

By the Committee on Judiciary; and Senator Bogdanoff

590-04400A-11

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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
4 considered for alimony awards; revising provisions
5 relating to awards of durational alimony; revising
6 provisions relating to awards of permanent alimony;
7 providing that the award of alimony may not leave the
8 payor with significantly less net income than the net
9 income of the recipient unless there are written
10 findings of exceptional circumstances; providing for
11 applicability of the act; providing an 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. Present 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 maintenance,
21 the court shall first make a specific factual determination as
22 to whether either party has an actual need for alimony or
23 maintenance and whether either party has the ability to pay
24 alimony or maintenance. If the court finds that a party has a
25 need for alimony or maintenance and that the other party has the
26 ability to pay alimony or maintenance, then in determining the
27 proper type and amount of alimony or maintenance under
28 subsections (5)-(8), the court shall consider all relevant
29 factors, including, but not limited to:

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

(b) The duration of the marriage.

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

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

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

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

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

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

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

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

(7) Durational alimony may be awarded when permanent periodic alimony is inappropriate. The purpose of durational alimony is to provide a party with economic assistance for a set period of time following a marriage of short or moderate

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

68 (8) Permanent alimony may be awarded to provide for the
69 needs and necessities of life as they were established during
70 the marriage of the parties for a party who lacks the financial
71 ability to meet his or her needs and necessities of life
72 following a dissolution of marriage. Permanent alimony may be
73 awarded following a marriage of long duration if such an award
74 is appropriate upon consideration of the factors set forth in
75 subsection (2), following a marriage of moderate duration if
76 such an award is appropriate based upon clear and convincing
77 evidence after consideration of the factors set forth in
78 subsection (2), or following a marriage of short duration if
79 there are written findings of exceptional circumstances. In
80 awarding permanent alimony, the court shall include a finding
81 that no other form of alimony is fair and reasonable under the
82 circumstances of the parties. An award of permanent alimony
83 terminates upon the death of either party or upon the remarriage
84 of the party receiving alimony. An award may be modified or
85 terminated based upon a substantial change in circumstances or
86 upon the existence of a supportive relationship in accordance
87 with s. 61.14.

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

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

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