

HB3008



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3008

by Rep. Elizabeth Hernandez

SYNOPSIS AS INTRODUCED:

750 ILCS 5/505

from Ch. 40, par. 505

Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that for purposes of the Section concerning child support, "high school" means the types of schools contained in the School Code or a similar statute in the state where the student resides and includes: a public school; a charter school; a private school, including a parochial or home-based school; an alternative school; and any other program providing instruction in grades 9 through 12. Provides that the court may determine if any other type of program is included in the definition of "high school". Effective immediately.

LRB100 09941 HEP 20112 b

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Marriage and Dissolution of
5 Marriage Act is amended by changing Section 505 as follows:

6 (750 ILCS 5/505) (from Ch. 40, par. 505)

7 (Text of Section from P.A. 99-90)

8 Sec. 505. Child support; contempt; penalties.

9 (a) In a proceeding for dissolution of marriage, legal
10 separation, declaration of invalidity of marriage, a
11 proceeding for child support following dissolution of the
12 marriage by a court that lacked personal jurisdiction over the
13 absent spouse, a proceeding for modification of a previous
14 order for child support under Section 510 of this Act, or any
15 proceeding authorized under Section 501 or 601 of this Act, the
16 court may order either or both parents owing a duty of support
17 to a child of the marriage to pay an amount reasonable and
18 necessary for the support of the child, without regard to
19 marital misconduct. The duty of support owed to a child
20 includes the obligation to provide for the reasonable and
21 necessary educational, physical, mental and emotional health
22 needs of the child. For purposes of this Section, the term
23 "child" shall include any child under age 18 and any child

1 under age 19 who is still attending high school. For purposes
 2 of this Section, "high school" means the types of schools
 3 contained in the School Code or a similar statute in the state
 4 where the student resides and includes: a public school; a
 5 charter school; a private school, including a parochial or
 6 home-based school; an alternative school; and any other program
 7 providing instruction in grades 9 through 12. The court may
 8 determine if any other type of program is included in the
 9 definition of "high school" under this Section. For purposes of
 10 this Section, the term "supporting parent" means the parent
 11 obligated to pay support to the other parent.

12 (1) The Court shall determine the minimum amount of
 13 support by using the following guidelines:

14	Number of Children	Percent of Supporting Party's
15		Net Income
16	1	20%
17	2	28%
18	3	32%
19	4	40%
20	5	45%
21	6 or more	50%

22 (2) The above guidelines shall be applied in each case
 23 unless the court finds that a deviation from the guidelines
 24 is appropriate after considering the best interest of the
 25 child in light of the evidence, including, but not limited
 26 to, one or more of the following relevant factors:

- 1 (a) the financial resources and needs of the child;
- 2 (b) the financial resources and needs of the
- 3 parents;
- 4 (c) the standard of living the child would have
- 5 enjoyed had the marriage not been dissolved;
- 6 (d) the physical, mental, and emotional needs of
- 7 the child; and
- 8 (d-5) the educational needs of the child.

9 If the court deviates from the guidelines, the court's

10 finding shall state the amount of support that would have

11 been required under the guidelines, if determinable. The

12 court shall include the reason or reasons for the variance

13 from the guidelines.

14 (2.5) The court, in its discretion, in addition to

15 setting child support pursuant to the guidelines and

16 factors, may order either or both parents owing a duty of

17 support to a child of the marriage to contribute to the

18 following expenses, if determined by the court to be

19 reasonable:

- 20 (a) health needs not covered by insurance;
- 21 (b) child care;
- 22 (c) education; and
- 23 (d) extracurricular activities.

24 (3) "Net income" is defined as the total of all income

25 from all sources, minus the following deductions:

- 26 (a) Federal income tax (properly calculated

1 withholding or estimated payments);

2 (b) State income tax (properly calculated
3 withholding or estimated payments);

4 (c) Social Security (FICA payments);

5 (d) Mandatory retirement contributions required by
6 law or as a condition of employment;

7 (e) Union dues;

8 (f) Dependent and individual
9 health/hospitalization insurance premiums and premiums
10 for life insurance ordered by the court to reasonably
11 secure payment of ordered child support;

12 (g) Prior obligations of support or maintenance
13 actually paid pursuant to a court order;

14 (g-5) Obligations pursuant to a court order for
15 maintenance in the pending proceeding actually paid or
16 payable under Section 504 to the same party to whom
17 child support is to be payable;

18 (h) Expenditures for repayment of debts that
19 represent reasonable and necessary expenses for the
20 production of income including, but not limited to,
21 student loans, medical expenditures necessary to
22 preserve life or health, reasonable expenditures for
23 the benefit of the child and the other parent,
24 exclusive of gifts. The court shall reduce net income
25 in determining the minimum amount of support to be
26 ordered only for the period that such payments are due

1 and shall enter an order containing provisions for its
2 self-executing modification upon termination of such
3 payment period;

4 (i) Foster care payments paid by the Department of
5 Children and Family Services for providing licensed
6 foster care to a foster child.

7 (4) In cases where the court order provides for
8 health/hospitalization insurance coverage pursuant to
9 Section 505.2 of this Act, the premiums for that insurance,
10 or that portion of the premiums for which the supporting
11 party is responsible in the case of insurance provided
12 through an employer's health insurance plan where the
13 employer pays a portion of the premiums, shall be
14 subtracted from net income in determining the minimum
15 amount of support to be ordered.

16 (4.5) In a proceeding for child support following
17 dissolution of the marriage by a court that lacked personal
18 jurisdiction over the absent spouse, and in which the court
19 is requiring payment of support for the period before the
20 date an order for current support is entered, there is a
21 rebuttable presumption that the supporting party's net
22 income for the prior period was the same as his or her net
23 income at the time the order for current support is
24 entered.

25 (5) If the net income cannot be determined because of
26 default or any other reason, the court shall order support

1 in an amount considered reasonable in the particular case.
2 The final order in all cases shall state the support level
3 in dollar amounts. However, if the court finds that the
4 child support amount cannot be expressed exclusively as a
5 dollar amount because all or a portion of the supporting
6 parent's net income is uncertain as to source, time of
7 payment, or amount, the court may order a percentage amount
8 of support in addition to a specific dollar amount and
9 enter such other orders as may be necessary to determine
10 and enforce, on a timely basis, the applicable support
11 ordered.

12 (6) If (i) the supporting parent was properly served
13 with a request for discovery of financial information
14 relating to the supporting parent's ability to provide
15 child support, (ii) the supporting parent failed to comply
16 with the request, despite having been ordered to do so by
17 the court, and (iii) the supporting parent is not present
18 at the hearing to determine support despite having received
19 proper notice, then any relevant financial information
20 concerning the supporting parent's ability to provide
21 child support that was obtained pursuant to subpoena and
22 proper notice shall be admitted into evidence without the
23 need to establish any further foundation for its admission.

24 (a-5) In an action to enforce an order for support based on
25 the respondent's failure to make support payments as required
26 by the order, notice of proceedings to hold the respondent in

1 contempt for that failure may be served on the respondent by
2 personal service or by regular mail addressed to the
3 respondent's last known address. The respondent's last known
4 address may be determined from records of the clerk of the
5 court, from the Federal Case Registry of Child Support Orders,
6 or by any other reasonable means.

7 (b) Failure of either parent to comply with an order to pay
8 support shall be punishable as in other cases of contempt. In
9 addition to other penalties provided by law the Court may,
10 after finding the parent guilty of contempt, order that the
11 parent be:

12 (1) placed on probation with such conditions of
13 probation as the Court deems advisable;

14 (2) sentenced to periodic imprisonment for a period not
15 to exceed 6 months; provided, however, that the Court may
16 permit the parent to be released for periods of time during
17 the day or night to:

18 (A) work; or

19 (B) conduct a business or other self-employed
20 occupation.

21 The Court may further order any part or all of the earnings
22 of a parent during a sentence of periodic imprisonment paid to
23 the Clerk of the Circuit Court or to the parent receiving the
24 support or to the guardian receiving the support of the
25 children of the sentenced parent for the support of said
26 children until further order of the Court.

1 If a parent who is found guilty of contempt for failure to
2 comply with an order to pay support is a person who conducts a
3 business or who is self-employed, the court in addition to
4 other penalties provided by law may order that the parent do
5 one or more of the following: (i) provide to the court monthly
6 financial statements showing income and expenses from the
7 business or the self-employment; (ii) seek employment and
8 report periodically to the court with a diary, listing, or
9 other memorandum of his or her employment search efforts; or
10 (iii) report to the Department of Employment Security for job
11 search services to find employment that will be subject to
12 withholding for child support.

