

2016668er

1
2 An act relating to family law; amending s. 61.071,
3 F.S.; requiring a court to consider certain alimony
4 factors and make specific written findings of fact
5 under certain circumstances; prohibiting a court from
6 using certain presumptive alimony guidelines in
7 calculating alimony pendente lite; amending s. 61.08,
8 F.S.; defining terms; requiring a court to make
9 specified initial written findings in a dissolution of
10 marriage proceeding where a party has requested
11 alimony; requiring a court to make specified findings
12 before ruling on a request for alimony; providing for
13 determinations of presumptive alimony amount range and
14 duration range; providing presumptions concerning
15 alimony awards depending on the duration of marriages;
16 providing for imputation of income in certain
17 circumstances; specifying exceptions to the guidelines
18 for the amount and duration of alimony awards;
19 providing for awards of nominal alimony in certain
20 circumstances; providing for taxability and
21 deductibility of alimony awards; prohibiting a
22 combined award of alimony and child support from
23 constituting more than a specified percentage of a
24 payor's net income; authorizing the court to order a
25 party to protect an alimony award by specified means;
26 providing for termination of an award; authorizing a
27 court to modify or terminate the amount of an initial
28 alimony award; prohibiting a court from modifying the
29 duration of an alimony award; providing for payment of

2016668er

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

2016668er

59 terminate an award based on a substantial change in
60 circumstance; providing for a temporary suspension of
61 an obligor's payment of alimony while his or her
62 petition for modification or termination is pending;
63 providing for an award of attorney fees and costs for
64 unreasonably pursuing or defending a modification of
65 an award; providing for an effective date of a
66 modification or termination of an award; amending s.
67 61.30, F.S.; requiring that a child support award be
68 adjusted to reduce the combined alimony and child
69 support award under certain circumstances; creating s.
70 61.192, F.S.; providing for motions to advance the
71 trial of certain actions if a specified period has
72 passed since the initial service on the respondent;
73 amending ss. 61.1827 and 409.2579, F.S.; conforming
74 cross-references; providing applicability; providing
75 an effective date.

76
77 Be It Enacted by the Legislature of the State of Florida:

78
79 Section 1. Section 61.071, Florida Statutes, is amended to
80 read:

81 61.071 Alimony pendente lite; suit money.—In every
82 proceeding for dissolution of the marriage, a party may claim
83 alimony and suit money in the petition or by motion, and if the
84 petition is well founded, the court shall allow a reasonable sum
85 therefor. If a party in any proceeding for dissolution of
86 marriage claims alimony or suit money in his or her answer or by
87 motion, and the answer or motion is well founded, the court

2016668er

88 shall allow a reasonable sum therefor. After determining there
89 is a need for alimony and that there is an ability to pay
90 alimony, the court shall consider the alimony factors in s.
91 61.08(4)(b)1.-14. and make specific written findings of fact
92 regarding the relevant factors that justify an award of alimony
93 under this section. The court may not use the presumptive
94 alimony guidelines in s. 61.08 to calculate alimony under this
95 section.

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

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

100 61.08 Alimony.—

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

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

105 a. Income from salaries.

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

110 c. Commissions.

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

114 e. Bonuses.

115 f. Dividends.

116 g. Severance pay.

2016668er

- 117 h. Pension payments and retirement benefits actually
118 received.
- 119 i. Royalties.
- 120 j. Rental income, which is gross receipts minus ordinary
121 and necessary expenses required to produce the income.
- 122 k. Interest.
- 123 l. Trust income and distributions which are regularly
124 received, relied upon, or readily available to the beneficiary.
- 125 m. Annuity payments.
- 126 n. Capital gains.
- 127 o. Any money drawn by a self-employed individual for
128 personal use that is deducted as a business expense, which
129 moneys must be considered income from self-employment.
- 130 p. Social security benefits, including social security
131 benefits actually received by a party as a result of the
132 disability of that party.
- 133 q. Workers' compensation benefits.
- 134 r. Unemployment insurance benefits.
- 135 s. Disability insurance benefits.
- 136 t. Funds payable from any health, accident, disability, or
137 casualty insurance to the extent that such insurance replaces
138 wages or provides income in lieu of wages.
- 139 u. Continuing monetary gifts.
- 140 v. Income from general partnerships, limited partnerships,
141 closely held corporations, or limited liability companies;
142 except that if a party is a passive investor, has a minority
143 interest in the company, and does not have any managerial duties
144 or input, the income to be recognized may be limited to actual
145 cash distributions received.

2016668er

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

150 x. Overtime pay.

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

152 z. Spousal support received from a previous marriage.

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

155 2. "Gross income" does not include:

156 a. Child support payments received.

157 b. Benefits received from public assistance programs.

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

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

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

2016668er

175 such income.

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

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

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

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

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

2016668er

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

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

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

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

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

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

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

231
232 (0.015 x the years of marriage) x the difference between the

2016668er

233 monthly gross incomes of the parties

234

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

237

238 (0.020 x the years of marriage) x the difference between the
239 monthly gross incomes of the parties

240

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

250 (b) Presumptive alimony duration range.—The low end of the
251 presumptive alimony duration range shall be calculated by using
252 the following formula:

253

254 0.25 x the years of marriage

255

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

258

259 0.75 x the years of marriage

260

261 (c) Exceptions to alimony guidelines.—

2016668er

262 1. If a court establishes the duration of the alimony award
263 at 50 percent or less of the length of the marriage, the court
264 shall use the actual years of the marriage, up to a maximum of
265 25 years, to calculate the high end of the presumptive alimony
266 amount range.

