



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4163

by Rep. Kevin Schmidt

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501
750 ILCS 5/520 new

from Ch. 95 1/2, par. 11-501

Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that if a defendant is found guilty of aggravated driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof where the violation has resulted in the death of another, the court shall order the defendant to pay an amount reasonable and necessary for support of the minor child or children of any victims. Provides for the calculation of child support for a defendant ordered to pay child support under such circumstances. Makes a corresponding change in the Illinois Vehicle Code.

LRB103 34143 MXP 63961 b

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 Vehicle Code is amended by
5 changing Section 11-501 as follows:

6 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

7 Sec. 11-501. Driving while under the influence of alcohol,
8 other drug or drugs, intoxicating compound or compounds, or
9 any combination thereof.

10 (a) A person shall not drive or be in actual physical
11 control of any vehicle within this State while:

12 (1) the alcohol concentration in the person's blood,
13 other bodily substance, or breath is 0.08 or more based on
14 the definition of blood and breath units in Section
15 11-501.2;

16 (2) under the influence of alcohol;

17 (3) under the influence of any intoxicating compound
18 or combination of intoxicating compounds to a degree that
19 renders the person incapable of driving safely;

20 (4) under the influence of any other drug or
21 combination of drugs to a degree that renders the person
22 incapable of safely driving;

23 (5) under the combined influence of alcohol, other

1 drug or drugs, or intoxicating compound or compounds to a
2 degree that renders the person incapable of safely
3 driving;

4 (6) there is any amount of a drug, substance, or
5 compound in the person's breath, blood, other bodily
6 substance, or urine resulting from the unlawful use or
7 consumption of a controlled substance listed in the
8 Illinois Controlled Substances Act, an intoxicating
9 compound listed in the Use of Intoxicating Compounds Act,
10 or methamphetamine as listed in the Methamphetamine
11 Control and Community Protection Act; or

12 (7) the person has, within 2 hours of driving or being
13 in actual physical control of a vehicle, a
14 tetrahydrocannabinol concentration in the person's whole
15 blood or other bodily substance as defined in paragraph 6
16 of subsection (a) of Section 11-501.2 of this Code.
17 Subject to all other requirements and provisions under
18 this Section, this paragraph (7) does not apply to the
19 lawful consumption of cannabis by a qualifying patient
20 licensed under the Compassionate Use of Medical Cannabis
21 Program Act who is in possession of a valid registry card
22 issued under that Act, unless that person is impaired by
23 the use of cannabis.

24 (b) The fact that any person charged with violating this
25 Section is or has been legally entitled to use alcohol,
26 cannabis under the Compassionate Use of Medical Cannabis

1 Program Act, other drug or drugs, ~~or~~ intoxicating compound or
2 compounds, or any combination thereof, shall not constitute a
3 defense against any charge of violating this Section.

4 (c) Penalties.

5 (1) Except as otherwise provided in this Section, any
6 person convicted of violating subsection (a) of this
7 Section is guilty of a Class A misdemeanor.

8 (2) A person who violates subsection (a) or a similar
9 provision a second time shall be sentenced to a mandatory
10 minimum term of either 5 days of imprisonment or 240 hours
11 of community service in addition to any other criminal or
12 administrative sanction.

13 (3) A person who violates subsection (a) is subject to
14 6 months of imprisonment, an additional mandatory minimum
15 fine of \$1,000, and 25 days of community service in a
16 program benefiting children if the person was transporting
17 a person under the age of 16 at the time of the violation.

18 (4) A person who violates subsection (a) a first time,
19 if the alcohol concentration in his or her blood, breath,
20 other bodily substance, or urine was 0.16 or more based on
21 the definition of blood, breath, other bodily substance,
22 or urine units in Section 11-501.2, shall be subject, in
23 addition to any other penalty that may be imposed, to a
24 mandatory minimum of 100 hours of community service and a
25 mandatory minimum fine of \$500.

26 (5) A person who violates subsection (a) a second

1 time, if at the time of the second violation the alcohol
2 concentration in his or her blood, breath, other bodily
3 substance, or urine was 0.16 or more based on the
4 definition of blood, breath, other bodily substance, or
5 urine units in Section 11-501.2, shall be subject, in
6 addition to any other penalty that may be imposed, to a
7 mandatory minimum of 2 days of imprisonment and a
8 mandatory minimum fine of \$1,250.

