

West's Florida Statutes Annotated

Title VI. Civil Practice and Procedure (Chapters 45-89) (Refs & Annos)

Chapter 61. Dissolution of Marriage; Support; Time-Sharing (Refs & Annos)

Part I. General Provisions

West's F.S.A. § 61.08

61.08. Alimony

Effective: July 1, 2023

Currentness

(1)(a) In a proceeding for dissolution of marriage, the court may grant alimony to either party in the form or forms of temporary, bridge-the-gap, rehabilitative, or durational alimony, as is equitable. In an award of alimony, the court may order periodic or lump sum payments. The court may consider the adultery of either spouse and any resulting economic impact in determining the amount of alimony, if any, to be awarded.

(b) The court shall make written findings of fact regarding the basis for awarding a form or any combination of forms of alimony, including the type of alimony and the length of time for which the alimony is awarded. The court may award a combination of forms of alimony or forms of payment, including lump sum payments, to provide greater economic assistance in order to allow the obligee to achieve self-support.

(2)(a) In determining whether to award support, maintenance, or alimony, the court shall first make a specific, factual determination as to whether the party seeking support, maintenance, or alimony has an actual need for it and whether the other party has the ability to pay support, maintenance, or alimony. The party seeking support, maintenance, or alimony has the burden of proving his or her need for support, maintenance, or alimony and the other party's ability to pay support, maintenance, or alimony.

(b) When determining a support, maintenance, or alimony claim, the court shall include written findings of fact relative to the factors provided in subsection (3) supporting an award or denial of support, maintenance, or alimony, unless the denial is based upon a failure to establish a need for or ability to pay support, maintenance, or alimony. However, the court shall make written findings

of fact as to the lack of need or lack of ability to pay in denying a request for support, maintenance, or alimony.

(3) If the court finds that the party seeking support, maintenance, or alimony has a need for it and that the other party has the ability to pay support, maintenance, or alimony, then in determining the proper form or forms of support, maintenance, or alimony under subsections (5)-(8), or a deviation therefrom, the court shall consider all of the following relevant factors, including, but not limited to:

(a) The duration of the marriage.

(b) The standard of living established during the marriage and the anticipated needs and necessities of life for each party after the entry of the final judgment.

(c) The age, physical, mental, and emotional condition of each party, including whether either party is physically or mentally disabled and the resulting impact on either the obligee's ability to provide for his or her own needs or the obligor's ability to pay alimony and whether such conditions are expected to be temporary or permanent.

(d) The resources and income of each party, including the income generated from both nonmarital and marital assets.

(e) The earning capacities, educational levels, vocational skills, and employability of the parties, including the ability of either party to obtain the necessary skills or education to become self-supporting or to contribute to his or her self-support prior to the termination of the support, maintenance, or alimony award.

(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 whom the parties have in common, with special consideration given to the need to care for a child with a mental or physical disability.

(h) Any other factor necessary for equity and justice between the parties, which shall be specifically identified in the written findings of fact. This may include a finding of a supportive relationship as provided for in s. 61.14(1)(b) or a reasonable retirement as provided for in s. 61.14(1)(c) 1.

(4) To the extent necessary to protect an award of alimony, the court may order the obligor to purchase or maintain a life insurance policy or a bond, or to otherwise secure such alimony award with any other assets that may be suitable for that purpose. The court must make specific findings that there are special circumstances that warrant the purchase or maintenance of a life insurance policy or a bond to secure the alimony award. If the court orders a party to purchase or maintain a life insurance policy or a bond, the court may apportion the costs of such insurance or bond to either or both parties based upon a determination of the ability of the obligee and obligor to pay such costs.

(5) For purposes of determining alimony, there is a rebuttable presumption that a short-term marriage is a marriage having a duration of less than 10 years, a moderate-term marriage is a marriage having a duration between 10 and 20 years, and a long-term marriage is a marriage having a duration of 20 years or longer. The length of a marriage is the period of time from the date of marriage until the date of filing of an action for dissolution of marriage.

