

1                   A bill to be entitled  
2       An act relating to dissolution of marriage; amending  
3       s. 61.071, F.S.; limiting awards of suit money in  
4       dissolution of marriage cases; amending s. 61.08,  
5       F.S.; revising factors to be considered for alimony  
6       awards; requiring a court to make certain written  
7       findings concerning alimony; revising factors to be  
8       considered in whether to award alimony or maintenance;  
9       revising provisions relating to the protection of  
10      awards of alimony; revising provisions for awards of  
11      bridge-the-gap alimony and durational alimony;  
12      redesignating permanent alimony as long-term alimony  
13      and revising provisions relating to its award;  
14      requiring written findings regarding the standard of  
15      living of the parties after dissolution of marriage;  
16      amending s. 61.14, F.S.; revising provisions relating  
17      to the effect of a supportive relationship on an award  
18      of alimony; requiring refund of alimony paid and an  
19      award of costs and fees if the recipient of alimony  
20      denies the existence of a supportive relationship that  
21      is later found to exist or denies material facts  
22      relating to a supportive relationship that are later  
23      found to be true; prohibiting a court from reserving  
24      jurisdiction to reinstate an alimony award if the  
25      supportive relationship ends; providing that income  
26      and assets of the obligor's spouse or the person with  
27      whom the obligor resides may not be considered in the  
28      redetermination in a modification action; providing

CS/HB 549

2012

29 | that if the court orders alimony concurrent with a  
30 | child support order, the alimony award may not be  
31 | modified due to the later modification or termination  
32 | of child support payments; providing that the  
33 | attaining of retirement age is a substantial change in  
34 | circumstances; creating a rebuttable presumption that  
35 | alimony terminates upon retirement of the obligor;  
36 | providing for a petition for termination or  
37 | modification of the alimony award effective upon the  
38 | retirement date; providing for recalculation of an  
39 | alimony award if the presumption is rebutted;  
40 | requiring a court to require an obligee to maximize  
41 | both his or her reasonable potential for  
42 | rehabilitation and reasonable earning capacity to  
43 | impute all income to the obligee that could be  
44 | reasonably earned after achieving maximum  
45 | rehabilitation and reasonably increasing earning  
46 | capacity; requiring written findings regarding  
47 | rehabilitation; amending s. 61.19, F.S.; requiring  
48 | bifurcation of a dissolution of marriage case if the  
49 | case is more than 180 days past filing; providing  
50 | legislative intent; providing an effective date.

51 |  
52 | Be It Enacted by the Legislature of the State of Florida:

53 |  
54 | Section 1. Section 61.071, Florida Statutes, is amended to  
55 | read:

56 | 61.071 Alimony pendente lite; suit money.—In every

57 proceeding for dissolution of the marriage, a party may claim  
 58 alimony and suit money in the petition or by motion, and if the  
 59 petition is well founded, the court shall allow a reasonable sum  
 60 therefor. If a party in any proceeding for dissolution of  
 61 marriage claims alimony or suit money in his or her answer or by  
 62 motion, and the answer or motion is well founded, the court  
 63 shall allow a reasonable sum therefor. Suit money allowed under  
 64 this section may not exceed the greater of \$7,000 or the  
 65 reasonable value of the representation of the party paying the  
 66 fee.

67 Section 2. Section 61.08, Florida Statutes, is amended to  
 68 read:

69 61.08 Alimony.—

70 (1) In a proceeding for dissolution of marriage under s.  
 71 61.052(1)(a), the court may grant alimony to either party, which  
 72 alimony may be bridge-the-gap, rehabilitative, durational, or  
 73 long-term permanent in nature or a any combination of bridge-  
 74 the-gap and rehabilitative ~~these forms of alimony where~~  
 75 appropriate. In any award of alimony, the court may order  
 76 periodic payments, ~~or~~ payments in lump sum, or both. ~~The court~~  
 77 ~~may consider the adultery of either spouse and the circumstances~~  
 78 ~~thereof in determining the amount of alimony, if any, to be~~  
 79 ~~awarded~~. In all dissolution actions, the court shall include  
 80 findings of fact relative to the factors enumerated in  
 81 subsection (2) supporting an award or denial of alimony.