9 (d) Aggravated driving under the influence of alcohol,
10 other drug or drugs, ~~or~~ intoxicating compound or compounds, or
11 any combination thereof.

12 (1) Every person convicted of committing a violation
13 of this Section shall be guilty of aggravated driving
14 under the influence of alcohol, other drug or drugs, ~~or~~
15 intoxicating compound or compounds, or any combination
16 thereof if:

17 (A) the person committed a violation of subsection
18 (a) or a similar provision for the third or subsequent
19 time;

20 (B) the person committed a violation of subsection
21 (a) while driving a school bus with one or more
22 passengers on board;

23 (C) the person in committing a violation of
24 subsection (a) was involved in a motor vehicle crash
25 that resulted in great bodily harm or permanent
26 disability or disfigurement to another, when the

1 violation was a proximate cause of the injuries;

2 (D) the person committed a violation of subsection
3 (a) and has been previously convicted of violating
4 Section 9-3 of the Criminal Code of 1961 or the
5 Criminal Code of 2012 or a similar provision of a law
6 of another state relating to reckless homicide in
7 which the person was determined to have been under the
8 influence of alcohol, other drug or drugs, or
9 intoxicating compound or compounds as an element of
10 the offense or the person has previously been
11 convicted under subparagraph (C) or subparagraph (F)
12 of this paragraph (1);

13 (E) the person, in committing a violation of
14 subsection (a) while driving at any speed in a school
15 speed zone at a time when a speed limit of 20 miles per
16 hour was in effect under subsection (a) of Section
17 11-605 of this Code, was involved in a motor vehicle
18 crash that resulted in bodily harm, other than great
19 bodily harm or permanent disability or disfigurement,
20 to another person, when the violation of subsection
21 (a) was a proximate cause of the bodily harm;

22 (F) the person, in committing a violation of
23 subsection (a), was involved in a motor vehicle crash
24 or snowmobile, all-terrain vehicle, or watercraft
25 accident that resulted in the death of another person,
26 when the violation of subsection (a) was a proximate

1 cause of the death;

2 (G) the person committed a violation of subsection
3 (a) during a period in which the defendant's driving
4 privileges are revoked or suspended, where the
5 revocation or suspension was for a violation of
6 subsection (a) or a similar provision, Section
7 11-501.1, paragraph (b) of Section 11-401, or for
8 reckless homicide as defined in Section 9-3 of the
9 Criminal Code of 1961 or the Criminal Code of 2012;

10 (H) the person committed the violation while he or
11 she did not possess a driver's license or permit or a
12 restricted driving permit or a judicial driving permit
13 or a monitoring device driving permit;

14 (I) the person committed the violation while he or
15 she knew or should have known that the vehicle he or
16 she was driving was not covered by a liability
17 insurance policy;

18 (J) the person in committing a violation of
19 subsection (a) was involved in a motor vehicle crash
20 that resulted in bodily harm, but not great bodily
21 harm, to the child under the age of 16 being
22 transported by the person, if the violation was the
23 proximate cause of the injury;

24 (K) the person in committing a second violation of
25 subsection (a) or a similar provision was transporting
26 a person under the age of 16; or

1 (L) the person committed a violation of subsection
2 (a) of this Section while transporting one or more
3 passengers in a vehicle for-hire.

4 (2) (A) Except as provided otherwise, a person
5 convicted of aggravated driving under the influence of
6 alcohol, other drug or drugs, ~~or~~ intoxicating compound or
7 compounds, or any combination thereof is guilty of a Class
8 4 felony.

9 (B) A third violation of this Section or a similar
10 provision is a Class 2 felony. If at the time of the third
11 violation the alcohol concentration in his or her blood,
12 breath, other bodily substance, or urine was 0.16 or more
13 based on the definition of blood, breath, other bodily
14 substance, or urine units in Section 11-501.2, a mandatory
15 minimum of 90 days of imprisonment and a mandatory minimum
16 fine of \$2,500 shall be imposed in addition to any other
17 criminal or administrative sanction. If at the time of the
18 third violation, the defendant was transporting a person
19 under the age of 16, a mandatory fine of \$25,000 and 25
20 days of community service in a program benefiting children
21 shall be imposed in addition to any other criminal or
22 administrative sanction.