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

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

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

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

282
283 This subparagraph should not be applied in a manner that
284 discourages a spouse from seeking additional education or
285 employment opportunities.

286 (4) ALIMONY AWARD.—

287 (a) Marriages of 2 years or less.—For marriages of 2 years
288 or less, there is a rebuttable presumption that no alimony shall
289 be awarded. The court may award alimony for a marriage with a
290 duration of 2 years or less only if the court makes written

2016668er

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

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

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

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

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

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

2016668er

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

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

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

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

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

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

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

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

2016668er

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

353 13. The tax consequence of the alimony award.

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

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

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

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

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

2016668er

378 and (4), the court may make an award of nominal alimony in the
379 amount of \$1 per year if, at the time of trial, a party who has
380 traditionally provided the primary source of financial support
381 to the family temporarily lacks the ability to pay support but
382 is reasonably anticipated to have the ability to pay support in
383 the future. The court may also award nominal alimony for an
384 alimony recipient who is presently able to work but for whom a
385 medical condition with a reasonable degree of medical certainty
386 may inhibit or prevent his or her ability to work during the
387 duration of the alimony period. The duration of the nominal
388 alimony shall be established within the presumptive durational
389 range based upon the length of the marriage subject to the
390 alimony factors in paragraph (4) (b). Before the expiration of
391 the durational period, nominal alimony may be modified in
392 accordance with s. 61.14 as to amount to a full alimony award
393 using the alimony guidelines and factors in accordance with s.
394 61.08.

395 (7) TAXABILITY AND DEDUCTIBILITY OF ALIMONY.—

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

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

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

2016668er

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

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

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

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

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

434 (12) PAYMENT OF AWARD.—

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

2016668er

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

440 (b) With respect to an order requiring the payment of
441 alimony entered before January 1, 1985, upon the subsequent
442 appearance, on or after that date, of one or both parties before
443 the court having jurisdiction for the purpose of modifying or
444 enforcing the order or in any other proceeding related to the
445 order, or upon the application of either party, unless paragraph
446 (c) or paragraph (d) applies, the court shall modify the terms
447 of the order as necessary to direct that payments of alimony be
448 made through the appropriate depository as provided in s.
449 61.181.

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

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

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

2016668er

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

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

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

476 61.13 Support of children; parenting and time-sharing;
477 powers of court.—

478 (2)

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

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

2016668er

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

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

2016668er

523 child.

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

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

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

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

2016668er

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

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

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

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

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

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

579 (f) The moral fitness of the parents.

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

2016668er

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

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

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

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

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

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

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

2016668er

610 abuse, child abandonment, or child neglect.

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

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

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

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

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

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

636
637 The court shall make detailed written findings of fact which
638 support and justify any parenting plan or time-sharing schedule

2016668er

639 that is not based on an agreement between the parents.

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

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

647 61.14 Enforcement and modification of support, maintenance,
648 or alimony agreements or orders.—

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

2016668er

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

2016668er

697 child.

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

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

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

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

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

2016668er

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

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

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

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

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

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

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

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

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

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

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

2016668er

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

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

762 5.3- This paragraph does not abrogate the requirement that
763 every marriage in this state be solemnized under a license, does
764 not recognize a common law marriage as valid, and does not
765 recognize a de facto marriage. This paragraph recognizes only
766 that relationships do exist that provide economic support
767 equivalent to a marriage and that alimony terminable on
768 remarriage may be reduced or terminated upon the establishment
769 of equivalent equitable circumstances as described in this
770 paragraph. The existence of a conjugal relationship, though it
771 may be relevant to the nature and extent of the relationship, is
772 not necessary for the application of the provisions of this
773 paragraph.

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

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

2016668er

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

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

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

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

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

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

2016668er

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

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

825 a. The age of the parties.

826 b. The health of the parties.

827 c. The assets and liabilities of the parties.

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

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

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

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

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

2016668er

842 attorney fees and costs in accordance with s. 61.16.

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

847 (g) ~~(e)~~ For each support order reviewed by the department as
848 required by s. 409.2564(11), if the amount of the child support
849 award under the order differs by at least 10 percent but not
850 less than \$25 from the amount that would be awarded under s.
851 61.30, the department shall seek to have the order modified and
852 any modification shall be made without a requirement for proof
853 or showing of a change in circumstances.

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

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

858 61.30 Child support guidelines; retroactive child support.-
859 (11)

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

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

867 61.192 Advancing trial.-In an action brought pursuant to
868 this chapter, if more than 2 years have passed since the initial
869 petition was served on the respondent, either party may move the
870 court to advance the trial of their action on the docket. This

2016668er

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

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

876 61.1827 Identifying information concerning applicants for
877 and recipients of child support services.—

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

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

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

894 (c) Mandatory disclosure of information as required by ss.
895 409.2577, 61.181, 61.1825, and 61.1826 and Title IV-D of the
896 Social Security Act; or

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

2016668er

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

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

906 409.2579 Safeguarding Title IV-D case file information.—

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

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

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

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

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

2016668er

929 thereby; and

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

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

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