

Alimony Reform Bill, SB 718 was passed 29 to 11 by the Florida Senate on April 4, 2013. It will move to the House and if passed, it will likely be signed into law by the Governor. What follows is a summary of the present law enacted in 2010 and highlights of the changes proposed in the alimony reform bill.

1. [Alimony Law Effective July 1, 2010:](#)

The current legislation designates and describes the following types of alimony:

1. Bridge the Gap Alimony
2. Rehabilitative Alimony
3. Durational Alimony
4. Permanent Periodic Alimony
5. Lump Sum Alimony
6. Combination of the above

It also names and defines the periods of a marriage as follows from the date of marriage through the date the petition for divorce is filed:

1 - 7 years - short term

8 - 17 years - moderate term

Over 18 years - long term

Alimony requires a finding that the recipient spouse has a need for the alimony and the payor spouse has the ability to pay alimony. Therefore, the Court cannot award alimony if there is a finding that there is no need by the recipient spouse for alimony. Furthermore, the Court cannot award alimony even if there is finding that there is need by the recipient spouse, if the payor spouse does not have the ability to pay it. [Florida Statutes 61.08 \(2\)](#) provides the factors for the court to consider when determining the type and the amount of alimony it is to award.

A short term marriage may require bridge the gap alimony, which term of payment may not exceed two years. A moderate term marriage may require either rehabilitative or durational alimony. Rehabilitative alimony requires a defined rehabilitative plan which can be terminated or modified if there is non-compliance or completion of the plan. Durational alimony can be awarded during a short term or moderate term marriage and cannot exceed the length of the marriage under any circumstances. Permanent periodic alimony can be awarded monthly for the life of the payee. It may be awarded after a long term marriage and it may be awarded after a moderate marriage if the factors in [Florida Statutes 61.08 \(2\)](#) are applicable. It may also be awarded after a short term marriage if exceptional circumstances such as total permanent disability occurred during the marriage and the spouse can no longer work. Lump sum alimony is infrequently ordered and may be ordered at any length of marriage. It is likely used as an equalizing payment in the distribution of assets.

All types of alimony terminate upon the death of the payee. Furthermore, all types of alimony may be modified if a substantial change in circumstances occurs. The length of durational alimony may be modified only upon exceptional circumstances and it cannot exceed the length of the marriage. The parties to a divorce may agree to non-modifiable alimony. If so, then the Court cannot modify it. Furthermore, the Court does not have the authority to order non-modifiable alimony.

Highlights of the [Alimony Reform Bill SB 718](#)

In the Alimony Reform Bill, the type and length of marriage, as measured from the date of marriage through the date the petition for divorce is filed, has been proposed as follows:

1 - 11 years - short-term

12 - 19 years - mid-term

20 + years - long-term

A major change in the proposed law is that **permanent alimony is eliminated**. Furthermore, durational alimony cannot exceed 50 percent of the length of the marriage, except for exceptional circumstances, i.e., the spouse became disabled during the marriage and is unable to work. It will eliminate the standard of living factor the Court considers when determining the amount of alimony to order.

Other highlights of the proposed change consist of **not** including, when calculating the amount of alimony, sources of income that are acquired outside of the marriage and which were not relied upon during the marriage. This contradicts the present law as currently these funds are used in the calculation of the alimony award.

In addition there are limits on how much alimony can be paid based upon the length of the marriage. In a short term marriage, the alimony award may not exceed 25 percent of the obligor's gross monthly income as calculated in Florida Statute 61.30(2)(a). Whereas a mid-term marriage limit is 35 percent and a long-term marriage limit is 38 percent of the obligor's gross monthly income.

There continues to be the ability to modify or terminate alimony upon a showing of a substantial change in circumstances; however, if modified, the modification must comply with the time limits and percentage restrictions above. Furthermore, death or remarriage of the party receiving alimony will terminate it as well as it will automatically terminate upon the obligor's reaching the normal age of retirement for Social Security retirement benefits.

Under the present law, the Court may not order that alimony be non-modifiable; however, the parties can agree to alimony being non-modifiable in their marital settlement agreements. If the parties do agree to this then the Court cannot order a modification of alimony. In the proposed legislation alimony cannot be non-modifiable. Furthermore, if this legislation passes its provisions will be retroactive. That is, even those who have agreed to non-modifiable alimony would be able to modify their alimony obligations. In fact, all those who are presently required to pay alimony

would be able to modify their alimony obligations to comply with the new legislation and to do so would not require a substantial change of circumstances.

The proposed revisions to the current alimony law would be sweeping and wide reaching. If they are enacted, some of the provisions are subject to appeal of their constitutionality, particularly the provision that agreements between parties for non-modifiable alimony may be modified by the new legislation.

Article By: Lynette Silon-Laguna [Google+](#)