23 (C) A fourth violation of this Section or a similar
24 provision is a Class 2 felony, for which a sentence of
25 probation or conditional discharge may not be imposed. If
26 at the time of the violation, the alcohol concentration in

1 the defendant's blood, breath, other bodily substance, or
2 urine was 0.16 or more based on the definition of blood,
3 breath, other bodily substance, or urine units in Section
4 11-501.2, a mandatory minimum fine of \$5,000 shall be
5 imposed in addition to any other criminal or
6 administrative sanction. If at the time of the fourth
7 violation, the defendant was transporting a person under
8 the age of 16 a mandatory fine of \$25,000 and 25 days of
9 community service in a program benefiting children shall
10 be imposed in addition to any other criminal or
11 administrative sanction.

12 (D) A fifth violation of this Section or a similar
13 provision is a Class 1 felony, for which a sentence of
14 probation or conditional discharge may not be imposed. If
15 at the time of the violation, the alcohol concentration in
16 the defendant's blood, breath, other bodily substance, or
17 urine was 0.16 or more based on the definition of blood,
18 breath, other bodily substance, or urine units in Section
19 11-501.2, a mandatory minimum fine of \$5,000 shall be
20 imposed in addition to any other criminal or
21 administrative sanction. If at the time of the fifth
22 violation, the defendant was transporting a person under
23 the age of 16, a mandatory fine of \$25,000, and 25 days of
24 community service in a program benefiting children shall
25 be imposed in addition to any other criminal or
26 administrative sanction.

1 (E) A sixth or subsequent violation of this Section or
2 similar provision is a Class X felony. If at the time of
3 the violation, the alcohol concentration in the
4 defendant's blood, breath, other bodily substance, or
5 urine was 0.16 or more based on the definition of blood,
6 breath, other bodily substance, or urine units in Section
7 11-501.2, a mandatory minimum fine of \$5,000 shall be
8 imposed in addition to any other criminal or
9 administrative sanction. If at the time of the violation,
10 the defendant was transporting a person under the age of
11 16, a mandatory fine of \$25,000 and 25 days of community
12 service in a program benefiting children shall be imposed
13 in addition to any other criminal or administrative
14 sanction.

15 (F) For a violation of subparagraph (C) of paragraph
16 (1) of this subsection (d), the defendant, if sentenced to
17 a term of imprisonment, shall be sentenced to not less
18 than one year nor more than 12 years.

19 (G) A violation of subparagraph (F) of paragraph (1)
20 of this subsection (d) is a Class 2 felony, for which the
21 defendant, unless the court determines that extraordinary
22 circumstances exist and require probation, shall be
23 sentenced to: (i) a term of imprisonment of not less than 3
24 years and not more than 14 years if the violation resulted
25 in the death of one person; or (ii) a term of imprisonment
26 of not less than 6 years and not more than 28 years if the

1 violation resulted in the deaths of 2 or more persons. The
2 defendant shall also be responsible to make child support
3 payments as determined by the court under Section 520 of
4 the Illinois Marriage and Dissolution of Marriage Act for
5 the minor child or children of any person or persons whose
6 deaths resulted from the violation.

7 (H) For a violation of subparagraph (J) of paragraph
8 (1) of this subsection (d), a mandatory fine of \$2,500,
9 and 25 days of community service in a program benefiting
10 children shall be imposed in addition to any other
11 criminal or administrative sanction.

12 (I) A violation of subparagraph (K) of paragraph (1)
13 of this subsection (d), is a Class 2 felony and a mandatory
14 fine of \$2,500, and 25 days of community service in a
15 program benefiting children shall be imposed in addition
16 to any other criminal or administrative sanction. If the
17 child being transported suffered bodily harm, but not
18 great bodily harm, in a motor vehicle crash, and the
19 violation was the proximate cause of that injury, a
20 mandatory fine of \$5,000 and 25 days of community service
21 in a program benefiting children shall be imposed in
22 addition to any other criminal or administrative sanction.

23 (J) A violation of subparagraph (D) of paragraph (1)
24 of this subsection (d) is a Class 3 felony, for which a
25 sentence of probation or conditional discharge may not be
26 imposed.

1 (3) Any person sentenced under this subsection (d) who
2 receives a term of probation or conditional discharge must
3 serve a minimum term of either 480 hours of community
4 service or 10 days of imprisonment as a condition of the
5 probation or conditional discharge in addition to any
6 other criminal or administrative sanction.

7 (e) Any reference to a prior violation of subsection (a)
8 or a similar provision includes any violation of a provision
9 of a local ordinance or a provision of a law of another state
10 or an offense committed on a military installation that is
11 similar to a violation of subsection (a) of this Section.

