

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 3. The Illinois Public Aid Code is amended by  
5 changing Section 10-10 as follows:

6 (305 ILCS 5/10-10) (from Ch. 23, par. 10-10)

7 Sec. 10-10. Court enforcement; applicability also to  
8 persons who are not applicants or recipients. Except where the  
9 Illinois Department, by agreement, acts for the local  
10 governmental unit, as provided in Section 10-3.1, local  
11 governmental units shall refer to the State's Attorney or to  
12 the proper legal representative of the governmental unit, for  
13 judicial enforcement as herein provided, instances of  
14 non-support or insufficient support when the dependents are  
15 applicants or recipients under Article VI. The Child and Spouse  
16 Support Unit established by Section 10-3.1 may institute in  
17 behalf of the Illinois Department any actions under this  
18 Section for judicial enforcement of the support liability when  
19 the dependents are (a) applicants or recipients under Articles  
20 III, IV, V or VII; (b) applicants or recipients in a local  
21 governmental unit when the Illinois Department, by agreement,  
22 acts for the unit; or (c) non-applicants or non-recipients who  
23 are receiving child support enforcement services under this  
24 Article X, as provided in Section 10-1. Where the Child and  
25 Spouse Support Unit has exercised its option and discretion not  
26 to apply the provisions of Sections 10-3 through 10-8, the  
27 failure by the Unit to apply such provisions shall not be a bar  
28 to bringing an action under this Section.

29 Action shall be brought in the circuit court to obtain  
30 support, or for the recovery of aid granted during the period  
31 such support was not provided, or both for the obtainment of  
32 support and the recovery of the aid provided. Actions for the

1 recovery of aid may be taken separately or they may be  
2 consolidated with actions to obtain support. Such actions may  
3 be brought in the name of the person or persons requiring  
4 support, or may be brought in the name of the Illinois  
5 Department or the local governmental unit, as the case  
6 requires, in behalf of such persons.

7 The court may enter such orders for the payment of moneys  
8 for the support of the person as may be just and equitable and  
9 may direct payment thereof for such period or periods of time  
10 as the circumstances require, including support for a period  
11 before the date the order for support is entered. The order may  
12 be entered against any or all of the defendant responsible  
13 relatives and may be based upon the proportionate ability of  
14 each to contribute to the person's support.

15 The Court shall determine the amount of child support  
16 (including child support for a period before the date the order  
17 for child support is entered) by using the guidelines and  
18 standards set forth in subsection (a) of Section 505 and in  
19 Section 505.2 of the Illinois Marriage and Dissolution of  
20 Marriage Act. For purposes of determining the amount of child  
21 support to be paid for a period before the date the order for  
22 child support is entered, there is a rebuttable presumption  
23 that the responsible relative's net income for that period was  
24 the same as his or her net income at the time the order is  
25 entered.

26 If (i) the responsible relative was properly served with a  
27 request for discovery of financial information relating to the  
28 responsible relative's ability to provide child support, (ii)  
29 the responsible relative failed to comply with the request,  
30 despite having been ordered to do so by the court, and (iii)  
31 the responsible relative is not present at the hearing to  
32 determine support despite having received proper notice, then  
33 any relevant financial information concerning the responsible  
34 relative's ability to provide child support that was obtained  
35 pursuant to subpoena and proper notice shall be admitted into  
36 evidence without the need to establish any further foundation

1 for its admission.

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

21 The Court shall determine the amount of maintenance using  
22 the standards set forth in Section 504 of the Illinois Marriage  
23 and Dissolution of Marriage Act.

24 Any new or existing support order entered by the court  
25 under this Section shall be deemed to be a series of judgments  
26 against the person obligated to pay support thereunder, each  
27 such judgment to be in the amount of each payment or  
28 installment of support and each such judgment to be deemed  
29 entered as of the date the corresponding payment or installment  
30 becomes due under the terms of the support order. Each such  
31 judgment shall have the full force, effect and attributes of  
32 any other judgment of this State, including the ability to be  
33 enforced. Any such judgment is subject to modification or  
34 termination only in accordance with Section 510 of the Illinois  
35 Marriage and Dissolution of Marriage Act. A lien arises by  
36 operation of law against the real and personal property of the

1 noncustodial parent for each installment of overdue support  
2 owed by the noncustodial parent.

3 When an order is entered for the support of a minor, the  
4 court may provide therein for reasonable visitation of the  
5 minor by the person or persons who provided support pursuant to  
6 the order. Whoever willfully refuses to comply with such  
7 visitation order or willfully interferes with its enforcement  
8 may be declared in contempt of court and punished therefor.