13 If there is a unity of interest and ownership sufficient to
14 render no financial separation between a supporting parent and
15 another person or persons or business entity, the court may
16 pierce the ownership veil of the person, persons, or business
17 entity to discover assets of the supporting parent held in the
18 name of that person, those persons, or that business entity.
19 The following circumstances are sufficient to authorize a court
20 to order discovery of the assets of a person, persons, or
21 business entity and to compel the application of any discovered
22 assets toward payment on the judgment for support:

23 (1) the supporting parent and the person, persons, or
24 business entity maintain records together.

25 (2) the supporting parent and the person, persons, or
26 business entity fail to maintain an arm's length

1 relationship between themselves with regard to any assets.

2 (3) the supporting parent transfers assets to the
3 person, persons, or business entity with the intent to
4 perpetrate a fraud on the parent receiving the support.

5 With respect to assets which are real property, no order
6 entered under this paragraph shall affect the rights of bona
7 fide purchasers, mortgagees, judgment creditors, or other lien
8 holders who acquire their interests in the property prior to
9 the time a notice of lis pendens pursuant to the Code of Civil
10 Procedure or a copy of the order is placed of record in the
11 office of the recorder of deeds for the county in which the
12 real property is located.

13 The court may also order in cases where the parent is 90
14 days or more delinquent in payment of support or has been
15 adjudicated in arrears in an amount equal to 90 days obligation
16 or more, that the parent's Illinois driving privileges be
17 suspended until the court determines that the parent is in
18 compliance with the order of support. The court may also order
19 that the parent be issued a family financial responsibility
20 driving permit that would allow limited driving privileges for
21 employment and medical purposes in accordance with Section
22 7-702.1 of the Illinois Vehicle Code. The clerk of the circuit
23 court shall certify the order suspending the driving privileges
24 of the parent or granting the issuance of a family financial
25 responsibility driving permit to the Secretary of State on
26 forms prescribed by the Secretary. Upon receipt of the

1 authenticated documents, the Secretary of State shall suspend
2 the parent's driving privileges until further order of the
3 court and shall, if ordered by the court, subject to the
4 provisions of Section 7-702.1 of the Illinois Vehicle Code,
5 issue a family financial responsibility driving permit to the
6 parent.

7 In addition to the penalties or punishment that may be
8 imposed under this Section, any person whose conduct
9 constitutes a violation of Section 15 of the Non-Support
10 Punishment Act may be prosecuted under that Act, and a person
11 convicted under that Act may be sentenced in accordance with
12 that Act. The sentence may include but need not be limited to a
13 requirement that the person perform community service under
14 Section 50 of that Act or participate in a work alternative
15 program under Section 50 of that Act. A person may not be
16 required to participate in a work alternative program under
17 Section 50 of that Act if the person is currently participating
18 in a work program pursuant to Section 505.1 of this Act.

19 A support obligation, or any portion of a support
20 obligation, which becomes due and remains unpaid as of the end
21 of each month, excluding the child support that was due for
22 that month to the extent that it was not paid in that month,
23 shall accrue simple interest as set forth in Section 12-109 of
24 the Code of Civil Procedure. An order for support entered or
25 modified on or after January 1, 2006 shall contain a statement
26 that a support obligation required under the order, or any

1 portion of a support obligation required under the order, that
2 becomes due and remains unpaid as of the end of each month,
3 excluding the child support that was due for that month to the
4 extent that it was not paid in that month, shall accrue simple
5 interest as set forth in Section 12-109 of the Code of Civil
6 Procedure. Failure to include the statement in the order for
7 support does not affect the validity of the order or the
8 accrual of interest as provided in this Section.

9 (c) A one-time charge of 20% is imposable upon the amount
10 of past-due child support owed on July 1, 1988 which has
11 accrued under a support order entered by the court. The charge
12 shall be imposed in accordance with the provisions of Section
13 10-21 of the Illinois Public Aid Code and shall be enforced by
14 the court upon petition.

15 (d) Any new or existing support order entered by the court
16 under this Section shall be deemed to be a series of judgments
17 against the person obligated to pay support thereunder, each
18 such judgment to be in the amount of each payment or
19 installment of support and each such judgment to be deemed
20 entered as of the date the corresponding payment or installment
21 becomes due under the terms of the support order. Each such
22 judgment shall have the full force, effect and attributes of
23 any other judgment of this State, including the ability to be
24 enforced. Notwithstanding any other State or local law to the
25 contrary, a lien arises by operation of law against the real
26 and personal property of the supporting parent for each

1 installment of overdue support owed by the supporting parent.

2 (e) When child support is to be paid through the clerk of
3 the court in a county of 1,000,000 inhabitants or less, the
4 order shall direct the supporting parent to pay to the clerk,
5 in addition to the child support payments, all fees imposed by
6 the county board under paragraph (3) of subsection (u) of
7 Section 27.1 of the Clerks of Courts Act. Unless paid in cash
8 or pursuant to an order for withholding, the payment of the fee
9 shall be by a separate instrument from the support payment and
10 shall be made to the order of the Clerk.

11 (f) All orders for support, when entered or modified, shall
12 include a provision requiring the supporting parent to notify
13 the court and, in cases in which a party is receiving child and
14 spouse services under Article X of the Illinois Public Aid
15 Code, the Department of Healthcare and Family Services, within
16 7 days, (i) of the name and address of any new employer of the
17 obligor, (ii) whether the supporting parent has access to
18 health insurance coverage through the employer or other group
19 coverage and, if so, the policy name and number and the names
20 of persons covered under the policy, except only the initials
21 of any covered minors shall be included, and (iii) of any new
22 residential or mailing address or telephone number of the
23 supporting parent. In any subsequent action to enforce a
24 support order, upon a sufficient showing that a diligent effort
25 has been made to ascertain the location of the supporting
26 parent, service of process or provision of notice necessary in

1 the case may be made at the last known address of the
2 supporting parent in any manner expressly provided by the Code
3 of Civil Procedure or this Act, which service shall be
4 sufficient for purposes of due process.

5 (g) An order for support shall include a date on which the
6 current support obligation terminates. The termination date
7 shall be no earlier than the date on which the child covered by
8 the order will attain the age of 18. However, if the child will
9 not graduate from high school until after attaining the age of
10 18, then the termination date shall be no earlier than the
11 earlier of the date on which the child's high school graduation
12 will occur or the date on which the child will attain the age
13 of 19. The order for support shall state that the termination
14 date does not apply to any arrearage that may remain unpaid on
15 that date. Nothing in this subsection shall be construed to
16 prevent the court from modifying the order or terminating the
17 order in the event the child is otherwise emancipated.

18 (g-5) If there is an unpaid arrearage or delinquency (as
19 those terms are defined in the Income Withholding for Support
20 Act) equal to at least one month's support obligation on the
21 termination date stated in the order for support or, if there
22 is no termination date stated in the order, on the date the
23 child attains the age of majority or is otherwise emancipated,
24 the periodic amount required to be paid for current support of
25 that child immediately prior to that date shall automatically
26 continue to be an obligation, not as current support but as

1 periodic payment toward satisfaction of the unpaid arrearage or
2 delinquency. That periodic payment shall be in addition to any
3 periodic payment previously required for satisfaction of the
4 arrearage or delinquency. The total periodic amount to be paid
5 toward satisfaction of the arrearage or delinquency may be
6 enforced and collected by any method provided by law for
7 enforcement and collection of child support, including but not
8 limited to income withholding under the Income Withholding for
9 Support Act. Each order for support entered or modified on or
10 after the effective date of this amendatory Act of the 93rd
11 General Assembly must contain a statement notifying the parties
12 of the requirements of this subsection. Failure to include the
13 statement in the order for support does not affect the validity
14 of the order or the operation of the provisions of this
15 subsection with regard to the order. This subsection shall not
16 be construed to prevent or affect the establishment or
17 modification of an order for support of a minor child or the
18 establishment or modification of an order for support of a
19 non-minor child or educational expenses under Section 513 of
20 this Act.