12 (f) The imposition of a mandatory term of imprisonment or
13 assignment of community service for a violation of this
14 Section shall not be suspended or reduced by the court.

15 (g) Any penalty imposed for driving with a license that
16 has been revoked for a previous violation of subsection (a) of
17 this Section shall be in addition to the penalty imposed for
18 any subsequent violation of subsection (a).

19 (h) For any prosecution under this Section, a certified
20 copy of the driving abstract of the defendant shall be
21 admitted as proof of any prior conviction.

22 (Source: P.A. 101-363, eff. 8-9-19; 102-982, eff. 7-1-23.)

23 Section 10. The Illinois Marriage and Dissolution of
24 Marriage Act is amended by adding Section 520 as follows:

1 (750 ILCS 5/520 new)

2 Sec. 520. Child support for aggravated driving under the
3 influence.

4 (a) If a defendant is found guilty of aggravated driving
5 under the influence of alcohol, other drug or drugs,
6 intoxicating compound or compounds, or any combination thereof
7 under subparagraph (f) of paragraph (1) of subsection (d) of
8 Section 11-501 of the Illinois Vehicle Code where the
9 violation has resulted in the death of another, the court
10 shall order the defendant to pay an amount reasonable and
11 necessary for support of the minor child or children of any
12 victims. As used in this Section, "child" includes any child
13 under age 18 and any child age 19 or younger who is still
14 attending high school.

15 (1) Computation of basic child support obligation. The
16 court shall compute the basic child support obligation by
17 taking the following steps:

18 (A) determine the defendant's monthly net income;

19 (B) add the defendant and surviving parent's
20 monthly net incomes together to determine the combined
21 monthly net income;

22 (C) select the corresponding appropriate amount
23 from the schedule of basic child support obligation
24 based on the parties' combined monthly net income and
25 number of children; and

26 (D) calculate each party's percentage share of the

1 basic child support obligation.

2 (2) Duty of support. The court shall determine child
3 support in each case by applying the child support
4 guidelines unless the court makes a finding that
5 application of the guidelines would be inappropriate,
6 after considering the best interests of the child and
7 evidence which shows relevant factors, including, but not
8 limited to, one or more of the following:

9 (A) the financial resources and needs of the
10 child;

11 (B) the financial resources and needs of a
12 surviving parent;

13 (C) the standard of living the child would have
14 enjoyed had the death of the parent or parents not
15 resulted; and

16 (D) the physical and emotional condition of the
17 child and the child's educational needs.

18 (3) Income.

19 (A) As used in this Section, "gross income" means
20 the total of all income from all sources, except
21 "gross income" does not include (i) benefits received
22 from means-tested public assistance programs,
23 including, but not limited to, Temporary Assistance
24 for Needy Families, Supplemental Security Income, and
25 the Supplemental Nutrition Assistance Program or (ii)
26 benefits and income received for other children in the

1 household, including, but not limited to, child
2 support, survivor benefits, and foster care payments.
3 "Gross income" includes maintenance treated as taxable
4 income for federal income tax purposes to the payee
5 and received pursuant to a court order in the pending
6 proceedings or any other proceedings and shall be
7 included in the payee's gross income for purposes of
8 calculating the child support obligation.

9 (B) As used in this Section, "net income" means
10 gross income minus either the standardized tax amount
11 calculated under subparagraph (C) or the
12 individualized tax amount calculated under
13 subparagraph (D), and minus any adjustments under
14 subparagraph (F). The standardized tax amount shall be
15 used unless the requirements for an individualized tax
16 amount set forth in subparagraph (E) are met. "Net
17 income" includes maintenance not includable in the
18 gross taxable income of the payee for federal income
19 tax purposes under a court order in the pending
20 proceedings or any other proceedings and shall be
21 included in the payee's net income for purposes of
22 calculating the child support obligation.

23 (C) As used in this Section, "standardized tax
24 amount" means the total of federal and State income
25 taxes for a single person claiming the standard tax
26 deduction, one personal exemption, and the applicable

1 number of dependency exemptions for the minor child or
2 children of the parties, and Social Security and
3 Medicare tax calculated at the Federal Insurance
4 Contributions Act rate.

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

7 (I) federal income tax (properly calculated
8 withholding or estimated payments);

9 (II) State income tax (properly calculated
10 withholding or estimated payments); and

11 (III) Social Security or self-employment tax,
12 if applicable (or, if none, mandatory retirement
13 contributions required by law or as a condition of
14 employment) and Medicare tax calculated at the
15 Federal Insurance Contributions Act rate.