9 Except where the local governmental unit has entered into  
10 an agreement with the Illinois Department for the Child and  
11 Spouse Support Unit to act for it, as provided in Section  
12 10-3.1, support orders entered by the court in cases involving  
13 applicants or recipients under Article VI shall provide that  
14 payments thereunder be made directly to the local governmental  
15 unit. Orders for the support of all other applicants or  
16 recipients shall provide that payments thereunder be made  
17 directly to the Illinois Department. In accordance with federal  
18 law and regulations, the Illinois Department may continue to  
19 collect current maintenance payments or child support  
20 payments, or both, after those persons cease to receive public  
21 assistance and until termination of services under Article X.  
22 The Illinois Department shall pay the net amount collected to  
23 those persons after deducting any costs incurred in making the  
24 collection or any collection fee from the amount of any  
25 recovery made. In both cases the order shall permit the local  
26 governmental unit or the Illinois Department, as the case may  
27 be, to direct the responsible relative or relatives to make  
28 support payments directly to the needy person, or to some  
29 person or agency in his behalf, upon removal of the person from  
30 the public aid rolls or upon termination of services under  
31 Article X.

32 If the notice of support due issued pursuant to Section  
33 10-7 directs that support payments be made directly to the  
34 needy person, or to some person or agency in his behalf, and  
35 the recipient is removed from the public aid rolls, court  
36 action may be taken against the responsible relative hereunder

1 if he fails to furnish support in accordance with the terms of  
2 such notice.

3 Actions may also be brought under this Section in behalf of  
4 any person who is in need of support from responsible  
5 relatives, as defined in Section 2-11 of Article II who is not  
6 an applicant for or recipient of financial aid under this Code.  
7 In such instances, the State's Attorney of the county in which  
8 such person resides shall bring action against the responsible  
9 relatives hereunder. If the Illinois Department, as authorized  
10 by Section 10-1, extends the child support enforcement services  
11 provided by this Article to spouses and dependent children who  
12 are not applicants or recipients under this Code, the Child and  
13 Spouse Support Unit established by Section 10-3.1 shall bring  
14 action against the responsible relatives hereunder and any  
15 support orders entered by the court in such cases shall provide  
16 that payments thereunder be made directly to the Illinois  
17 Department.

18 Whenever it is determined in a proceeding to establish or  
19 enforce a child support or maintenance obligation that the  
20 person owing a duty of support is unemployed, the court shall,  
21 unless the court makes specific findings about the person based  
22 upon clear and convincing evidence and determines that the  
23 person is incapable of gainful employment because of a physical  
24 or a mental condition, or a combination of conditions, ~~may~~  
25 order the person to seek employment and report periodically to  
26 the court with a diary, listing or other memorandum of his or  
27 her efforts in accordance with such order. Additionally, the  
28 court may order the unemployed person to report to the  
29 Department of Employment Security for job search services or to  
30 make application with the local Job Training Partnership Act  
31 provider or an Illinois Employment and Training Center for  
32 participation in job search, training or work programs and  
33 where the duty of support is owed to a child receiving child  
34 support enforcement services under this Article X, the court  
35 may order the unemployed person to report to the Illinois  
36 Department for participation in job search, training or work

1 programs established under Section 9-6 and Article IXA of this  
2 Code.

3 Whenever it is determined that a person owes past-due  
4 support for a child receiving assistance under this Code, the  
5 court shall order at the request of the Illinois Department:

6 (1) that the person pay the past-due support in  
7 accordance with a plan approved by the court; or

8 (2) if the person owing past-due support is unemployed,  
9 is subject to such a plan, and is not incapacitated, that  
10 the person participate in such job search, training, or  
11 work programs established under Section 9-6 and Article IXA  
12 of this Code as the court deems appropriate.

13 A determination under this Section shall not be  
14 administratively reviewable by the procedures specified in  
15 Sections 10-12, and 10-13 to 10-13.10. Any determination under  
16 these Sections, if made the basis of court action under this  
17 Section, shall not affect the de novo judicial determination  
18 required under this Section.

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

24 All orders for support, when entered or modified, shall  
25 include a provision requiring the non-custodial parent to  
26 notify the court and, in cases in which a party is receiving  
27 child support enforcement services under this Article X, the  
28 Illinois Department, within 7 days, (i) of the name, address,  
29 and telephone number of any new employer of the non-custodial  
30 parent, (ii) whether the non-custodial parent has access to  
31 health insurance coverage through the employer or other group  
32 coverage and, if so, the policy name and number and the names  
33 of persons covered under the policy, and (iii) of any new  
34 residential or mailing address or telephone number of the  
35 non-custodial parent. In any subsequent action to enforce a  
36 support order, upon a sufficient showing that a diligent effort

1 has been made to ascertain the location of the non-custodial  
2 parent, service of process or provision of notice necessary in  
3 the case may be made at the last known address of the  
4 non-custodial parent in any manner expressly provided by the  
5 Code of Civil Procedure or this Code, which service shall be  
6 sufficient for purposes of due process.