82 (2) In determining whether to award alimony or  
 83 maintenance, the court shall first make, in writing, a specific  
 84 factual determination as to whether either party has an actual

CS/HB 549

2012

85 | need for alimony or maintenance and whether either party has the  
86 | ability to pay alimony or maintenance. If the court finds that a  
87 | party has a need for alimony or maintenance and that the other  
88 | party has the ability to pay alimony or maintenance, then in  
89 | determining the proper type and amount of alimony or maintenance  
90 | under subsections (5)-(8), the court shall consider and make  
91 | written findings regarding all relevant factors, including, ~~but~~  
92 | ~~not limited to:~~

93 |       (a) The standard of living of each party established  
94 | during the marriage.

95 |       (b) The duration of the marriage.

96 |       (c) The age and the physical and emotional condition of  
97 | each party.

98 |       (d) The financial resources of each party, only to include  
99 | ~~including the nonmarital and~~ the marital assets and liabilities  
100 | distributed to each.

101 |       (e) The earning capacities, educational levels, vocational  
102 | skills, and employability of the parties and, when applicable,  
103 | the time necessary for either party to acquire sufficient  
104 | education or training to enable such party to find appropriate  
105 | employment.

106 |       (f) The contribution of each party to the marriage,  
107 | including, but not limited to, services rendered in homemaking,  
108 | child care, education, and career building of the other party.

109 |       (g) The responsibilities each party will have with regard  
110 | to any minor children the parties ~~they~~ have in common.

111 |       (h) The tax treatment and consequences to both parties of  
112 | any alimony award, which award must be deductible by the obligor

CS/HB 549

2012

113 and taxable to the obligee, except that an award for the cost of  
114 the obligee's education or training necessary to establish the  
115 capacity for self support need not be deductible by the obligor  
116 ~~including the designation of all or a portion of the payment as~~  
117 ~~a nontaxable, nondeductible payment.~~

118 (i) All sources of income available to either party,  
119 including income available to either party through investments  
120 of any asset held by that party that were acquired during the  
121 marriage.

122 (j) The standard of living of each party after the  
123 application of the alimony award. There shall be a rebuttable  
124 presumption that both parties will necessarily have a lower  
125 standard of living after the dissolution of marriage than the  
126 standard of living they enjoyed during the marriage.

127 (k) ~~(j)~~ Any other factor necessary to do equity and justice  
128 between the parties, if that factor is specifically identified  
129 in the award with findings of fact justifying the application of  
130 the factor.

131 (3) To the extent necessary to protect an award of  
132 alimony, the court may order any party who is ordered to pay  
133 alimony to purchase or maintain a life insurance policy or a  
134 bond, or to otherwise secure such alimony award with any other  
135 assets which may be suitable for that purpose. The cost of life  
136 insurance or a bond shall be deducted from the alimony award.  
137 The requirements of this subsection are separately modifiable  
138 pursuant to s. 61.14 and terminate upon termination of the award  
139 of alimony.

140 (4) For purposes of determining alimony, ~~there is a~~

141 ~~rebuttable presumption that~~ a short-term marriage is a marriage  
 142 having a duration of less than 7 years, a moderate-term marriage  
 143 is a marriage having a duration of greater than 7 years but less  
 144 than 20 ~~17~~ years, and long-term marriage is a marriage having a  
 145 duration of 20 ~~17~~ years or greater. The length of a marriage is  
 146 the period of time from the date of marriage until the date of  
 147 filing of an action for dissolution of marriage.

148 (5) Bridge-the-gap alimony may be awarded to assist a  
 149 party by providing support to allow the party to make a  
 150 transition from being married to being single. Bridge-the-gap  
 151 alimony is designed to assist a party with legitimate  
 152 identifiable short-term needs, and the length of an award may  
 153 not exceed 2 years. An award of bridge-the-gap alimony  
 154 terminates upon the death of either party or upon the remarriage  
 155 of the party receiving alimony. An award of bridge-the-gap  
 156 alimony shall not be modifiable in amount or duration.

157 (6) (a) Rehabilitative alimony may be awarded to assist a  
 158 party in establishing the capacity for self-support through  
 159 either:

- 160 1. The redevelopment of previous skills or credentials; or
- 161 2. The acquisition of education, training, or work  
 162 experience necessary to develop appropriate employment skills or  
 163 credentials.