16 (E) In lieu of a standardized tax amount, a
17 determination of an individualized tax amount may be
18 made under item (I), (II), or (III). If an
19 individualized tax amount determination is made under
20 this subparagraph, all relevant tax attributes
21 (including filing status, allocation of dependency
22 exemptions, and whether a party is to claim the use of
23 the standard deduction or itemized deductions for
24 federal income tax purposes) shall be as the parties
25 agree or as the court determines. To determine a
26 party's reported income, the court may order the party

1 to complete an Internal Revenue Service Form 4506-T,
2 Request for Tax Transcript.

3 (I) Agreement. Irrespective of whether the
4 parties agree on any other issue before the court,
5 if they jointly stipulate for the record the
6 parties' concurrence on a computation method for
7 the individualized tax amount that is different
8 from the method set forth under subparagraph (D),
9 the stipulated method shall be used by the court
10 unless the court rejects the proposed stipulated
11 method for good cause.

12 (II) Summary hearing. If the court determines
13 child support in a summary hearing under Section
14 501 and an eligible party opts in to the
15 individualized tax amount method under this item,
16 the individualized tax amount shall be determined
17 by the court on the basis of information contained
18 in one or both parties' Supreme Court approved
19 financial affidavit and relevant supporting
20 documents under applicable court rules. No party,
21 however, is eligible to opt in unless the party,
22 under applicable court rules, has served the other
23 party with the required Supreme Court approved
24 financial affidavit and has substantially produced
25 supporting documents required by the applicable
26 court rules.

1 (III) Evidentiary hearing. If the court
2 determines child support in an evidentiary
3 hearing, whether for purposes of a temporary order
4 or at the conclusion of a proceeding, item (II)
5 does not apply. In each such case (unless item (I)
6 governs), the individualized tax amount shall be
7 as determined by the court on the basis of the
8 record established.

9 (F) Adjustments to income.

10 (I) Multifamily adjustment. If the defendant
11 is also legally responsible for support of the
12 defendant's own child and not subject to the
13 present proceeding, there shall be an adjustment
14 to net income as follows:

15 (i) Multifamily adjustment with court
16 order. The court shall deduct from the
17 defendant's net income the amount of child
18 support actually paid by the defendant
19 pursuant to a support order unless the court
20 makes a finding that it would cause economic
21 hardship to the child.

22 (ii) Multifamily adjustment without court
23 order. Upon the request or application of a
24 defendant actually supporting a presumed,
25 acknowledged, or adjudicated child living in
26 or outside of that defendant's household,

1 there shall be an adjustment to child support.
2 The court shall deduct from the defendant's
3 net income the amount of financial support
4 actually paid by the defendant for the child
5 or 75% of the support the defendant should pay
6 under the child support guidelines (before
7 this adjustment), whichever is less, unless
8 the court makes a finding that it would cause
9 economic hardship to the child. The adjustment
10 shall be calculated using the defendant's
11 income alone.

12 (3.1) Business income. For purposes of calculating
13 child support, "net business income from the operation of
14 a business" means gross receipts minus ordinary and
15 necessary expenses required to carry on the trade or
16 business. As used in this paragraph, "business" includes,
17 but is not limited to, sole proprietorships, closely held
18 corporations, partnerships, other flow-through business
19 entities, and self-employment. The court shall apply the
20 following:

21 (A) The accelerated component of depreciation and
22 any business expenses determined either judicially or
23 administratively to be inappropriate or excessive
24 shall be excluded from the total of ordinary and
25 necessary business expenses to be deducted in the
26 determination of net business income from gross

1 business income.

2 (B) Any item of reimbursement or in-kind payment
3 received by a defendant from a business, including,
4 but not limited to, a company car, reimbursed meals,
5 free housing, or a housing allowance, shall be counted
6 as income if not otherwise included in the defendant's
7 gross income, if the item is significant in amount and
8 reduces personal expenses.