21 (h) An order entered under this Section shall include a
22 provision requiring either parent to report to the other parent
23 and to the clerk of court within 10 days each time either
24 parent obtains new employment, and each time either parent's
25 employment is terminated for any reason. The report shall be in
26 writing and shall, in the case of new employment, include the

1 name and address of the new employer. Failure to report new
2 employment or the termination of current employment, if coupled
3 with nonpayment of support for a period in excess of 60 days,
4 is indirect criminal contempt. For either parent arrested for
5 failure to report new employment bond shall be set in the
6 amount of the child support that should have been paid during
7 the period of unreported employment. An order entered under
8 this Section shall also include a provision requiring either
9 parent to advise the other of a change in residence within 5
10 days of the change except when the court finds that the
11 physical, mental, or emotional health of a party or that of a
12 child, or both, would be seriously endangered by disclosure of
13 the party's address.

14 (i) The court does not lose the powers of contempt,
15 driver's license suspension, or other child support
16 enforcement mechanisms, including, but not limited to,
17 criminal prosecution as set forth in this Act, upon the
18 emancipation of the minor child or children.

19 (Source: P.A. 98-463, eff. 8-16-13; 98-961, eff. 1-1-15; 99-90,
20 eff. 1-1-16.)

21 (Text of Section from P.A. 99-763)

22 Sec. 505. Child support; contempt; penalties.

23 (a) In a proceeding for dissolution of marriage, legal
24 separation, declaration of invalidity of marriage, a
25 proceeding for child support following dissolution of the

1 marriage by a court that lacked personal jurisdiction over the
2 absent spouse, a proceeding for modification of a previous
3 order for child support under Section 510 of this Act, or any
4 proceeding authorized under Section 501 or 601 of this Act, the
5 court may order either or both parents owing a duty of support
6 to a child of the marriage to pay an amount reasonable and
7 necessary for the support of the child, without regard to
8 marital misconduct. The duty of support owed to a child
9 includes the obligation to provide for the reasonable and
10 necessary educational, physical, mental and emotional health
11 needs of the child. For purposes of this Section, the term
12 "child" shall include any child under age 18 and any child
13 under age 19 who is still attending high school. For purposes
14 of this Section, "high school" means the types of schools
15 contained in the School Code or a similar statute in the state
16 where the student resides and includes: a public school; a
17 charter school; a private school, including a parochial or
18 home-based school; an alternative school; and any other program
19 providing instruction in grades 9 through 12. The court may
20 determine if any other type of program is included in the
21 definition of "high school" under this Section. For purposes of
22 this Section, the term "supporting parent" means the parent
23 obligated to pay support to the other parent.

24 (1) The Court shall determine the minimum amount of
25 support by using the following guidelines:

26 Number of Children Percent of Supporting Party's

		Net Income
1		
2	1	20%
3	2	28%
4	3	32%
5	4	40%
6	5	45%
7	6 or more	50%

8 (2) The above guidelines shall be applied in each case
 9 unless the court finds that a deviation from the guidelines
 10 is appropriate after considering the best interest of the
 11 child in light of the evidence, including, but not limited
 12 to, one or more of the following relevant factors:

- 13 (a) the financial resources and needs of the child;
- 14 (b) the financial resources and needs of the
 15 parents;
- 16 (c) the standard of living the child would have
 17 enjoyed had the marriage not been dissolved;
- 18 (d) the physical, mental, and emotional needs of
 19 the child; and
- 20 (d-5) the educational needs of the child.

21 If the court deviates from the guidelines, the court's
 22 finding shall state the amount of support that would have
 23 been required under the guidelines, if determinable. The
 24 court shall include the reason or reasons for the variance
 25 from the guidelines.

26 (2.5) The court, in its discretion, in addition to

1 setting child support pursuant to the guidelines and
2 factors, may order either or both parents owing a duty of
3 support to a child of the marriage to contribute to the
4 following expenses, if determined by the court to be
5 reasonable:

6 (a) health needs not covered by insurance;

7 (b) child care;

8 (c) education; and

9 (d) extracurricular activities.

10 (3) "Net income" is defined as the total of all income
11 from all sources, minus the following deductions:

12 (a) Federal income tax (properly calculated
13 withholding or estimated payments);

14 (b) State income tax (properly calculated
15 withholding or estimated payments);

16 (c) Social Security (FICA payments);

17 (d) Mandatory retirement contributions required by
18 law or as a condition of employment;

19 (e) Union dues;

20 (f) Dependent and individual
21 health/hospitalization insurance premiums and premiums
22 for life insurance ordered by the court to reasonably
23 secure payment of ordered child support;

24 (g) Prior obligations of support or maintenance
25 actually paid pursuant to a court order;

26 (g-5) Obligations pursuant to a court order for

1 maintenance in the pending proceeding actually paid or
2 payable under Section 504 to the same party to whom
3 child support is to be payable;

4 (h) Expenditures for repayment of debts that
5 represent reasonable and necessary expenses for the
6 production of income including, but not limited to,
7 student loans, medical expenditures necessary to
8 preserve life or health, reasonable expenditures for
9 the benefit of the child and the other parent,
10 exclusive of gifts. The court shall reduce net income
11 in determining the minimum amount of support to be
12 ordered only for the period that such payments are due
13 and shall enter an order containing provisions for its
14 self-executing modification upon termination of such
15 payment period;

16 (i) Foster care payments paid by the Department of
17 Children and Family Services for providing licensed
18 foster care to a foster child.

19 (4) In cases where the court order provides for
20 health/hospitalization insurance coverage pursuant to
21 Section 505.2 of this Act, the premiums for that insurance,
22 or that portion of the premiums for which the supporting
23 party is responsible in the case of insurance provided
24 through an employer's health insurance plan where the
25 employer pays a portion of the premiums, shall be
26 subtracted from net income in determining the minimum

1 amount of support to be ordered.

2 (4.5) In a proceeding for child support following
3 dissolution of the marriage by a court that lacked personal
4 jurisdiction over the absent spouse, and in which the court
5 is requiring payment of support for the period before the
6 date an order for current support is entered, there is a
7 rebuttable presumption that the supporting party's net
8 income for the prior period was the same as his or her net
9 income at the time the order for current support is
10 entered.

11 (5) If the net income cannot be determined because of
12 default or any other reason, the court shall order support
13 in an amount considered reasonable in the particular case.
14 The final order in all cases shall state the support level
15 in dollar amounts. However, if the court finds that the
16 child support amount cannot be expressed exclusively as a
17 dollar amount because all or a portion of the supporting
18 parent's net income is uncertain as to source, time of
19 payment, or amount, the court may order a percentage amount
20 of support in addition to a specific dollar amount and
21 enter such other orders as may be necessary to determine
22 and enforce, on a timely basis, the applicable support
23 ordered.

24 (6) If (i) the supporting parent was properly served
25 with a request for discovery of financial information
26 relating to the supporting parent's ability to provide

1 child support, (ii) the supporting parent failed to comply
2 with the request, despite having been ordered to do so by
3 the court, and (iii) the supporting parent is not present
4 at the hearing to determine support despite having received
5 proper notice, then any relevant financial information
6 concerning the supporting parent's ability to provide
7 child support that was obtained pursuant to subpoena and
8 proper notice shall be admitted into evidence without the
9 need to establish any further foundation for its admission.

10 (a-5) In an action to enforce an order for support based on
11 the failure of the supporting parent to make support payments
12 as required by the order, notice of proceedings to hold the
13 supporting parent in contempt for that failure may be served on
14 the supporting parent by personal service or by regular mail
15 addressed to the last known address of the supporting parent.
16 The last known address of the supporting parent may be
17 determined from records of the clerk of the court, from the
18 Federal Case Registry of Child Support Orders, or by any other
19 reasonable means.

20 (b) Failure of either parent to comply with an order to pay
21 support shall be punishable as in other cases of contempt. In
22 addition to other penalties provided by law the Court may,
23 after finding the parent guilty of contempt, order that the
24 parent be:

25 (1) placed on probation with such conditions of
26 probation as the Court deems advisable;

1 (2) sentenced to periodic imprisonment for a period not
2 to exceed 6 months; provided, however, that the Court may
3 permit the parent to be released for periods of time during
4 the day or night to:

5 (A) work; or

6 (B) conduct a business or other self-employed
7 occupation.

8 The Court may further order any part or all of the earnings
9 of a parent during a sentence of periodic imprisonment paid to
10 the Clerk of the Circuit Court or to the parent receiving the
11 support or to the guardian receiving the support of the
12 children of the sentenced parent for the support of said
13 children until further order of the Court.