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

167 (c) An award of rehabilitative alimony shall ~~may~~ be  
 168 modified or terminated in accordance with s. 61.14 based upon a

169 substantial change in circumstances, upon noncompliance with the  
 170 rehabilitative plan, or upon completion of the rehabilitative  
 171 plan.

172 (7) There shall be a presumption in favor of durational  
 173 alimony over long-term ~~may be awarded when permanent periodic~~  
 174 alimony ~~is inappropriate~~. The purpose of durational alimony is  
 175 to provide a party with economic assistance for a set period of  
 176 time following a marriage of ~~short or~~ moderate duration or  
 177 following a marriage of long duration if there is no ongoing  
 178 need for support on a long-term ~~permanent~~ basis as provided in  
 179 subsection (8). An award of durational alimony terminates upon  
 180 the death of either party or upon the remarriage of the party  
 181 receiving alimony. The amount of an award of durational alimony  
 182 shall ~~may~~ be modified or terminated based upon a substantial  
 183 change in circumstances or upon the existence of a supportive  
 184 relationship in accordance with s. 61.14. ~~However,~~ The length of  
 185 an award of durational alimony may not ~~be modified except under~~  
 186 ~~exceptional circumstances and may not~~ exceed the length of the  
 187 marriage.

188 (8) Long-term ~~Permanent~~ alimony may be awarded to provide  
 189 for the needs and necessities of life ~~as they were established~~  
 190 ~~during the marriage of the parties~~ for a party who lacks the  
 191 financial ability to meet his or her needs and necessities of  
 192 life following a dissolution of marriage. Long-term ~~Permanent~~  
 193 alimony may be awarded following a long-term marriage ~~of long~~  
 194 ~~duration~~ if such an award is appropriate upon consideration of  
 195 the factors set forth in subsection (2), following a moderate-  
 196 term marriage ~~of moderate duration~~ if such an award is

197 appropriate based upon clear and convincing evidence after  
 198 consideration of the factors set forth in subsection (2), or  
 199 following a short-term marriage ~~of short duration~~ if there are  
 200 written findings of exceptional circumstances. In awarding long-  
 201 term ~~permanent~~ alimony, the court shall include findings a  
 202 finding that no other form of alimony will provide for the needs  
 203 and necessities of life of the recipient and that no other form  
 204 is fair and reasonable under the circumstances of the parties.  
 205 An award of long-term ~~permanent~~ alimony terminates upon the  
 206 death of either party, ~~or~~ upon the remarriage of the party  
 207 receiving alimony, or as provided in s. 61.14(12). An award  
 208 shall ~~may~~ be modified or terminated based upon a substantial  
 209 change in circumstances or upon the existence of a supportive  
 210 relationship in accordance with s. 61.14.

211 (9) Notwithstanding any other law to the contrary, an ~~The~~  
 212 award of alimony may not leave the payor with ~~significantly~~ less  
 213 net income or with a lower standard of living than the net  
 214 ~~income of the recipient unless there are written findings of~~  
 215 ~~exceptional circumstances.~~ The court shall make written findings  
 216 regarding the relative incomes and standards of living citing to  
 217 evidence in the record and to this subsection.

218 (10) (a) With respect to any order requiring the payment of  
 219 alimony entered on or after January 1, 1985, unless ~~the~~  
 220 ~~provisions of~~ paragraph (c) or paragraph (d) applies ~~apply~~, the  
 221 court shall direct in the order that the payments of alimony be  
 222 made through the appropriate depository as provided in s.  
 223 61.181.

224 (b) With respect to any order requiring the payment of



CS/HB 549

2012

225 alimony entered before January 1, 1985, upon the subsequent  
226 appearance, on or after that date, of one or both parties before  
227 the court having jurisdiction for the purpose of modifying or  
228 enforcing the order or in any other proceeding related to the  
229 order, or upon the application of either party, unless ~~the~~  
230 ~~provisions of~~ paragraph (c) or paragraph (d) applies ~~apply~~, the  
231 court shall modify the terms of the order as necessary to direct  
232 that payments of alimony be made through the appropriate  
233 depository as provided in s. 61.181.

