

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 permanent alimony; providing that an alimony award may
 6 not result in the party receiving the award enjoying a
 7 standard of living that is greater than that of the party
 8 paying alimony unless there are written findings of
 9 exceptional circumstances; providing applicability for
 10 amendments by the act; revising provisions relating to
 11 applicability of certain amendments made in ch. 2010-199,
 12 Laws of Florida, to delete language declaring those
 13 amendments inapplicable to modification of awards made
 14 before the effective date of that act and applying those
 15 amendments to modifications of such awards; providing for
 16 retroactive effect; providing effective dates.

17
 18 Be It Enacted by the Legislature of the State of Florida:
 19

20 Section 1. Subsection (9) of section 61.08, Florida
 21 Statutes, is renumbered as subsection (10), a new subsection (9)
 22 is added to that section, and subsections (2), (7), and (8) of
 23 that section are amended, to read:

24 61.08 Alimony.—

25 (2) In determining whether to award alimony or
 26 maintenance, the court shall first make a specific factual
 27 determination as to whether either party has an actual need for
 28 alimony or maintenance and whether either party has the ability

HB 1475

2011

29 to pay alimony or maintenance. If the court finds that a party
 30 has a need for alimony or maintenance and that the other party
 31 has the ability to pay alimony or maintenance, then in
 32 determining the proper type and amount of alimony or maintenance
 33 under subsections (5)-(8), the court shall consider all relevant
 34 factors, including, but not limited to:

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

37 (b) The duration of the marriage.

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

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

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

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

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

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

56 (i) All sources of income available to either party,

57 including income available to either party through investments
 58 of any asset held by that party.

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

61 (7) Durational alimony may be awarded when permanent
 62 periodic alimony is inappropriate. The purpose of durational
 63 alimony is to provide a party with economic assistance for a set
 64 period of time ~~following a marriage of short or moderate~~
 65 ~~duration~~. An award of durational alimony terminates upon the
 66 death of either party or upon the remarriage of the party
 67 receiving alimony. The amount of an award of durational alimony
 68 may be modified or terminated based upon a substantial change in
 69 circumstances in accordance with s. 61.14. However, the length
 70 of an award of durational alimony may not be modified except
 71 under exceptional circumstances and may not exceed the length of
 72 the marriage.

73 (8) Permanent alimony may be awarded to provide for the
 74 needs and necessities of life as they were established during
 75 the marriage of the parties for a party who lacks the financial
 76 ability to meet his or her needs and necessities of life
 77 following a dissolution of marriage. Permanent alimony may be
 78 awarded following a marriage of moderate or long duration,
 79 ~~following a marriage of moderate duration~~ if such an award is
 80 appropriate upon consideration of the factors set forth in
 81 subsection (2), or following a marriage of short duration if
 82 there are written findings of exceptional circumstances. In
 83 awarding permanent alimony, the court shall include findings
 84 regarding the applicability of the needs and necessities of life

HB 1475

2011

85 established during the marriage to the alimony award and shall
 86 include findings that no other form of alimony, including, but
 87 not limited to, durational alimony, is adequate. An award of
 88 permanent alimony terminates upon the death of either party or
 89 upon the remarriage of the party receiving alimony. An award may
 90 be modified or terminated based upon a substantial change in
 91 circumstances or upon the existence of a supportive relationship
 92 in accordance with s. 61.14.

93 (9) An alimony award may not result in the party receiving
 94 the award enjoying a standard of living that is greater than
 95 that of the party paying alimony unless there are written
 96 findings of exceptional circumstances.

97 Section 2. The amendments to s. 61.08, Florida Statutes,
 98 by this act apply to all initial awards of alimony entered on or
 99 after July 1, 2011, and to all modifications of alimony awards
 100 for marriages of short or moderate duration made on or after
 101 July 1, 2011.

102 Section 3. Effective upon this act becoming a law and
 103 retroactive to July 1, 2010, section 2 of chapter 2010-199, Laws
 104 of Florida, is amended to read:

105 Section 2. The amendments to s. 61.08, Florida Statutes,
 106 by this act apply to all initial awards of alimony entered after
 107 July 1, 2010, and to all modifications of alimony ~~such~~ awards
 108 made after July 1, 2010. ~~Such amendments may not serve as a~~
 109 ~~basis to modify awards entered before July 1, 2010, or as a~~
 110 ~~basis to change amounts or duration of awards existing before~~
 111 ~~July 1, 2010. The amendments to s. 61.08, Florida Statutes, by~~
 112 ~~this act are applicable to all cases pending on or filed after~~

HB 1475

2011

113 | ~~July 1, 2010.~~

114 | Section 4. Except as otherwise expressly provided in this
115 | act and except for this section, which shall take effect upon
116 | this act becoming a law, this act shall take effect July 1,
117 | 2011.