9 (3.2) Unemployment or underemployment. If the
10 defendant is voluntarily unemployed or underemployed,
11 child support shall be calculated based on a determination
12 of potential income. A determination of potential income
13 shall be made by determining employment potential and
14 probable earnings level based on the defendant's work
15 history, occupational qualifications, prevailing job
16 opportunities, the ownership by a defendant of a
17 substantial non-income producing asset, and earnings
18 levels in the community. If there is insufficient work
19 history to determine employment potential and probable
20 earnings level, there shall be a rebuttable presumption
21 that the defendant's potential income is 75% of the most
22 recent United States Department of Health and Human
23 Services Federal Poverty Guidelines for a family of one
24 person.

25 (3.3) Rebuttable presumption in favor of guidelines.
26 There is a rebuttable presumption in any judicial or

1 administrative proceeding for child support that the
2 amount of the child support obligation that would result
3 from the application of the child support guidelines is
4 the correct amount of child support.

5 (3.3a) Minimum child support obligation. There is a
6 rebuttable presumption that a minimum child support
7 obligation of \$40 per month, per child, will be entered
8 for a defendant who has actual or imputed gross income at
9 or less than 75% of the most recent United States
10 Department of Health and Human Services Federal Poverty
11 Guidelines for a family of one person, with a maximum
12 total child support obligation for the defendant of \$120
13 per month to be divided equally among all of the
14 defendant's children.

15 (3.3b) Zero dollar child support order. For a
16 defendant with no gross income who receives only
17 means-tested assistance, or who cannot work due to a
18 medically proven disability, incarceration, or
19 institutionalization, there is a rebuttable presumption
20 that the \$40 per month minimum support order is
21 inapplicable and a zero dollar order shall be entered.

22 (3.4) Deviation factors. In any action to establish or
23 modify child support, whether pursuant to a temporary or
24 final administrative or court order, the child support
25 guidelines shall be used as a rebuttable presumption for
26 the establishment or modification of the amount of child

1 support. The court may deviate from the child support
2 guidelines if the application would be inequitable,
3 unjust, or inappropriate. Any deviation from the
4 guidelines shall be accompanied by written findings by the
5 court specifying the reasons for the deviation and the
6 presumed amount under the child support guidelines without
7 a deviation. These reasons may include:

8 (A) extraordinary medical expenditures necessary
9 to preserve the life or health of a surviving parent or
10 a child subject to the child support order;

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

14 (C) any other factor the court determines should
15 be applied upon a finding that the application of the
16 child support guidelines would be inappropriate, after
17 considering the best interests of the child.

18 (3.5) Income in excess of the schedule of basic child
19 support obligation. A court may use its discretion to
20 determine child support if the combined adjusted net
21 income exceeds the highest level of the schedule of basic
22 child support obligation, except that the basic child
23 support obligation shall not be less than the highest
24 level of combined net income set forth in the schedule of
25 basic child support obligation.

26 (3.6) Extracurricular activities and school expenses.

1 The court, in its discretion, in addition to the basic
2 child support obligation, may order the defendant to
3 contribute to the reasonable school and extracurricular
4 activity expenses incurred which are intended to enhance
5 the educational, athletic, social, or cultural development
6 of the child.

7 (3.7) Child care expenses. The court, in its
8 discretion, in addition to the basic child support
9 obligation, may order the defendant to contribute to the
10 reasonable child care expenses of the child. The child
11 care expenses shall be made payable directly to a party or
12 directly to the child care provider at the time of child
13 care services.

14 (A) "Child care expenses" means actual expenses
15 reasonably necessary to enable a parent or nonparent
16 custodian to be employed, to attend educational or
17 vocational training programs to improve employment
18 opportunities, or to search for employment. "Child
19 care expenses" includes deposits for securing
20 placement in a child care program and the cost of
21 before and after school care and camps when school is
22 not in session. A child's special needs shall be a
23 consideration in determining reasonable child care
24 expenses.

25 (B) Child care expenses shall be prorated in
26 proportion to each party's percentage share of

1 combined net income, and may be added to the basic
2 child support obligation if not paid directly by each
3 party to the provider of child care services. The
4 obligor's and obligee's portion of actual child care
5 expenses shall appear in the support order. If
6 allowed, the value of the federal income tax credit
7 for child care shall be subtracted from the actual
8 cost to determine the net child care costs.

9 (C) The amount of child care expenses shall be
10 adequate to obtain reasonable and necessary child
11 care. The actual child care expenses shall be used to
12 calculate the child care expenses, if available. When
13 actual child care expenses vary, the actual child care
14 expenses may be averaged over the most recent 12-month
15 period. When a party is temporarily unemployed or
16 temporarily not attending educational or vocational
17 training programs, future child care expenses shall be
18 based upon prospective expenses to be incurred upon
19 return to employment or educational or vocational
20 training programs.