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

20 If there is an unpaid arrearage or delinquency (as those  
21 terms are defined in the Income Withholding for Support Act)  
22 equal to at least one month's support obligation on the  
23 termination date stated in the order for support or, if there  
24 is no termination date stated in the order, on the date the  
25 child attains the age of majority or is otherwise emancipated,  
26 then the periodic amount required to be paid for current  
27 support of that child immediately prior to that date shall  
28 automatically continue to be an obligation, not as current  
29 support but as periodic payment toward satisfaction of the  
30 unpaid arrearage or delinquency. That periodic payment shall be  
31 in addition to any periodic payment previously required for  
32 satisfaction of the arrearage or delinquency. The total  
33 periodic amount to be paid toward satisfaction of the arrearage  
34 or delinquency may be enforced and collected by any method  
35 provided by law for the enforcement and collection of child  
36 support, including but not limited to income withholding under

1 the Income Withholding for Support Act. Each order for support  
2 entered or modified on or after the effective date of this  
3 amendatory Act of the 93rd General Assembly must contain a  
4 statement notifying the parties of the requirements of this  
5 paragraph. Failure to include the statement in the order for  
6 support does not affect the validity of the order or the  
7 operation of the provisions of this paragraph with regard to  
8 the order. This paragraph shall not be construed to prevent or  
9 affect the establishment or modification of an order for the  
10 support of a minor child or the establishment or modification  
11 of an order for the support of a non-minor child or educational  
12 expenses under Section 513 of the Illinois Marriage and  
13 Dissolution of Marriage Act.

14 Payments under this Section to the Illinois Department  
15 pursuant to the Child Support Enforcement Program established  
16 by Title IV-D of the Social Security Act shall be paid into the  
17 Child Support Enforcement Trust Fund. All payments under this  
18 Section to the Illinois Department of Human Services shall be  
19 deposited in the DHS Recoveries Trust Fund. Disbursements from  
20 these funds shall be as provided in Sections 12-9.1 and 12-10.2  
21 of this Code. Payments received by a local governmental unit  
22 shall be deposited in that unit's General Assistance Fund.

23 To the extent the provisions of this Section are  
24 inconsistent with the requirements pertaining to the State  
25 Disbursement Unit under Sections 10-10.4 and 10-26 of this  
26 Code, the requirements pertaining to the State Disbursement  
27 Unit shall apply.

28 (Source: P.A. 93-1061, eff. 1-1-05; 94-88, eff. 1-1-06; revised  
29 8-9-05.)

30 Section 5. The Illinois Marriage and Dissolution of  
31 Marriage Act is amended by changing Section 505.1 as follows:

32 (750 ILCS 5/505.1) (from Ch. 40, par. 505.1)

33 Sec. 505.1. (a) Whenever it is determined in a proceeding  
34 to establish or enforce a child support or maintenance

1 obligation that the person owing a duty of support is  
2 unemployed, the court shall, unless the court makes specific  
3 findings about the person based upon clear and convincing  
4 evidence and determines that the person is incapable of gainful  
5 employment because of a physical or a mental condition, or a  
6 combination of conditions, ~~may~~ order the person to seek  
7 employment and report periodically to the court with a diary,  
8 listing or other memorandum of his or her efforts in accordance  
9 with such order. Additionally, the court may order the  
10 unemployed person to report to the Department of Employment  
11 Security for job search services or to make application with  
12 the local Job Training Partnership Act provider or an Illinois  
13 Employment and Training Center for participation in job search,  
14 training, or work programs and where the duty of support is  
15 owed to a child receiving child support enforcement services  
16 under Article X of the Illinois Public Aid Code, as amended,  
17 the court may order the unemployed person to report to the  
18 ~~Illinois~~ Department of Healthcare and Family Services ~~Public~~  
19 ~~Aid~~ for participation in job search, training or work programs  
20 established under Section 9-6 and Article IXA of that Code.

21 (b) Whenever it is determined that a person owes past-due  
22 support for a child or for a child and the parent with whom the  
23 child is living, and the child is receiving assistance under  
24 the Illinois Public Aid Code, the court shall order at the  
25 request of the ~~Illinois~~ Department of Healthcare and Family  
26 Services ~~Public Aid~~:

27 (1) that the person pay the past-due support in  
28 accordance with a plan approved by the court; or

29 (2) if the person owing past-due support is unemployed,  
30 is subject to such a plan, and is not incapacitated, that  
31 the person participate in such job search, training, or  
32 work programs established under Section 9-6 and Article IXA  
33 of the Illinois Public Aid Code as the court deems  
34 appropriate.