14 If a parent who is found guilty of contempt for failure to
15 comply with an order to pay support is a person who conducts a
16 business or who is self-employed, the court in addition to
17 other penalties provided by law may order that the parent do
18 one or more of the following: (i) provide to the court monthly
19 financial statements showing income and expenses from the
20 business or the self-employment; (ii) seek employment and
21 report periodically to the court with a diary, listing, or
22 other memorandum of his or her employment search efforts; or
23 (iii) report to the Department of Employment Security for job
24 search services to find employment that will be subject to
25 withholding for child support.

26 If there is a unity of interest and ownership sufficient to

1 render no financial separation between a supporting parent and
2 another person or persons or business entity, the court may
3 pierce the ownership veil of the person, persons, or business
4 entity to discover assets of the supporting parent held in the
5 name of that person, those persons, or that business entity.
6 The following circumstances are sufficient to authorize a court
7 to order discovery of the assets of a person, persons, or
8 business entity and to compel the application of any discovered
9 assets toward payment on the judgment for support:

10 (1) the supporting parent and the person, persons, or
11 business entity maintain records together.

12 (2) the supporting parent and the person, persons, or
13 business entity fail to maintain an arm's length
14 relationship between themselves with regard to any assets.

15 (3) the supporting parent transfers assets to the
16 person, persons, or business entity with the intent to
17 perpetrate a fraud on the parent receiving the support.

18 With respect to assets which are real property, no order
19 entered under this paragraph shall affect the rights of bona
20 fide purchasers, mortgagees, judgment creditors, or other lien
21 holders who acquire their interests in the property prior to
22 the time a notice of lis pendens pursuant to the Code of Civil
23 Procedure or a copy of the order is placed of record in the
24 office of the recorder of deeds for the county in which the
25 real property is located.

26 The court may also order in cases where the parent is 90

1 days or more delinquent in payment of support or has been
2 adjudicated in arrears in an amount equal to 90 days obligation
3 or more, that the parent's Illinois driving privileges be
4 suspended until the court determines that the parent is in
5 compliance with the order of support. The court may also order
6 that the parent be issued a family financial responsibility
7 driving permit that would allow limited driving privileges for
8 employment and medical purposes in accordance with Section
9 7-702.1 of the Illinois Vehicle Code. The clerk of the circuit
10 court shall certify the order suspending the driving privileges
11 of the parent or granting the issuance of a family financial
12 responsibility driving permit to the Secretary of State on
13 forms prescribed by the Secretary. Upon receipt of the
14 authenticated documents, the Secretary of State shall suspend
15 the parent's driving privileges until further order of the
16 court and shall, if ordered by the court, subject to the
17 provisions of Section 7-702.1 of the Illinois Vehicle Code,
18 issue a family financial responsibility driving permit to the
19 parent.

20 In addition to the penalties or punishment that may be
21 imposed under this Section, any person whose conduct
22 constitutes a violation of Section 15 of the Non-Support
23 Punishment Act may be prosecuted under that Act, and a person
24 convicted under that Act may be sentenced in accordance with
25 that Act. The sentence may include but need not be limited to a
26 requirement that the person perform community service under

1 Section 50 of that Act or participate in a work alternative
2 program under Section 50 of that Act. A person may not be
3 required to participate in a work alternative program under
4 Section 50 of that Act if the person is currently participating
5 in a work program pursuant to Section 505.1 of this Act.

6 A support obligation, or any portion of a support
7 obligation, which becomes due and remains unpaid as of the end
8 of each month, excluding the child support that was due for
9 that month to the extent that it was not paid in that month,
10 shall accrue simple interest as set forth in Section 12-109 of
11 the Code of Civil Procedure. An order for support entered or
12 modified on or after January 1, 2006 shall contain a statement
13 that a support obligation required under the order, or any
14 portion of a support obligation required under the order, that
15 becomes due and remains unpaid as of the end of each month,
16 excluding the child support that was due for that month to the
17 extent that it was not paid in that month, shall accrue simple
18 interest as set forth in Section 12-109 of the Code of Civil
19 Procedure. Failure to include the statement in the order for
20 support does not affect the validity of the order or the
21 accrual of interest as provided in this Section.

22 (c) A one-time charge of 20% is imposable upon the amount
23 of past-due child support owed on July 1, 1988 which has
24 accrued under a support order entered by the court. The charge
25 shall be imposed in accordance with the provisions of Section
26 10-21 of the Illinois Public Aid Code and shall be enforced by

1 the court upon petition.

2 (d) Any new or existing support order entered by the court
3 under this Section shall be deemed to be a series of judgments
4 against the person obligated to pay support thereunder, each
5 such judgment to be in the amount of each payment or
6 installment of support and each such judgment to be deemed
7 entered as of the date the corresponding payment or installment
8 becomes due under the terms of the support order. Each such
9 judgment shall have the full force, effect and attributes of
10 any other judgment of this State, including the ability to be
11 enforced. Notwithstanding any other State or local law to the
12 contrary, a lien arises by operation of law against the real
13 and personal property of the supporting parent for each
14 installment of overdue support owed by the supporting parent.

15 (e) When child support is to be paid through the clerk of
16 the court in a county of 1,000,000 inhabitants or less, the
17 order shall direct the supporting parent to pay to the clerk,
18 in addition to the child support payments, all fees imposed by
19 the county board under paragraph (3) of subsection (u) of
20 Section 27.1 of the Clerks of Courts Act. Unless paid in cash
21 or pursuant to an order for withholding, the payment of the fee
22 shall be by a separate instrument from the support payment and
23 shall be made to the order of the Clerk.

24 (f) All orders for support, when entered or modified, shall
25 include a provision requiring the supporting parent to notify
26 the court and, in cases in which a party is receiving child and

1 spouse services under Article X of the Illinois Public Aid
2 Code, the Department of Healthcare and Family Services, within
3 7 days, (i) of the name and address of any new employer of the
4 obligor, (ii) whether the supporting parent has access to
5 health insurance coverage through the employer or other group
6 coverage and, if so, the policy name and number and the names
7 of persons covered under the policy, except only the initials
8 of any covered minors shall be included, and (iii) of any new
9 residential or mailing address or telephone number of the
10 supporting parent. In any subsequent action to enforce a
11 support order, upon a sufficient showing that a diligent effort
12 has been made to ascertain the location of the supporting
13 parent, service of process or provision of notice necessary in
14 the case may be made at the last known address of the
15 supporting parent in any manner expressly provided by the Code
16 of Civil Procedure or this Act, which service shall be
17 sufficient for purposes of due process.

18 (g) An order for support shall include a date on which the
19 current support obligation terminates. The termination date
20 shall be no earlier than the date on which the child covered by
21 the order will attain the age of 18. However, if the child will
22 not graduate from high school until after attaining the age of
23 18, then the termination date shall be no earlier than the
24 earlier of the date on which the child's high school graduation
25 will occur or the date on which the child will attain the age
26 of 19. The order for support shall state that the termination

1 date does not apply to any arrearage that may remain unpaid on
2 that date. Nothing in this subsection shall be construed to
3 prevent the court from modifying the order or terminating the
4 order in the event the child is otherwise emancipated.

5 (g-5) If there is an unpaid arrearage or delinquency (as
6 those terms are defined in the Income Withholding for Support
7 Act) equal to at least one month's support obligation on the
8 termination date stated in the order for support or, if there
9 is no termination date stated in the order, on the date the
10 child attains the age of majority or is otherwise emancipated,
11 the periodic amount required to be paid for current support of
12 that child immediately prior to that date shall automatically
13 continue to be an obligation, not as current support but as
14 periodic payment toward satisfaction of the unpaid arrearage or
15 delinquency. That periodic payment shall be in addition to any
16 periodic payment previously required for satisfaction of the
17 arrearage or delinquency. The total periodic amount to be paid
18 toward satisfaction of the arrearage or delinquency may be
19 enforced and collected by any method provided by law for
20 enforcement and collection of child support, including but not
21 limited to income withholding under the Income Withholding for
22 Support Act. Each order for support entered or modified on or
23 after the effective date of this amendatory Act of the 93rd
24 General Assembly must contain a statement notifying the parties
25 of the requirements of this subsection. Failure to include the
26 statement in the order for support does not affect the validity

1 of the order or the operation of the provisions of this
2 subsection with regard to the order. This subsection shall not
3 be construed to prevent or affect the establishment or
4 modification of an order for support of a minor child or the
5 establishment or modification of an order for support of a
6 non-minor child or educational expenses under Section 513 of
7 this Act.