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

236 (d)1. If there is a minor child of the parties and both  
237 parties so request, the court may order that alimony payments  
238 need not be directed through the depository. In this case, the  
239 order of support shall provide, or be deemed to provide, that  
240 either party may subsequently apply to the depository to require  
241 that payments be made through the depository. The court shall  
242 provide a copy of the order to the depository.

243 2. If ~~the provisions of~~ subparagraph 1. applies ~~apply~~,  
244 either party may subsequently file with the depository an  
245 affidavit alleging default or arrearages in payment and stating  
246 that the party wishes to initiate participation in the  
247 depository program. The party shall provide copies of the  
248 affidavit to the court and the other party or parties. Fifteen  
249 days after receipt of the affidavit, the depository shall notify  
250 all parties that future payments shall be directed to the  
251 depository.

252 3. In IV-D cases, the IV-D agency shall have the same

253 | rights as the obligee in requesting that payments be made  
 254 | through the depository.

255 |       Section 3. Paragraph (b) of subsection (1) of section  
 256 | 61.14, Florida Statutes, is amended, paragraphs (c) and (d) are  
 257 | added to subsection (11) of that section, and subsections (12)  
 258 | and (13) are added to that section, to read:

259 |       61.14 Enforcement and modification of support,  
 260 | maintenance, or alimony agreements or orders.—

261 |       (1)

262 |       (b)1. The court must ~~may~~ reduce or terminate an award of  
 263 | alimony upon specific written findings by the court that since  
 264 | the granting of a divorce and the award of alimony a supportive  
 265 | relationship has existed between the obligee and a person with  
 266 | whom the obligee resides. On the issue of whether alimony should  
 267 | be reduced or terminated under this paragraph, the burden is on  
 268 | the obligor to prove by a preponderance of the evidence that a  
 269 | supportive relationship exists.

270 |       2. In determining whether an existing award of alimony  
 271 | should be reduced or terminated because of an alleged supportive  
 272 | relationship between an obligee and a person who is not related  
 273 | by consanguinity or affinity and with whom the obligee resides,  
 274 | the court shall elicit the nature and extent of the relationship  
 275 | in question. The court shall give consideration, without  
 276 | limitation, to circumstances~~7~~ including, but not limited to, the  
 277 | following~~7~~ in determining the relationship of an obligee to  
 278 | another person:

279 |       a. The extent to which the obligee and the other person  
 280 | have held themselves out as a married couple by engaging in

281 | conduct such as using the same last name, using a common mailing  
282 | address, referring to each other in terms such as "my husband"  
283 | or "my wife," or otherwise conducting themselves in a manner  
284 | that evidences a permanent supportive relationship.

285 |       b. The period of time that the obligee has resided with  
286 | the other person in a permanent place of abode.

287 |       c. The extent to which the obligee and the other person  
288 | have pooled their assets or income or otherwise exhibited  
289 | financial interdependence.

290 |       d. The extent to which the obligee or the other person has  
291 | supported the other, in whole or in part.

292 |       e. The extent to which the obligee or the other person has  
293 | performed valuable services for the other.

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

296 |       g. Whether the obligee and the other person have worked  
297 | together to create or enhance anything of value.

298 |       h. Whether the obligee and the other person have jointly  
299 | contributed to the purchase of any real or personal property.

300 |       i. Evidence in support of a claim that the obligee and the  
301 | other person have an express agreement regarding property  
302 | sharing or support.

303 |       j. Evidence in support of a claim that the obligee and the  
304 | other person have an implied agreement regarding property  
305 | sharing or support.

306 |       k. Whether the obligee and the other person have provided  
307 | support to the children of one another, regardless of any legal  
308 | duty to do so.

309           3. This paragraph does not abrogate the requirement that  
310 every marriage in this state be solemnized under a license, does  
311 not recognize a common law marriage as valid, and does not  
312 recognize a de facto marriage. This paragraph recognizes only  
313 that relationships do exist that provide economic support  
314 equivalent to a marriage and that alimony terminable on  
315 remarriage may be reduced or terminated upon the establishment  
316 of equivalent equitable circumstances as described in this  
317 paragraph. The existence of a conjugal relationship, though it  
318 may be relevant to the nature and extent of the relationship, is  
319 not necessary for the application of ~~the provisions of~~ this  
320 paragraph.