(6) Bridge-the-gap alimony may be awarded to provide support to a party in making the transition from being married to being single. Bridge-the-gap alimony assists a party with legitimate identifiable short-term needs. The length of an award of bridge-the-gap alimony may not exceed 2 years. An award of bridge-the-gap alimony terminates upon the death of either party or upon the remarriage of the obligee. An award of bridge-the-gap alimony is not modifiable in amount or duration.

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

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

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

(c) The length of an award of rehabilitative alimony may not exceed 5 years.

(d) An award of rehabilitative alimony may be modified or terminated in accordance with s. 61.14 based upon a substantial change in circumstances, upon noncompliance with the rehabilitative plan, or upon completion of the rehabilitative plan if the plan is completed before the length of the award of rehabilitative alimony expires.

(8)(a) Durational alimony may be awarded to provide a party with economic assistance for a set period of time. An award of durational alimony terminates upon the death of either party or upon the remarriage of the obligee. The amount of an award of durational alimony may be modified or terminated based upon a substantial change in circumstances in accordance with s. 61.14. Durational alimony may not be awarded following a marriage lasting less than 3 years. The length of an award of durational alimony may not be modified except under exceptional circumstances and may not exceed the length of the marriage except as set forth in this subsection.

(b) An award of durational alimony may not exceed 50 percent of the length of a short-term marriage, 60 percent of the length of a moderate-term marriage, or 75 percent of the length of a long-term marriage. Under exceptional circumstances, the court may extend the term of durational alimony by a showing of clear and convincing evidence that it is necessary after application of the factors in subsection (3) and upon consideration of all of the following additional factors:

1. The extent to which the obligee's age and employability limit the obligee's ability for self-support, either in whole or in part.
2. The extent to which the obligee's available financial resources limit the obligee's ability for self-support, either in whole or in part.
3. The extent to which the obligee is mentally or physically disabled or has been diagnosed with a mental or physical condition that has rendered, or will render, him or her incapable of self-support, either in whole or in part.

4. The extent to which the obligee is the caregiver to a mentally or physically disabled child, whether or not the child has attained the age of majority, who is common to the parties. Any extension terminates upon the child no longer requiring caregiving by the obligee, or upon death of the child, unless one of the other factors in this paragraph apply.

(c) The amount of durational alimony is the amount determined to be the obligee's reasonable need, or an amount not to exceed 35 percent of the difference between the parties' net incomes, whichever amount is less. Net income shall be calculated in conformity with s. 61.30(2) and (3), excluding spousal support paid pursuant to a court order in the action between the parties.

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

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

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

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

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

2. If subparagraph 1. applies, either party may subsequently file with the depository an affidavit alleging default or arrearages in payment and stating that the party wishes to initiate participation

in the depository program. The party shall provide copies of the affidavit to the court and the other party or parties. Fifteen days after receipt of the affidavit, the depository shall notify all parties that future payments must be directed to the depository.

3. In IV-D cases, the IV-D agency has the same rights as the obligee in requesting that payments be made through the depository.

(11) The court shall apply this section to all initial petitions for dissolution of marriage or support unconnected with dissolution of marriage pending or filed on or after July 1, 2023.

Credits

Added by Act Oct. 31, 1828, §§ 7, 12; Rev.St.1892, § 1484; Gen.St.1906, § 1932; Rev.Gen.St.1920, § 3195; Comp.Gen.Laws 1927, § 4987; Laws 1947, c. 23894, § 1; Laws 1963, c. 63-145, § 1; Fla.St.1965, § 65.08; Laws 1967, c. 67-254, § 16; Laws 1971, c. 71-241, § 10; Laws 1978, c. 78-339, § 1; Laws 1984, c. 84-110, § 1; Laws 1986, c. 86-220, § 115; Laws 1988, c. 88-98, § 2; Laws 1991, c. 91-246, § 3. Amended by Laws 2010, c. 2010-199, § 1, eff. Jan. 1, 2011; Laws 2011, c. 2011-92, § 79, eff. July 1, 2011; Laws 2023, c. 2023-315, § 1, eff. July 1, 2023.

West's F. S. A. § 61.08, FL ST § 61.08

Current with laws, joint and concurrent resolutions and memorials in effect from the 2023 Special B and C Sessions and the 2023 first regular session. Some statute sections may be more current, see credits for details. The statutes are subject to change as determined by the Florida Revisor of Statutes.