35 (Source: P.A. 91-357, eff. 7-29-99; 92-590, eff. 7-1-02;  
36 revised 12-15-05.)

1 Section 10. The Non-Support Punishment Act is amended by  
2 changing Section 60 as follows:

3 (750 ILCS 16/60)

4 Sec. 60. Unemployed persons owing duty of support.

5 (a) Whenever it is determined in a proceeding to establish  
6 or enforce a child support or maintenance obligation that the  
7 person owing a duty of support is unemployed, the court shall,  
8 unless the court makes specific findings about the person based  
9 upon clear and convincing evidence and determines that the  
10 person is incapable of gainful employment because of a physical  
11 or a mental condition, or a combination of conditions, may  
12 order the person to seek employment and report periodically to  
13 the court with a diary, listing or other memorandum of his or  
14 her efforts in accordance with such order. Additionally, the  
15 court may order the unemployed person to report to the  
16 Department of Employment Security for job search services or to  
17 make application with the local Job Training Partnership Act  
18 provider or an Illinois Employment and Training Center for  
19 participation in job search, training, or work programs and  
20 where the duty of support is owed to a child receiving child  
21 support enforcement services under Article X of the Illinois  
22 Public Aid Code the court may order the unemployed person to  
23 report to the ~~Illinois~~ Department of Healthcare and Family  
24 Services ~~Public Aid~~ for participation in job search, training,  
25 or work programs established under Section 9-6 and Article IXA  
26 of that Code.

27 (b) Whenever it is determined that a person owes past due  
28 support for a child or for a child and the parent with whom the  
29 child is living, and the child is receiving assistance under  
30 the Illinois Public Aid Code, the court shall order at the  
31 request of the ~~Illinois~~ Department of Healthcare and Family  
32 Services ~~Public Aid~~:

33 (1) that the person pay the past-due support in  
34 accordance with a plan approved by the court; or

1           (2) if the person owing past-due support is unemployed,  
2           is subject to such a plan, and is not incapacitated, that  
3           the person participate in such job search, training, or  
4           work programs established under Section 9-6 and Article IXA  
5           of the Illinois Public Aid Code as the court deems  
6           appropriate.

7           (Source: P.A. 91-613, eff. 10-1-99; 92-16, eff. 6-28-01;  
8           92-590, eff. 7-1-02; revised 12-15-05.)

9           Section 15. The Illinois Parentage Act of 1984 is amended  
10          by changing Section 15.1 as follows:

11          (750 ILCS 45/15.1) (from Ch. 40, par. 2515.1)

12          Sec. 15.1. (a) Whenever it is determined in a proceeding to  
13          establish or enforce a child support obligation that the person  
14          owing a duty of support is unemployed, the court shall, unless  
15          the court makes specific findings about the person based upon  
16          clear and convincing evidence and determines that the person is  
17          incapable of gainful employment because of a physical or a  
18          mental condition, or a combination of conditions, may order the  
19          person to seek employment and report periodically to the court  
20          with a diary, listing or other memorandum of his or her efforts  
21          in accordance with such order. Additionally, the court may  
22          order the unemployed person to report to the Department of  
23          Employment Security for job search services or to make  
24          application with the local Job Training Partnership Act  
25          provider or an Illinois Employment and Training Center for  
26          participation in job search, training or work programs and  
27          where the duty of support is owed to a child receiving child  
28          support enforcement services under Article X of the Illinois  
29          Public Aid Code, as amended, the court may order the unemployed  
30          person to report to the ~~Illinois~~ Department of Healthcare and  
31          Family Services ~~Public Aid~~ for participation in job search,  
32          training or work programs established under Section 9-6 and  
33          Article IXA of that Code.

34          (b) Whenever it is determined that a person owes past-due

1 support for a child, and the child is receiving assistance  
2 under the Illinois Public Aid Code, the court shall order the  
3 following at the request of the ~~Illinois~~ Department of  
4 Healthcare and Family Services ~~Public Aid~~:

5 (1) that the person pay the past-due support in  
6 accordance with a plan approved by the court; or

7 (2) if the person owing past-due support is unemployed,  
8 is subject to such a plan, and is not incapacitated, that  
9 the person participate in such job search, training, or  
10 work programs established under Section 9-6 and Article IXA  
11 of the Illinois Public Aid Code as the court deems  
12 appropriate.

13 (Source: P.A. 91-357, eff. 7-29-99; 92-590, eff. 7-1-02;  
14 revised 12-15-05.)