8 (h) An order entered under this Section shall include a
9 provision requiring either parent to report to the other parent
10 and to the clerk of court within 10 days each time either
11 parent obtains new employment, and each time either parent's
12 employment is terminated for any reason. The report shall be in
13 writing and shall, in the case of new employment, include the
14 name and address of the new employer. Failure to report new
15 employment or the termination of current employment, if coupled
16 with nonpayment of support for a period in excess of 60 days,
17 is indirect criminal contempt. For either parent arrested for
18 failure to report new employment bond shall be set in the
19 amount of the child support that should have been paid during
20 the period of unreported employment. An order entered under
21 this Section shall also include a provision requiring either
22 parent to advise the other of a change in residence within 5
23 days of the change except when the court finds that the
24 physical, mental, or emotional health of a party or that of a
25 child, or both, would be seriously endangered by disclosure of
26 the party's address.

1 (i) The court does not lose the powers of contempt,
2 driver's license suspension, or other child support
3 enforcement mechanisms, including, but not limited to,
4 criminal prosecution as set forth in this Act, upon the
5 emancipation of the minor child or children.

6 (Source: P.A. 98-463, eff. 8-16-13; 98-961, eff. 1-1-15; 99-90,
7 eff. 1-1-16; 99-763, eff. 1-1-17.)

8 (Text of Section from P.A. 99-764)

9 Sec. 505. Child support; contempt; penalties.

10 (a) In a proceeding for dissolution of marriage, legal
11 separation, declaration of invalidity of marriage, dissolution
12 of a civil union, a proceeding for child support following
13 dissolution of the marriage or civil union by a court that
14 lacked personal jurisdiction over the absent spouse, a
15 proceeding for modification of a previous order for child
16 support under Section 510 of this Act, or any proceeding
17 authorized under Section 501 or 601 of this Act, the court may
18 order either or both parents owing a duty of support to a child
19 of the marriage or civil union to pay an amount reasonable and
20 necessary for support. The duty of support owed to a child
21 includes the obligation to provide for the reasonable and
22 necessary physical, mental and emotional health needs of the
23 child. For purposes of this Section, the term "child" shall
24 include any child under age 18 and any child age 19 or younger
25 who is still attending high school. For purposes of this

1 Section, "high school" means the types of schools contained in
2 the School Code or a similar statute in the state where the
3 student resides and includes: a public school; a charter
4 school; a private school, including a parochial or home-based
5 school; an alternative school; and any other program providing
6 instruction in grades 9 through 12. The court may determine if
7 any other type of program is included in the definition of
8 "high school" under this Section.

9 (1) Child support guidelines. The Department of
10 Healthcare and Family Services shall adopt rules
11 establishing child support guidelines which include
12 worksheets to aid in the calculation of the child support
13 award and a table that reflects the percentage of combined
14 net income that parents living in the same household in
15 this State ordinarily spend on their children. The child
16 support guidelines have the following purposes:

17 (A) to establish as State policy an adequate
18 standard of support for children, subject to the
19 ability of parents to pay;

20 (B) to make awards more equitable by ensuring more
21 consistent treatment of persons in similar
22 circumstances;

23 (C) to improve the efficiency of the court process
24 by promoting settlements and giving courts and the
25 parties guidance in establishing levels of awards;

26 (D) to calculate child support based upon the

1 parents' combined adjusted net income estimated to
2 have been allocated to the child if the parents and
3 children were living in an intact household;

4 (E) to adjust the child support based upon the
5 needs of the children; and

6 (F) to allocate the amount of child support to be
7 paid by each parent based upon the child support and
8 the child's physical care arrangements.

9 (2) Duty of support. The court shall award child
10 support in each case by applying the child support
11 guidelines unless the court makes a finding that
12 application of the guidelines would be inappropriate,
13 after considering the best interest of the child in light
14 of evidence which shows relevant factors including, but not
15 limited to, one or more of the following:

16 (A) the financial resources and needs of the child;

17 (B) the financial resources and needs of the
18 custodial parent;

19 (C) the standard of living the child would have
20 enjoyed had the marriage or civil union not been
21 dissolved;

22 (D) the physical and emotional condition of the
23 child and his or her educational needs; and

24 (E) the financial resources and needs of the
25 noncustodial parent.

26 (3) Income.

1 (A) As used in this Section, "gross income" means
2 the total of all income from all sources, except "gross
3 income" does not include (i) benefits received by the
4 parent from means-tested public assistance programs,
5 including, but not limited to, Temporary Assistance to
6 Needy Families, Supplemental Security Income, and the
7 Supplemental Nutrition Assistance Program or (ii)
8 benefits and income received by the parent for other
9 children in the household, including, but not limited
10 to, child support, survivor benefits, and foster care
11 payments. Social security disability and retirement
12 benefits paid for the benefit of the subject child must
13 be included in the disabled or retired parent's gross
14 income for purposes of calculating the parent's child
15 support obligation, but the parent is entitled to a
16 child support credit for the amount of benefits paid to
17 the other parent for the child. Spousal support or
18 spousal maintenance received pursuant to a court order
19 in the pending proceedings or any other proceedings
20 must be included in the recipient's gross income for
21 purposes of calculating the parent's child support
22 obligation.

23 (B) As used in this Section, "net income" means
24 gross income minus either the standardized tax amount
25 calculated pursuant to subparagraph (C) of this
26 paragraph (3) or the individualized tax amount

1 calculated pursuant to subparagraph (D) of this
2 paragraph (3), and minus any adjustments pursuant to
3 subparagraph (F) of this paragraph (3). The
4 standardized tax amount shall be used unless the
5 requirements for an individualized tax amount set
6 forth in subparagraph (F) of this paragraph (3) are
7 met.

8 (C) As used in this Section, "standardized tax
9 amount" means the total of federal and state income
10 taxes for a single person claiming the standard tax
11 deduction, one personal exemption, and the applicable
12 number of dependency exemptions for the minor child or
13 children of the parties, and Social Security tax and
14 Medicaid tax calculated at the Federal Insurance
15 Contributions Act rate.

16 (I) Unless a court has previously determined
17 otherwise or the parties otherwise agree, the
18 custodial parent shall be deemed entitled to claim
19 the dependency exemption for the parties' minor
20 child or children.

21 (II) The Department of Healthcare and Family
22 Services shall promulgate a chart that computes
23 net income by deducting the standardized tax
24 amount from gross income.

25 (D) As used in this Section, "individualized tax
26 amount" means the aggregate of the following taxes:

1 (I) federal income tax (properly calculated
2 withholding or estimated payments);

3 (II) State income tax (properly calculated
4 withholding or estimated payments); and

5 (III) Social Security (or, if none, mandatory
6 retirement contributions required by law or as a
7 condition of employment) and Medicare tax
8 calculated at the Federal Insurance Contributions
9 Act rate.

10 (E) In lieu of a standardized tax amount, a
11 determination of an individualized tax amount may be
12 made under items (I), (II), or (III) below. If an
13 individualized tax amount determination is made under
14 this subparagraph (E), all relevant tax attributes
15 (including filing status, allocation of dependency
16 exemptions, and whether a party is to claim the
17 standard deduction or itemized deductions for federal
18 income tax purposes) shall be as the parties agree or
19 as the court determines. To determine a party's
20 reported income, the court may order the party to
21 complete an Internal Revenue Service Form 4506-T,
22 Request for Tax Transcript.

23 (I) Agreement. Irrespective of whether the
24 parties agree on any other issue before the court,
25 if they jointly stipulate for the record their
26 concurrence on a computation method for the

1 individualized tax amount that is different from
2 the method set forth under subparagraph (D), the
3 stipulated method shall be used by the court unless
4 the court rejects the proposed stipulated method
5 for good cause.

6 (II) Summary hearing. If the court determines
7 child support in a summary hearing under Section
8 501 and an eligible party opts in to the
9 computation method under this item (II), the
10 individualized tax amount shall be determined by
11 the court on the basis of information contained in
12 one or both parties' financial disclosure
13 statement, financial affidavit, or similar
14 instrument and relevant supporting documents under
15 applicable court rules. No party, however, is
16 eligible to opt in unless the party, under
17 applicable rules, has served the other party with
18 the required statement, affidavit, or other
19 instrument and has also substantially turned over
20 supporting documents to the extent required by the
21 applicable rule at the time of service of the
22 statement, affidavit, or other instrument.

