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LRB094 06427 LCB 41246 a

1 AMENDMENT TO HOUSE BILL 726

2 AMENDMENT NO. _____. Amend House Bill 726 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Public Aid Code is amended by
5 adding Section 10-2.5 as follows:

6 (305 ILCS 5/10-2.5 new)

7 Sec. 10-2.5. Support for non-minor children and
8 educational expenses. If paternity or an order for support has
9 been established under any provision of this Article X, a
10 petition for support and educational expenses for a non-minor
11 child or children may be brought in the circuit court by a
12 parent of the child or children, and not by the Department, in
13 the instances set forth in Section 513 of the Illinois Marriage
14 and Dissolution of Marriage Act. The court shall make its
15 determination under the provisions of that Section.

16 Section 10. The Non-Support Punishment Act is amended by
17 changing Section 20 as follows:

18 (750 ILCS 16/20)

19 Sec. 20. Entry of order for support; income withholding.

20 (a) In a case in which no court or administrative order for
21 support is in effect against the defendant:

22 (1) at any time before the trial, upon motion of the

1 State's Attorney, or of the Attorney General if the action
2 has been instituted by his office, and upon notice to the
3 defendant, or at the time of arraignment or as a condition
4 of postponement of arraignment, the court may enter such
5 temporary order for support as may seem just, providing for
6 the support or maintenance of the spouse or child or
7 children of the defendant, or both, pendente lite; or

8 (2) before trial with the consent of the defendant, or
9 at the trial on entry of a plea of guilty, or after
10 conviction, instead of imposing the penalty provided in
11 this Act, or in addition thereto, the court may enter an
12 order for support, subject to modification by the court
13 from time to time as circumstances may require, directing
14 the defendant to pay a certain sum for maintenance of the
15 spouse, or for support of the child or children, or both.

16 (b) The court shall determine the amount of child support
17 by using the guidelines and standards set forth in subsection
18 (a) of Section 505 and in Section 505.2 of the Illinois
19 Marriage and Dissolution of Marriage Act.

20 If (i) the non-custodial parent was properly served with a
21 request for discovery of financial information relating to the
22 non-custodial parent's ability to provide child support, (ii)
23 the non-custodial parent failed to comply with the request,
24 despite having been ordered to do so by the court, and (iii)
25 the non-custodial parent is not present at the hearing to
26 determine support despite having received proper notice, then
27 any relevant financial information concerning the
28 non-custodial parent's ability to provide support that was
29 obtained pursuant to subpoena and proper notice shall be
30 admitted into evidence without the need to establish any
31 further foundation for its admission.

32 (c) The court shall determine the amount of maintenance
33 using the standards set forth in Section 504 of the Illinois
34 Marriage and Dissolution of Marriage Act.

1 (d) The court may, for violation of any order under this
2 Section, punish the offender as for a contempt of court, but no
3 pendente lite order shall remain in effect longer than 4
4 months, or after the discharge of any panel of jurors summoned
5 for service thereafter in such court, whichever is sooner.

6 (e) Any order for support entered by the court under this
7 Section shall be deemed to be a series of judgments against the
8 person obligated to pay support under the judgments, each such
9 judgment to be in the amount of each payment or installment of
10 support and each judgment to be deemed entered as of the date
11 the corresponding payment or installment becomes due under the
12 terms of the support order. Each judgment shall have the full
13 force, effect, and attributes of any other judgment of this
14 State, including the ability to be enforced. Each judgment is
15 subject to modification or termination only in accordance with
16 Section 510 of the Illinois Marriage and Dissolution of
17 Marriage Act. A lien arises by operation of law against the
18 real and personal property of the noncustodial parent for each
19 installment of overdue support owed by the noncustodial parent.

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

27 Failure to report new employment or the termination of
28 current employment, if coupled with nonpayment of support for a
29 period in excess of 60 days, is indirect criminal contempt. For
30 any obligor arrested for failure to report new employment, bond
31 shall be set in the amount of the child support that should
32 have been paid during the period of unreported employment.

33 An order for support entered under this Section shall also
34 include a provision requiring the obligor and obligee parents

1 to advise each other of a change in residence within 5 days of
2 the change except when the court finds that the physical,
3 mental, or emotional health of a party or of a minor child, or
4 both, would be seriously endangered by disclosure of the
5 party's address.

6 (g) An order for support entered or modified in a case in
7 which a party is receiving child support enforcement services
8 under Article X of the Illinois Public Aid Code shall include a
9 provision requiring the noncustodial parent to notify the
10 Illinois Department of Public Aid, within 7 days, of the name
11 and address of any new employer of the noncustodial parent,
12 whether the noncustodial parent has access to health insurance
13 coverage through the employer or other group coverage and, if
14 so, the policy name and number and the names of persons covered
15 under the policy.

