made through the appropriate depository as provided in s.
375 61.181.

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

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

385 2. If subparagraph 1. applies, either party may
386 subsequently file with the depository an affidavit alleging
387 default or arrearages in payment and stating that the party
388 wishes to initiate participation in the depository program. The
389 party shall provide copies of the affidavit to the court and the
390 other party or parties. Fifteen days after receipt of the

391 affidavit, the depository shall notify all parties that future
392 payments shall be directed to the depository.

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

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

398 61.14 Enforcement and modification of support,
399 maintenance, or alimony agreements or orders.—

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

417 the child, decreasing, increasing, or confirming the amount of
418 separate support, maintenance, or alimony provided for in the
419 agreement or order. A party is entitled to pursue an immediate
420 modification of alimony if the actual income earned by the other
421 party exceeds the amount imputed to that party at the time the
422 existing alimony award was determined and such circumstance
423 shall constitute a substantial change in circumstances
424 sufficient to support a modification of alimony. However, an
425 increase in an alimony obligor's income does not constitute a
426 basis for a modification to increase alimony unless at the time
427 the alimony award was established it was determined that the
428 obligor was underemployed or unemployed and the court did not
429 impute income to that party at his or her maximum potential
430 income. If an alimony obligor becomes involuntarily
431 underemployed or unemployed for a period of 6 months following
432 the entry of the last order requiring the payment of alimony,
433 the obligor is entitled to an immediate modification of his or
434 her existing alimony obligations and such circumstance shall
435 constitute a substantial change in circumstance sufficient to
436 support a modification of alimony. A finding that medical
437 insurance is reasonably available or the child support
438 guidelines schedule in s. 61.30 may constitute changed
439 circumstances. Except as otherwise provided in s. 61.30(11)(c),
440 the court may modify an order of support, maintenance, or
441 alimony by increasing or decreasing the support, maintenance, or
442 alimony retroactively to the date of the filing of the action or

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443 supplemental action for modification as equity requires, giving
444 due regard to the changed circumstances or the financial ability
445 of the parties or the child.

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

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

465 a. The extent to which the obligee and the other person
466 have held themselves out as a married couple by engaging in
467 conduct such as using the same last name, using a common mailing
468 address, referring to each other in terms such as "my spouse"

469 ~~"my husband" or "my wife,"~~ or otherwise conducting themselves in
470 a manner that evidences a permanent supportive relationship.

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

473 c. The extent to which the obligee and the other person
474 have pooled their assets or income or otherwise exhibited
475 financial interdependence.

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

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

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

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

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

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

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

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

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

499 m. The need and extent to which an obligee provides
500 caretaking assistance to a person related by consanguinity with
501 whom the obligee resides, or receives caretaking assistance from
502 that person.

503 3. In any proceeding to modify an alimony award based upon
504 a supportive relationship, the obligor has the burden of proof
505 to establish, by a preponderance of the evidence, that a
506 supportive relationship exists or has existed within the
507 previous year before the date of the filing of the petition for
508 modification or termination. Once the supportive relationship is
509 demonstrated by a preponderance of the evidence, the burden of
510 proof is on the obligee to disprove the supportive nature of the
511 relationship. The obligor is not required to prove cohabitation
512 of the obligee and the third party.

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

517 5.3. This paragraph does not abrogate the requirement that
518 every marriage in this state be solemnized under a license, does
519 not recognize a common law marriage as valid, and does not
520 recognize a de facto marriage. This paragraph recognizes only

521 that relationships do exist that provide economic support
522 equivalent to a marriage and that alimony terminable on
523 remarriage may be reduced or terminated upon the establishment
524 of equivalent equitable circumstances as described in this
525 paragraph. The existence of a conjugal relationship, though it
526 may be relevant to the nature and extent of the relationship, is
527 not necessary for the application of the provisions of this
528 paragraph.

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

532 2. The financial information, including, but not limited
533 to, information related to assets and income, of a subsequent
534 spouse of a party paying or receiving alimony is inadmissible
535 and may not be considered as a part of any modification action
536 unless a party is claiming that his or her income has decreased
537 since the marriage. If a party makes such a claim, the financial
538 information of the subsequent spouse is discoverable and
539 admissible only to the extent necessary to establish whether the
540 party claiming that his or her income has decreased is diverting
541 income or assets to the subsequent spouse that might otherwise
542 be available for the payment of alimony. However, this
543 subparagraph may not be used to prevent the discovery of or
544 admissibility in evidence of the income or assets of a party
545 when those assets are held jointly with a subsequent spouse.
546 This subparagraph is not intended to prohibit the discovery or

547 admissibility of a joint tax return filed by a party and his or
548 her subsequent spouse in connection with a modification of
549 alimony.

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

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

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

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

560 b. If an obligor voluntarily retires before reaching any
561 of the ages described in sub-subparagraph a., the court shall
562 determine whether the obligor's retirement is reasonable upon
563 consideration of the obligor's age, health, and motivation for
564 retirement and the financial impact on the obligee. A finding of
565 reasonableness by the court shall constitute a substantial
566 change in circumstance.

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

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573 current circumstances of the obligor and obligee:

574 a. The age of the parties.

575 b. The health of the parties.

576 c. The assets and liabilities of the parties.

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

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

581 f. Any other factor deemed relevant by the court.

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

585 (e) A party who unreasonably pursues or defends an action
586 for modification of alimony shall be required to pay the
587 reasonable attorney fees and costs of the prevailing party.
588 Further, a party obligated to pay prevailing party attorney fees
589 and costs in connection with unreasonably pursuing or defending
590 an action for modification is not entitled to an award of
591 attorney fees and cost in accordance with s. 61.16.

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

596 (g)-(e) For each support order reviewed by the department
597 as required by s. 409.2564(11), if the amount of the child
598 support award under the order differs by at least 10 percent but

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599 | not less than \$25 from the amount that would be awarded under s.
 600 | 61.30, the department shall seek to have the order modified and
 601 | any modification shall be made without a requirement for proof
 602 | or showing of a change in circumstances.

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

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

607 | 61.30 Child support guidelines; retroactive child
 608 | support.—

609 | (11)

610 | (d) Whenever a combined alimony and child support award
 611 | constitutes more than 55 percent of the payor's net income, the
 612 | court shall adjust the award of child support to ensure that the
 613 | 55 percent cap is not exceeded.

614 | Section 5. Section 61.192, Florida Statutes, is created to
 615 | read:

616 | 61.192 Advancing trial.—In an action brought pursuant to
 617 | this chapter, if more than 2 years have passed since the initial
 618 | petition was served on the respondent, either party may move the
 619 | court to advance the trial of their action on the docket. This
 620 | motion may be made at any time after 2 years have passed since
 621 | the petition was served, and once made the court must give the
 622 | case priority on the court's calendar.

623 | Section 6. The amendments made by this act to chapter 61,
 624 | Florida Statutes, with the exception of amendments relating to

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625 the calculation of the duration of an alimony award, apply to
626 all alimony modification petitions pending as of the effective
627 date of this act and to all alimony modification petitions filed
628 on or after the effective date of this act. The changes to the
629 law made by this act do not constitute a substantial change in
630 circumstances and may not serve as the sole basis to seek a
631 modification of an alimony award made before the effective date
632 of this act.

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