23 (III) Evidentiary hearing. If the court
24 determines child support in an evidentiary
25 hearing, whether for purposes of a temporary order
26 or at the conclusion of a proceeding, item (II) of

1 this subparagraph (E) does not apply. In each such
2 case (unless item (I) governs), the individualized
3 tax amount shall be as determined by the court on
4 the basis of the record established.

5 (F) Adjustments to gross income.

6 (I) If a parent also is legally responsible for
7 support of children not shared with the other
8 parent and not subject to the present proceeding,
9 there shall be an adjustment to gross income as
10 follows:

11 (i) The amount of child support actually
12 paid by the parent pursuant to a support order
13 shall be deducted from the parent's gross
14 income.

15 (ii) The amount of financial support
16 actually paid by the parent for children living
17 in or outside of that parent's household or 75%
18 of the support the parent would pay under the
19 child support guidelines, whichever is less,
20 shall be deducted from that parent's gross
21 income.

22 (II) Obligations pursuant to a court order for
23 maintenance in the pending proceeding actually
24 paid or payable under Section 504 to the same party
25 to whom child support is to be payable shall be
26 deducted from the parent's gross income.

1 (3.1) Business income. For purposes of calculating
2 child support, net business income from the operation of a
3 business means gross receipts minus ordinary and necessary
4 expenses required to carry on the trade or business. As
5 used in this paragraph, "business" includes, but is not
6 limited to, sole proprietorships, closely held
7 corporations, partnerships, other flow-through business
8 entities, and self-employment. The court shall apply the
9 following:

10 (A) The accelerated component of depreciation and
11 any business expenses determined either judicially or
12 administratively to be inappropriate or excessive
13 shall be excluded from the total of ordinary and
14 necessary business expenses to be deducted in the
15 determination of net business income from gross
16 business income.

17 (B) Any item of reimbursement or in-kind payment
18 received by a parent from the business, including, but
19 not limited to, a company car, free housing or a
20 housing allowance, or reimbursed meals, shall be
21 counted as income if not otherwise included in the
22 recipient's gross income, if the item is significant in
23 amount and reduces personal expenses.

24 (3.2) Unemployment or underemployment. If a parent is
25 voluntarily unemployed or underemployed, child support
26 shall be calculated based on a determination of potential

1 income. A determination of potential income shall be made
2 by determining employment potential and probable earnings
3 level based on the obligor's work history, occupational
4 qualifications, prevailing job opportunities, the
5 ownership by a parent of a substantial non-income producing
6 asset, and earnings levels in the community. If there is
7 insufficient work history to determine employment
8 potential and probable earnings level, there shall be a
9 rebuttable presumption that the parent's potential income
10 is 75% of the most recent United States Department of
11 Health and Human Services Federal Poverty Guidelines for a
12 family of one person.

13 (3.3) Minimum orders. There is a rebuttable
14 presumption in any judicial or administrative proceeding
15 for child support that the amount of the award which would
16 result from the application of the child support guidelines
17 is the correct amount of child support to be awarded.

18 There is a rebuttable presumption that a minimum child
19 support obligation of \$40 per month, per child, will be
20 entered for a payor parent who has actual or imputed income
21 at or less than 75% of the most recent United States
22 Department of Health and Human Services Federal Poverty
23 Guidelines for a family of one person, with a maximum total
24 child support obligation for that payor of \$120 per month
25 to be divided equally among all of the payor parent's
26 children.

1 For parents with no gross income, including those who
2 receive only means-tested assistance or who cannot work due
3 to a medically proven disability, incarceration, or
4 institutionalization, there is a rebuttable presumption
5 that the \$40 per month minimum support order is
6 inappropriate and a zero dollar order shall be entered.

7 (3.4) Deviation factors. In any action to establish or
8 modify child support, whether temporary or permanent, the
9 child support guidelines shall be used as a rebuttable
10 presumption for the establishment or modification of the
11 amount of child support. The court may deviate from the
12 child support guidelines if the application would be
13 inequitable, unjust, or inappropriate. Any deviation shall
14 be accompanied by written findings by the court specifying
15 the reasons for the deviation and the presumed amount under
16 the child support guidelines without a deviation. These
17 reasons may include:

18 (A) extraordinary medical expenditures necessary
19 to preserve the life or health of a party or a child of
20 either or both of the parties;

21 (B) additional expenses incurred for a child
22 subject to the child support order who has special
23 medical, physical, or developmental needs; and

24 (C) any other factor the court determines should be
25 applied upon a finding that the application of the
26 child support guidelines would be inappropriate, after

1 considering the best interest of the child.

2 (3.5) Income in excess of table. A court may use
3 discretion to determine child support if the combined
4 adjusted gross income exceeds the uppermost levels of the
5 schedule of basic child support obligations, except that
6 the presumptive basic child support obligation shall not be
7 less than it would be based on the highest level of
8 adjusted gross income set forth in the schedule of basic
9 child support obligations.

10 (3.6) Extracurricular activities and school expenses.
11 The court, in its discretion, in addition to the basic
12 child support obligation, may order either or both parents
13 owing a duty of support to the child to contribute to the
14 reasonable school and extracurricular activity expenses
15 incurred which are intended to enhance the educational,
16 athletic, social, or cultural development of the child.

17 (3.7) Child care expenses. The court, in its
18 discretion, in addition to the basic child support
19 obligation, may order either or both parents owing a duty
20 of support to the child to contribute to the reasonable
21 child care expenses of the child. The child care expenses
22 shall be made payable directly to a party or directly to
23 the child care provider at the time of services.

24 (A) As used in this paragraph (3.7), "child care
25 expenses" means actual annualized monthly child care
26 expenses reasonably necessary to enable a parent or

1 non-parent custodian to be employed, attend education
2 and training activities, or job search, and includes
3 after-school care and all work-related child care
4 expenses incurred while receiving education or
5 training to improve employment opportunities. "Child
6 care expenses" includes deposits for the retention of
7 securing placement in child care programs. "Child care
8 expenses" may include camps when school is not in
9 session. Parties may agree on additional day camps.
10 Child care expenses due to a child's special needs
11 shall be a consideration in determining reasonable
12 child care expenses for a child with special needs.

13 (B) Child care expenses shall be calculated as set
14 forth in this paragraph. Child care expenses shall be
15 prorated in proportion to each parent's percentage
16 share of combined parental net income, and added to the
17 basic child support obligation. The obligor's portion
18 of actual child care expenses shall appear in the
19 support order. The obligee's share of child care
20 expenses shall be paid by the obligee directly to the
21 child care provider.

22 (C) The amount of child care expenses shall be
23 adequate to obtain reasonable and necessary child
24 care. The family's actual child care expenses shall be
25 used to calculate the child care expense
26 contributions, if available. When actual child care

1 expenses vary, the actual child care expenses shall be
2 averaged over the most recent 12-month period. When the
3 parent is temporarily unemployed or temporarily not
4 attending school, then child care expenses shall be
5 based upon prospective expenses to be incurred upon
6 return to employment.

7 (D) An order for child care expenses may be
8 modified upon a showing of a substantial change in
9 circumstances. Persons incurring child care expenses
10 shall notify the obligor within 14 days of any change
11 in the amount of child care expenses that would affect
12 the annualized child care amount as determined in the
13 support order.

14 (3.8) Shared parenting. If each parent exercises 146 or
15 more overnights per year with the child, the basic child
16 support obligation is multiplied by 1.5 to calculate the
17 shared care child support obligation. The child support
18 obligation is then computed for each parent by multiplying
19 that parent's portion of the shared care support obligation
20 by the percentage of time the child spends with the other
21 parent. The respective child support obligations are then
22 offset, with the parent owing more child support paying the
23 difference between the 2 amounts. Child support for cases
24 with shared physical care are calculated using a child
25 support worksheet promulgated by the Department of
26 Healthcare and Family Services. An adjustment for shared

1 physical care is made only when each parent has the child
2 for 146 or more overnights per year.

3 (3.9) Split care. Split care refers to a situation in
4 which there is more than one child and each parent has
5 physical care of at least one but not all of the children.
6 In a split care situation, the support is calculated by
7 using 2 child support worksheets to determine the support
8 each parent owes the other. The resulting obligations are
9 then offset, with one parent owing the other the difference
10 as a child support order. The support shall be calculated
11 as follows:

12 (A) compute the support the first parent would owe
13 to other parent as if the child in his or her care was
14 the only child of the parties; then

15 (B) compute the support the other parent would owe
16 to the first parent as if the child in his or her care
17 were the only child of the parties; then

18 (C) subtract the lesser support obligation from
19 the greater.