321           4. If the obligee denies or fails to admit any material  
322 fact regarding the existence of a supportive relationship in  
323 circumstances where the obligee knew or should have known about  
324 the material fact and the obligor subsequently proves the  
325 existence of the material fact, the court shall, in the form of  
326 a civil judgment:

327           a. Order modification of the alimony award retroactive to  
328 the beginning of the supportive relationship.

329           b. Award to the obligor a refund of all of the alimony the  
330 obligor actually paid to the obligee from the beginning of the  
331 supportive relationship.

332           c. Award to the obligor reasonable costs and attorney fees  
333 incurred in proving the fact.

334           5. If the obligee denies the existence of a supportive  
335 relationship and the obligor subsequently proves the existence  
336 of a supportive relationship, the court shall order termination

337 of the alimony award retroactive to the beginning of the  
338 supportive relationship, award to the obligor a refund of all of  
339 the alimony the obligor actually paid to the obligee from the  
340 beginning of the supportive relationship, and award to the  
341 obligor reasonable costs and attorney fees incurred in proving  
342 the existence of the supportive relationship. An award under  
343 this subparagraph shall be a civil judgment.

344 6. A court terminating an alimony award based on the  
345 existence of a supportive relationship may not reserve  
346 jurisdiction to later reinstate alimony.

347 (11)

348 (c) If the obligor remarries or resides with another  
349 person, the income and assets of the obligor's spouse or the  
350 person with whom the obligor resides may not be considered in a  
351 modification action regarding such obligor.

352 (d) If the court orders alimony payable concurrent with a  
353 child support order, the alimony award may not be modified  
354 solely because of a later modification or termination of child  
355 support payments.

356 (12) The fact that an obligor has reached the normal  
357 retirement age shall be considered a substantial change in  
358 circumstances as a matter of law. There is a rebuttable  
359 presumption that the normal retirement age for purposes of this  
360 subsection is 67 years of age. In anticipation of retirement,  
361 the obligor may file a petition for termination or modification  
362 of the alimony award effective upon the retirement date. There  
363 is a rebuttable presumption that alimony terminates upon  
364 retirement of the obligor, which may be overcome only by a

365 written finding of exceptional circumstances. If this  
 366 presumption is overcome, the court shall modify the alimony  
 367 award based on the circumstances of the parties after retirement  
 368 of the obligor and based on the factors in subsection (2).

369 (13) In any alimony award, the court shall require an  
 370 obligee to maximize both his or her reasonable potential for  
 371 rehabilitation and reasonable earning capacity and shall impute  
 372 all income to the obligee that could be reasonably earned after  
 373 achieving maximum rehabilitation and reasonably increasing  
 374 earning capacity. The court shall make written findings of fact  
 375 concerning the reasonable potential of the obligee for  
 376 rehabilitation and the amount of income that should be imputed  
 377 to the obligee.

378 Section 4. Section 61.19, Florida Statutes, is amended to  
 379 read:

380 61.19 Entry of judgment of dissolution of marriage; ~~7~~ delay  
 381 period; bifurcation.—

382 (1) A ~~No~~ final judgment of dissolution of marriage may not  
 383 be entered until at least 20 days have elapsed from the date of  
 384 filing the original petition for dissolution of marriage, ~~17~~ but  
 385 the court, on a showing that injustice would result from this  
 386 delay, may enter a final judgment of dissolution of marriage at  
 387 an earlier date.

388 (2) If more than 180 days has elapsed since the filing of  
 389 an action for dissolution of marriage, upon the request of  
 390 either spouse the court shall enter an order bifurcating the  
 391 action and, if legal grounds for dissolution are proved, shall  
 392 enter a judgment dissolving the marriage and reserving

CS/HB 549

2012

393 jurisdiction to determine all issues other than dissolution. It  
394 is the intent of the Legislature that the decision in *Claughton*  
395 *v. Claughton*, 393 So.2d 1061 (Fla. 1981), shall not prevent  
396 bifurcation or entry of a final judgment pursuant to this  
397 subsection.

398 Section 5. This act shall take effect July 1, 2012.