21 (D) An order for child care expenses may be
22 modified upon a showing of a substantial change in
23 circumstances. The party incurring child care expenses
24 shall notify the other party within 14 days of any
25 change in the amount of child care expenses that would
26 affect the annualized child care amount as determined

1 in the support order.

2 (4) Health care.

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

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

22 (C) If neither the child nor children have access
23 to appropriate private health insurance coverage, the
24 court may order the defendant to:

25 (I) provide health insurance coverage at any
26 time it becomes available at a reasonable cost; or

1 (II) apply for public health insurance
2 coverage for the child and pay a reasonable amount
3 of the cost of health insurance for the child.

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

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

26 (E) After the health insurance premium for the

1 child is added to the basic child support obligation
2 and allocated between the parties in proportion to the
3 parties' respective incomes for child support
4 purposes, if the defendant is paying the premium, the
5 amount calculated for the obligee's share of the
6 health insurance premium for the child shall be
7 deducted from the defendant's share of the total child
8 support obligation. If the obligee is paying for
9 private health insurance for the child, the child
10 support obligation shall be increased by the
11 defendant's share of the premium payment. The
12 defendant's and obligee's portion of health insurance
13 costs shall appear in the support order.

14 (F) Prior to allowing the health insurance
15 adjustment, the defendant requesting the adjustment
16 must submit proof that the child has been enrolled in a
17 health insurance plan and must submit proof of the
18 cost of the premium. The court shall require the
19 defendant receiving the adjustment to annually submit
20 proof of continued coverage of the child to the
21 obligee, or as designated by the court.

22 (G) A reasonable cost for providing health
23 insurance coverage for the child may not exceed 5% of
24 the defendant's gross income. A defendant with a net
25 income below 133% of the most recent United States
26 Department of Health and Human Services Federal

1 Poverty Guidelines or whose child is covered by
2 Medicaid based on the defendant's income may not be
3 ordered to contribute toward or provide private
4 coverage, unless private coverage is obtainable
5 without any financial contribution by the defendant.

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

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

24 (6) If (i) the defendant was properly served with a
25 request for discovery of financial information relating to
26 the defendant's ability to provide child support, (ii) the

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

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

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

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

25 (2) sentenced to periodic imprisonment for a period
26 not to exceed 6 months; however, the court may permit the

1 defendant to be released for periods of time during the
2 day or night to:

3 (A) work; or

4 (B) conduct a business or other self-employed
5 occupation.

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

18 If there is a unity of interest and ownership sufficient
19 to render no financial separation between a defendant and
20 another person or persons or business entity, the court may
21 pierce the ownership veil of the person, persons, or business
22 entity to discover assets of the defendant held in the name of
23 that person, those persons, or that business entity. The
24 following circumstances are sufficient to authorize a court to
25 order discovery of the assets of a person, persons, or
26 business entity and to compel the application of any

1 discovered assets toward payment on the judgment for support:

2 (1) the defendant and the person, persons, or business
3 entity maintain records together.

4 (2) the defendant and the person, persons, or business
5 entity fail to maintain an arm's length relationship
6 between themselves with regard to any assets.

7 (3) the defendant transfers assets to the person,
8 persons, or business entity with the intent to perpetrate
9 a fraud on the obligee.

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

18 The court may also order in cases where the defendant is 90
19 days or more delinquent in payment of support or has been
20 adjudicated in arrears in an amount equal to 90 days
21 obligation or more, that the defendant's Illinois driving
22 privileges be suspended until the court determines that the
23 defendant is in compliance with the order of support. The
24 court may also order that the defendant be issued a family
25 financial responsibility driving permit that would allow
26 limited driving privileges for employment and medical purposes

1 in accordance with Section 7-702.1 of the Illinois Vehicle
2 Code. The clerk of the circuit court shall certify the order
3 suspending the driving privileges of the defendant or granting
4 the issuance of a family financial responsibility driving
5 permit to the Secretary of State on forms prescribed by the
6 Secretary of State. Upon receipt of the authenticated
7 documents, the Secretary of State shall suspend the
8 defendant's driving privileges until further order of the
9 court and shall, if ordered by the court, subject to the
10 provisions of Section 7-702.1 of the Illinois Vehicle Code,
11 issue a family financial responsibility driving permit to the
12 defendant.

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

1 505.1.