20 The parent who owes the greater obligation shall be
21 ordered to pay the difference in support to the other
22 parent, unless the court determines, pursuant to other
23 provisions of this Section, that it should deviate from the
24 guidelines.

25 (4) Health care.

26 (A) A portion of the basic child support obligation

1 is intended to cover basic ordinary out-of-pocket
2 medical expenses. The court, in its discretion, in
3 addition to the basic child support obligation, shall
4 also provide for the child's current and future medical
5 needs by ordering either or both parents to initiate
6 health or medical coverage for the child through
7 currently effective health or medical insurance
8 policies held by the parent or parents, purchase either
9 or all of health or medical, dental, or vision
10 insurance policies for the child, or provide for the
11 child's current and future medical needs through some
12 other manner.

13 (B) The court, in its discretion, may also order
14 either or both parents to contribute to the reasonable
15 health care needs of the child not covered by
16 insurance, including, but not limited to, unreimbursed
17 medical, dental, orthodontic, or vision expenses and
18 any prescription medication for the child not covered
19 under the child's health or medical insurance.

20 (C) If neither parent has access to appropriate
21 private health care coverage, the court may order:

22 (I) one or both parents to provide health care
23 coverage at any time it becomes available at a
24 reasonable cost; or

25 (II) the parent with primary physical
26 responsibility for the child to apply for public

1 health care coverage for the child and the other
2 parent to pay a reasonable amount of the cost for
3 medical support.

4 If cash medical support is ordered, the order may
5 also provide that any time private health care coverage
6 is available at a reasonable cost to that party it will
7 be provided instead of cash medical support. As used in
8 this Section, "cash medical support" means an amount
9 ordered to be paid toward the cost of health insurance
10 provided by a public entity or by another person
11 through employment or otherwise or for other medical
12 costs not covered by insurance.

13 (D) The amount to be added to the basic child
14 support obligation shall be the actual amount of the
15 total insurance premium that is attributable to the
16 child who is the subject of the order. If this amount
17 is not available or cannot be verified, the total cost
18 of the premium shall be divided by the total number of
19 persons covered by the policy. The cost per person
20 derived from this calculation shall be multiplied by
21 the number of children who are the subject of the order
22 and who are covered under the policy. This amount shall
23 be added to the basic child support obligation and
24 shall be divided between the parents in proportion to
25 their adjusted gross incomes.

26 (E) After the health insurance premium for the

1 child is added to the basic child support obligation
2 and divided between the parents in proportion to their
3 respective incomes for child support purposes, if the
4 obligor is paying the premium, the amount calculated
5 for the obligee's share of the health insurance premium
6 for the child shall be deducted from the obligor's
7 share of the total child support obligation. If the
8 obligee is paying the premium, no further adjustment is
9 necessary.

10 (F) Prior to allowing the health insurance
11 adjustment, the parent requesting the adjustment must
12 submit proof that the child has been enrolled in a
13 health insurance plan and must submit proof of the cost
14 of the premium. The court shall require the parent
15 receiving the adjustment to annually submit proof of
16 continued coverage of the child to the child support
17 enforcement unit and to the other parent.

18 (G) A reasonable cost for providing health care
19 coverage for the child or children may not exceed 5% of
20 the providing parent's gross income. Parents with a net
21 income below 133% of the most recent United States
22 Department of Health and Human Services Federal
23 Poverty Guidelines or whose child is covered by
24 Medicaid based on that parent's income may not be
25 ordered to contribute toward or provide private
26 coverage, unless private coverage is obtainable

1 without any financial contribution by that parent.

2 (H) If dental or vision insurance is included as
3 part of the employer's medical plan, the coverage shall
4 be maintained for the child. If not included in the
5 employer's medical plan, adding the dental or vision
6 insurance for the child is at the discretion of the
7 court.

8 (I) If a parent has been directed to provide health
9 insurance pursuant to this paragraph and that parent's
10 spouse or legally recognized partner provides the
11 insurance for the benefit of the child either directly
12 or through employment, a credit on the child support
13 worksheet shall be given to that parent in the same
14 manner as if the premium were paid by that parent.

15 (4.5) In a proceeding for child support following
16 dissolution of the marriage or civil union by a court that
17 lacked personal jurisdiction over the absent spouse, and in
18 which the court is requiring payment of support for the
19 period before the date an order for current support is
20 entered, there is a rebuttable presumption that the
21 supporting party's net income for the prior period was the
22 same as his or her net income at the time the order for
23 current support is entered.

24 (5) If the net income cannot be determined because of
25 default or any other reason, the court shall order support
26 in an amount considered reasonable in the particular case.

1 The final order in all cases shall state the support level
2 in dollar amounts. However, if the court finds that the
3 child support amount cannot be expressed exclusively as a
4 dollar amount because all or a portion of the payor's net
5 income is uncertain as to source, time of payment, or
6 amount, the court may order a percentage amount of support
7 in addition to a specific dollar amount and enter such
8 other orders as may be necessary to determine and enforce,
9 on a timely basis, the applicable support ordered.

10 (6) If (i) the non-custodial parent was properly served
11 with a request for discovery of financial information
12 relating to the non-custodial parent's ability to provide
13 child support, (ii) the non-custodial parent failed to
14 comply with the request, despite having been ordered to do
15 so by the court, and (iii) the non-custodial parent is not
16 present at the hearing to determine support despite having
17 received proper notice, then any relevant financial
18 information concerning the non-custodial parent's ability
19 to provide child support that was obtained pursuant to
20 subpoena and proper notice shall be admitted into evidence
21 without the need to establish any further foundation for
22 its admission.

23 (a-5) In an action to enforce an order for support based on
24 the respondent's failure to make support payments as required
25 by the order, notice of proceedings to hold the respondent in
26 contempt for that failure may be served on the respondent by

1 personal service or by regular mail addressed to the
2 respondent's last known address. The respondent's last known
3 address may be determined from records of the clerk of the
4 court, from the Federal Case Registry of Child Support Orders,
5 or by any other reasonable means.

6 (b) Failure of either parent to comply with an order to pay
7 support shall be punishable as in other cases of contempt. In
8 addition to other penalties provided by law the court may,
9 after finding the parent guilty of contempt, order that the
10 parent be:

11 (1) placed on probation with such conditions of
12 probation as the court deems advisable;

13 (2) sentenced to periodic imprisonment for a period not
14 to exceed 6 months; provided, however, that the court may
15 permit the parent to be released for periods of time during
16 the day or night to:

17 (A) work; or

18 (B) conduct a business or other self-employed
19 occupation.

20 The court may further order any part or all of the earnings
21 of a parent during a sentence of periodic imprisonment paid to
22 the Clerk of the Circuit Court or to the parent having custody
23 or to the guardian having custody of the children of the
24 sentenced parent for the support of said children until further
25 order of the court.

26 If a parent who is found guilty of contempt for failure to

1 comply with an order to pay support is a person who conducts a
2 business or who is self-employed, the court in addition to
3 other penalties provided by law may order that the parent do
4 one or more of the following: (i) provide to the court monthly
5 financial statements showing income and expenses from the
6 business or the self-employment; (ii) seek employment and
7 report periodically to the court with a diary, listing, or
8 other memorandum of his or her employment search efforts; or
9 (iii) report to the Department of Employment Security for job
10 search services to find employment that will be subject to
11 withholding for child support.

12 If there is a unity of interest and ownership sufficient to
13 render no financial separation between a non-custodial parent
14 and another person or persons or business entity, the court may
15 pierce the ownership veil of the person, persons, or business
16 entity to discover assets of the non-custodial parent held in
17 the name of that person, those persons, or that business
18 entity. The following circumstances are sufficient to
19 authorize a court to order discovery of the assets of a person,
20 persons, or business entity and to compel the application of
21 any discovered assets toward payment on the judgment for
22 support:

23 (1) the non-custodial parent and the person, persons,
24 or business entity maintain records together.

25 (2) the non-custodial parent and the person, persons,
26 or business entity fail to maintain an arm's length

1 relationship between themselves with regard to any assets.

2 (3) the non-custodial parent transfers assets to the
3 person, persons, or business entity with the intent to
4 perpetrate a fraud on the custodial parent.

5 With respect to assets which are real property, no order
6 entered under this paragraph shall affect the rights of bona
7 fide purchasers, mortgagees, judgment creditors, or other lien
8 holders who acquire their interests in the property prior to
9 the time a notice of lis pendens pursuant to the Code of Civil
10 Procedure or a copy of the order is placed of record in the
11 office of the recorder of deeds for the county in which the
12 real property is located.

