

CS/HB 1475

2011

1 A bill to be entitled

2 An act relating to alimony; amending s. 61.08, F.S.;

3 revising provisions relating to factors to be considered

4 for alimony awards; revising provisions relating to awards

5 of durational alimony; revising provisions relating to

6 awards of permanent alimony; providing that the award of

7 alimony may not leave the payor with significantly less

8 net income than the net income of the recipient unless

9 there are written findings of exceptional circumstances;

10 providing for applicability of the act; providing an

11 effective date.

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

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15 Section 1. Subsection (9) of section 61.08, Florida

16 Statutes, is renumbered as subsection (10), a new subsection (9)

17 is added to that section, and subsections (2), (7), and (8) of

18 that section are amended, to read:

19 61.08 Alimony.—

20 (2) In determining whether to award alimony or

21 maintenance, the court shall first make a specific factual

22 determination as to whether either party has an actual need for

23 alimony or maintenance and whether either party has the ability

24 to pay alimony or maintenance. If the court finds that a party

25 has a need for alimony or maintenance and that the other party

26 has the ability to pay alimony or maintenance, then in

27 determining the proper type and amount of alimony or maintenance

28 under subsections (5)-(8), the court shall consider all relevant

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29 factors, including, but not limited to:

30 (a) The standard of living established during the
31 marriage.

32 (b) The duration of the marriage.

33 (c) The age and the physical and emotional condition of
34 each party.

35 (d) The financial resources of each party, including the
36 nonmarital and the marital assets and liabilities distributed to
37 each.

38 (e) The earning capacities, educational levels, vocational
39 skills, and employability of the parties and, when applicable,
40 the time necessary for either party to acquire sufficient
41 education or training to enable such party to find appropriate
42 employment.

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

46 (g) The responsibilities each party will have with regard
47 to any minor children they have in common.

48 (h) The tax treatment and consequences to both parties of
49 any alimony award, including the designation of all or a portion
50 of the payment as a nontaxable, nondeductible payment.

51 (i) All sources of income available to either party,
52 including income available to either party through investments
53 of any asset held by that party.

54 (j) Any other factor necessary to do equity and justice
55 between the parties.

56 (7) Durational alimony may be awarded when permanent

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57 periodic alimony is inappropriate. The purpose of durational
58 alimony is to provide a party with economic assistance for a set
59 period of time following a marriage of short or moderate
60 duration, or following a marriage of long duration if there is
61 no ongoing need for support on a permanent basis. An award of
62 durational alimony terminates upon the death of either party or
63 upon the remarriage of the party receiving alimony. The amount
64 of an award of durational alimony may be modified or terminated
65 based upon a substantial change in circumstances in accordance
66 with s. 61.14. However, the length of an award of durational
67 alimony may not be modified except under exceptional
68 circumstances and may not exceed the length of the marriage.

69 (8) Permanent alimony may be awarded to provide for the
70 needs and necessities of life as they were established during
71 the marriage of the parties for a party who lacks the financial
72 ability to meet his or her needs and necessities of life
73 following a dissolution of marriage. Permanent alimony may be
74 awarded following a marriage of long duration if such an award
75 is appropriate upon consideration of the factors set forth in
76 subsection (2), following a marriage of moderate duration if
77 such an award is appropriate based upon clear and convincing
78 evidence after consideration of the factors set forth in
79 subsection (2), or following a marriage of short duration if
80 there are written findings of exceptional circumstances. In
81 awarding permanent alimony, the court shall include a finding
82 that no other form of alimony is fair and reasonable under the
83 circumstances of the parties. An award of permanent alimony
84 terminates upon the death of either party or upon the remarriage

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85 of the party receiving alimony. An award may be modified or
86 terminated based upon a substantial change in circumstances or
87 upon the existence of a supportive relationship in accordance
88 with s. 61.14.

89 (9) The award of alimony award may not leave the payor
90 with significantly less net income than the net income of the
91 recipient unless there are written findings of exceptional
92 circumstances.

93 Section 2. The amendments to s. 61.08, Florida Statutes,
94 by this act apply to all initial awards of alimony entered after
95 July 1, 2011, and to all modifications of alimony of such awards
96 made after July 1, 2011. Such amendments may not serve as a
97 basis to modify awards entered before July 1, 2011, or as a
98 basis to change amounts or duration of awards existing before
99 July 1, 2011. The amendments to s. 61.08, Florida Statutes, by
100 this act are applicable to all cases pending on or filed after
101 July 1, 2011.

102 Section 3. This act shall take effect July 1, 2011.