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

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

1 local law to the contrary, a lien arises by operation of law
2 against the real and personal property of the defendant for
3 each installment of overdue support owed by the defendant.

4 (d) When child support is to be paid through the clerk of
5 the court in a county of 500,000 inhabitants or less, the order
6 shall direct the defendant to pay to the clerk, in addition to
7 the child support payments, all fees imposed by the county
8 board under paragraph (4) of subsection (bb) of Section 27.1a
9 of the Clerks of Courts Act. When child support is to be paid
10 through the clerk of the court in a county of more than 500,000
11 but less than 3,000,000 inhabitants, the order shall direct
12 the defendant to pay to the clerk, in addition to the child
13 support payments, all fees imposed by the county board under
14 paragraph (4) of subsection (bb) of Section 27.2 of the Clerks
15 of Courts Act. Unless paid pursuant to an Income Withholding
16 Order or Notice for Support, the payment of the fee shall be by
17 payment acceptable to the clerk and shall be made to the order
18 of the clerk.

19 (e) All orders for support, when entered or modified,
20 shall include a provision requiring the defendant to notify
21 the court and, in cases in which a party is receiving child and
22 spouse services under Article X of the Illinois Public Aid
23 Code, the Department of Healthcare and Family Services, within
24 7 days, (i) of the name and address of any new employer of the
25 defendant, (ii) whether the defendant has access to health
26 insurance coverage through the employer or other group

1 coverage and, if so, the policy name and number and the names
2 of persons covered under the policy, except only the initials
3 of any covered minors shall be included, and (iii) of any new
4 residential or mailing address or telephone number of the
5 defendant. In any subsequent action to enforce a support
6 order, upon a sufficient showing that a diligent effort has
7 been made to ascertain the location of the defendant, service
8 of process or provision of notice necessary in the case may be
9 made at the last known address of the defendant in any manner
10 expressly provided by the Code of Civil Procedure or this Act,
11 which service shall be sufficient for purposes of due process.

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

25 (g) If there is an unpaid arrearage or delinquency (as
26 those terms are defined in the Income Withholding for Support

1 Act) equal to at least one month's support obligation on the
2 termination date stated in the order for support or, if there
3 is no termination date stated in the order, on the date the
4 child attains the age of majority or is otherwise emancipated,
5 the periodic amount required to be paid for current support of
6 that child immediately prior to that date shall automatically
7 continue to be an obligation, not as current support but as
8 periodic payment toward satisfaction of the unpaid arrearage
9 or delinquency. The periodic payment shall be in addition to
10 any periodic payment previously required for satisfaction of
11 the arrearage or delinquency. The total periodic amount to be
12 paid toward satisfaction of the arrearage or delinquency may
13 be enforced and collected by any method provided by law for
14 enforcement and collection of child support, including, but
15 not limited to, income withholding under the Income
16 Withholding for Support Act. Each order for support must
17 contain a statement notifying the parties of the requirements
18 of this subsection. Failure to include the statement in the
19 order for support does not affect the validity of the order or
20 the operation of the provisions of this subsection with regard
21 to the order. This subsection shall not be construed to
22 prevent or affect the establishment or modification of an
23 order for support of a minor child or the establishment or
24 modification of an order for support of a non-minor child or
25 educational expenses under Section 513.

26 (h) An order entered under this Section shall include a

1 provision requiring a defendant to report to the surviving
2 parent or nonparent custodian and to the clerk of court within
3 10 days each time he or she obtains new employment, and each
4 time his or her employment is terminated for any reason. The
5 report shall be in writing and shall, in the case of new
6 employment, include the name and address of the new employer.
7 Failure to report new employment or the termination of current
8 employment, if coupled with nonpayment of support for a period
9 in excess of 60 days, is indirect criminal contempt. For an
10 arrest for failure to report new employment, bond shall be set
11 in the amount of the child support that should have been paid
12 during the period of unreported employment. An order entered
13 under this Section shall also include a provision requiring
14 either the defendant and the obligee to advise the other of a
15 change in residence within 5 days of the change except when the
16 court finds that the physical, mental, or emotional health of
17 a party or that of a child, or both, would be seriously
18 endangered by disclosure of the party's address.

19 (i) The court does not lose the powers of contempt,
20 driver's license suspension, or other child support
21 enforcement mechanisms, including, but not limited to,
22 criminal prosecution as set forth in this Act, upon the
23 emancipation of the minor child.