13 The court may also order in cases where the parent is 90
14 days or more delinquent in payment of support or has been
15 adjudicated in arrears in an amount equal to 90 days obligation
16 or more, that the parent's Illinois driving privileges be
17 suspended until the court determines that the parent is in
18 compliance with the order of support. The court may also order
19 that the parent be issued a family financial responsibility
20 driving permit that would allow limited driving privileges for
21 employment and medical purposes in accordance with Section
22 7-702.1 of the Illinois Vehicle Code. The Clerk of the Circuit
23 Court shall certify the order suspending the driving privileges
24 of the parent or granting the issuance of a family financial
25 responsibility driving permit to the Secretary of State on
26 forms prescribed by the Secretary. Upon receipt of the

1 authenticated documents, the Secretary of State shall suspend
2 the parent's driving privileges until further order of the
3 court and shall, if ordered by the court, subject to the
4 provisions of Section 7-702.1 of the Illinois Vehicle Code,
5 issue a family financial responsibility driving permit to the
6 parent.

7 In addition to the penalties or punishment that may be
8 imposed under this Section, any person whose conduct
9 constitutes a violation of Section 15 of the Non-Support
10 Punishment Act may be prosecuted under that Act, and a person
11 convicted under that Act may be sentenced in accordance with
12 that Act. The sentence may include but need not be limited to a
13 requirement that the person perform community service under
14 Section 50 of that Act or participate in a work alternative
15 program under Section 50 of that Act. A person may not be
16 required to participate in a work alternative program under
17 Section 50 of that Act if the person is currently participating
18 in a work program pursuant to Section 505.1 of this Act.

19 A support obligation, or any portion of a support
20 obligation, which becomes due and remains unpaid as of the end
21 of each month, excluding the child support that was due for
22 that month to the extent that it was not paid in that month,
23 shall accrue simple interest as set forth in Section 12-109 of
24 the Code of Civil Procedure. An order for support entered or
25 modified on or after January 1, 2006 shall contain a statement
26 that a support obligation required under the order, or any

1 portion of a support obligation required under the order, that
2 becomes due and remains unpaid as of the end of each month,
3 excluding the child support that was due for that month to the
4 extent that it was not paid in that month, shall accrue simple
5 interest as set forth in Section 12-109 of the Code of Civil
6 Procedure. Failure to include the statement in the order for
7 support does not affect the validity of the order or the
8 accrual of interest as provided in this Section.

9 (c) A one-time charge of 20% is imposable upon the amount
10 of past-due child support owed on July 1, 1988 which has
11 accrued under a support order entered by the court. The charge
12 shall be imposed in accordance with the provisions of Section
13 10-21 of the Illinois Public Aid Code and shall be enforced by
14 the court upon petition.

15 (d) Any new or existing support order entered by the court
16 under this Section shall be deemed to be a series of judgments
17 against the person obligated to pay support thereunder, each
18 such judgment to be in the amount of each payment or
19 installment of support and each such judgment to be deemed
20 entered as of the date the corresponding payment or installment
21 becomes due under the terms of the support order. Each such
22 judgment shall have the full force, effect and attributes of
23 any other judgment of this State, including the ability to be
24 enforced. Notwithstanding any other State or local law to the
25 contrary, a lien arises by operation of law against the real
26 and personal property of the noncustodial parent for each

1 installment of overdue support owed by the noncustodial parent.

2 (e) When child support is to be paid through the Clerk of
3 the Court in a county of 1,000,000 inhabitants or less, the
4 order shall direct the obligor to pay to the Clerk, in addition
5 to the child support payments, all fees imposed by the county
6 board under paragraph (3) of subsection (u) of Section 27.1 of
7 the Clerks of Courts Act. Unless paid in cash or pursuant to an
8 order for withholding, the payment of the fee shall be by a
9 separate instrument from the support payment and shall be made
10 to the order of the Clerk.

11 (f) All orders for support, when entered or modified, shall
12 include a provision requiring the obligor to notify the court
13 and, in cases in which a party is receiving child and spouse
14 services under Article X of the Illinois Public Aid Code, the
15 Department of Healthcare and Family Services, within 7 days,
16 (i) of the name and address of any new employer of the obligor,
17 (ii) whether the obligor has access to health insurance
18 coverage through the employer or other group coverage and, if
19 so, the policy name and number and the names of persons covered
20 under the policy, and (iii) of any new residential or mailing
21 address or telephone number of the non-custodial parent. In any
22 subsequent action to enforce a support order, upon a sufficient
23 showing that a diligent effort has been made to ascertain the
24 location of the non-custodial parent, service of process or
25 provision of notice necessary in the case may be made at the
26 last known address of the non-custodial parent in any manner

1 expressly provided by the Code of Civil Procedure or this Act,
2 which service shall be sufficient for purposes of due process.

3 (g) An order for support shall include a date on which the
4 current support obligation terminates. The termination date
5 shall be no earlier than the date on which the child covered by
6 the order will attain the age of 18. However, if the child will
7 not graduate from high school until after attaining the age of
8 18, then the termination date shall be no earlier than the
9 earlier of the date on which the child's high school graduation
10 will occur or the date on which the child will attain the age
11 of 19. The order for support shall state that the termination
12 date does not apply to any arrearage that may remain unpaid on
13 that date. Nothing in this subsection shall be construed to
14 prevent the court from modifying the order or terminating the
15 order in the event the child is otherwise emancipated.

16 (g-5) If there is an unpaid arrearage or delinquency (as
17 those terms are defined in the Income Withholding for Support
18 Act) equal to at least one month's support obligation on the
19 termination date stated in the order for support or, if there
20 is no termination date stated in the order, on the date the
21 child attains the age of majority or is otherwise emancipated,
22 the periodic amount required to be paid for current support of
23 that child immediately prior to that date shall automatically
24 continue to be an obligation, not as current support but as
25 periodic payment toward satisfaction of the unpaid arrearage or
26 delinquency. That periodic payment shall be in addition to any

1 periodic payment previously required for satisfaction of the
2 arrearage or delinquency. The total periodic amount to be paid
3 toward satisfaction of the arrearage or delinquency may be
4 enforced and collected by any method provided by law for
5 enforcement and collection of child support, including but not
6 limited to income withholding under the Income Withholding for
7 Support Act. Each order for support entered or modified on or
8 after the effective date of this amendatory Act of the 93rd
9 General Assembly must contain a statement notifying the parties
10 of the requirements of this subsection. Failure to include the
11 statement in the order for support does not affect the validity
12 of the order or the operation of the provisions of this
13 subsection with regard to the order. This subsection shall not
14 be construed to prevent or affect the establishment or
15 modification of an order for support of a minor child or the
16 establishment or modification of an order for support of a
17 non-minor child or educational expenses under Section 513 of
18 this Act.

19 (h) An order entered under this Section shall include a
20 provision requiring the obligor to report to the obligee and to
21 the Clerk of Court within 10 days each time the obligor obtains
22 new employment, and each time the obligor's employment is
23 terminated for any reason. The report shall be in writing and
24 shall, in the case of new employment, include the name and
25 address of the new employer. Failure to report new employment
26 or the termination of current employment, if coupled with

1 nonpayment of support for a period in excess of 60 days, is
2 indirect criminal contempt. For any obligor arrested for
3 failure to report new employment bond shall be set in the
4 amount of the child support that should have been paid during
5 the period of unreported employment. An order entered under
6 this Section shall also include a provision requiring the
7 obligor and obligee parents to advise each other of a change in
8 residence within 5 days of the change except when the court
9 finds that the physical, mental, or emotional health of a party
10 or that of a child, or both, would be seriously endangered by
11 disclosure of the party's address.

12 (i) The court does not lose the powers of contempt,
13 driver's license suspension, or other child support
14 enforcement mechanisms, including, but not limited to,
15 criminal prosecution as set forth in this Act, upon the
16 emancipation of the minor child or children.

17 (Source: P.A. 98-463, eff. 8-16-13; 98-961, eff. 1-1-15;
18 99-764, eff. 7-1-17.)

19 Section 95. No acceleration or delay. Where this Act makes
20 changes in a statute that is represented in this Act by text
21 that is not yet or no longer in effect (for example, a Section
22 represented by multiple versions), the use of that text does
23 not accelerate or delay the taking effect of (i) the changes
24 made by this Act or (ii) provisions derived from any other
25 Public Act.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.