16 (h) In any subsequent action to enforce an order for
17 support entered under this Act, upon sufficient showing that
18 diligent effort has been made to ascertain the location of the
19 noncustodial parent, service of process or provision of notice
20 necessary in that action may be made at the last known address
21 of the noncustodial parent, in any manner expressly provided by
22 the Code of Civil Procedure or in this Act, which service shall
23 be sufficient for purposes of due process.

24 (i) An order for support shall include a date on which the
25 current support obligation terminates. The termination date
26 shall be no earlier than the date on which the child covered by
27 the order will attain the age of 18. However, if the child will
28 not graduate from high school until after attaining the age of
29 18, then the termination date shall be no earlier than the
30 earlier of the date on which the child's high school graduation
31 will occur or the date on which the child will attain the age
32 of 19. The order for support shall state that the termination
33 date does not apply to any arrearage that may remain unpaid on
34 that date. Nothing in this subsection shall be construed to

1 prevent the court from modifying the order or terminating the
2 order in the event the child is otherwise emancipated.

3 (i-5) If there is an unpaid arrearage or delinquency (as
4 those terms are defined in the Income Withholding for Support
5 Act) equal to at least one month's support obligation on the
6 termination date stated in the order for support or, if there
7 is no termination date stated in the order, on the date the
8 child attains the age of majority or is otherwise emancipated,
9 the periodic amount required to be paid for current support of
10 that child immediately prior to that date shall automatically
11 continue to be an obligation, not as current support but as
12 periodic payment toward satisfaction of the unpaid arrearage or
13 delinquency. That periodic payment shall be in addition to any
14 periodic payment previously required for satisfaction of the
15 arrearage or delinquency. The total periodic amount to be paid
16 toward satisfaction of the arrearage or delinquency may be
17 enforced and collected by any method provided by law for
18 enforcement and collection of child support, including but not
19 limited to income withholding under the Income Withholding for
20 Support Act. Each order for support entered or modified on or
21 after the effective date of this amendatory Act of the 93rd
22 General Assembly must contain a statement notifying the parties
23 of the requirements of this subsection. Failure to include the
24 statement in the order for support does not affect the validity
25 of the order or the operation of the provisions of this
26 subsection with regard to the order. This subsection shall not
27 be construed to prevent or affect the establishment or
28 modification of an order for support of a minor child or the
29 establishment or modification of an order for support of a
30 non-minor child or educational expenses under Section 513 of
31 the Illinois Marriage and Dissolution of Marriage Act.

32 (j) A support obligation, or any portion of a support
33 obligation, which becomes due and remains unpaid for 30 days or
34 more shall accrue simple interest at the rate of 9% per annum.

1 An order for support entered or modified on or after January 1,
2 2002 shall contain a statement that a support obligation
3 required under the order, or any portion of a support
4 obligation required under the order, that becomes due and
5 remains unpaid for 30 days or more shall accrue simple interest
6 at the rate of 9% per annum. Failure to include the statement
7 in the order for support does not affect the validity of the
8 order or the accrual of interest as provided in this Section.

9 (k) Issues of support and educational expenses for a
10 non-minor child or children shall be determined by the court
11 under the provisions of Section 513 of the Illinois Marriage
12 and Dissolution of Marriage Act.

13 (Source: P.A. 92-374, eff. 8-15-01; 92-590, eff. 7-1-02;
14 92-876, eff. 6-1-03; 93-1061, eff. 1-1-05.)

15 Section 15. The Illinois Parentage Act of 1984 is amended
16 by changing Section 16 as follows:

17 (750 ILCS 45/16) (from Ch. 40, par. 2516)

18 Sec. 16. Modification of Judgment. The court has continuing
19 jurisdiction to modify an order for support, custody,
20 visitation, or removal included in a judgment entered under
21 this Act. Any custody, visitation, or removal judgment
22 modification shall be in accordance with the relevant factors
23 specified in the Illinois Marriage and Dissolution of Marriage
24 Act, including Section 609. Any support judgment is subject to
25 modification or termination only in accordance with Section 510
26 of the Illinois Marriage and Dissolution of Marriage Act.

27 Issues of support and educational expenses for a non-minor
28 child or children shall be determined by the court under the
29 provisions of Section 513 of the Illinois Marriage and
30 Dissolution of Marriage Act.

31 (Source: P.A. 93-139, eff. 7-10-03.)"