



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB4386

Introduced 1/4/2006, by Rep. James H. Meyer - Patricia R. Bellock

#### SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-7	from Ch. 38, par. 110-7
750 ILCS 5/505	from Ch. 40, par. 505
750 ILCS 16/20	
750 ILCS 45/15	from Ch. 40, par. 2515

Amends the Code of Criminal Procedure. Provides that in actions concerning bail bonds, that bail bonds, when forfeited or returned, shall first be applied to any unpaid child support obligations of the defendant, before it can be applied in any other manner. Amends the Marriage and Dissolution of Marriage Act, the Non-Support Punishment Act, and the Illinois Parentage Act of 1984. In each of those 3 Acts, provides that in any proceeding in which a party is delinquent in child support payments or has been adjudicated to be in arrears in child support payments, the bail bond deposited for that party in the proceeding or in another proceeding may, subject to limitations, be used to pay unpaid child support obligations.

LRB094 15617 AJO 50822 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning child support.

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

4 Section 5. The Code of Criminal Procedure of 1963 is  
5 amended by changing Section 110-7 as follows:

6 (725 ILCS 5/110-7) (from Ch. 38, par. 110-7)

7 Sec. 110-7. Deposit of Bail Security.

8 (a) The person for whom bail has been set shall execute the  
9 bail bond and deposit with the clerk of the court before which  
10 the proceeding is pending a sum of money equal to 10% of the  
11 bail, but in no event shall such deposit be less than \$25. The  
12 clerk of the court shall provide a space on each form for a  
13 person other than the accused who has provided the money for  
14 the posting of bail to so indicate and a space signed by an  
15 accused who has executed the bail bond indicating whether a  
16 person other than the accused has provided the money for the  
17 posting of bail. The form shall also include a written notice  
18 to such person who has provided the defendant with the money  
19 for the posting of bail indicating that the bail may be used to  
20 pay costs, attorney's fees, fines, any unpaid child support  
21 obligations of the defendant, or other purposes authorized by  
22 the court and if the defendant fails to comply with the  
23 conditions of the bail bond, the court shall enter an order  
24 declaring the bail to be forfeited. The written notice must be:  
25 (1) distinguishable from the surrounding text; (2) in bold type  
26 or underscored; and (3) in a type size at least 2 points larger  
27 than the surrounding type. When a person for whom bail has been  
28 set is charged with an offense under the Illinois Controlled  
29 Substances Act or the Methamphetamine Control and Community  
30 Protection Act which is a Class X felony, the court may require  
31 the defendant to deposit a sum equal to 100% of the bail. Where  
32 any person is charged with a forcible felony while free on bail

1 and is the subject of proceedings under Section 109-3 of this  
2 Code the judge conducting the preliminary examination may also  
3 conduct a hearing upon the application of the State pursuant to  
4 the provisions of Section 110-6 of this Code to increase or  
5 revoke the bail for that person's prior alleged offense.

6 (b) Upon depositing this sum and any bond fee authorized by  
7 law, the person shall be released from custody subject to the  
8 conditions of the bail bond.

9 (c) Once bail has been given and a charge is pending or is  
10 thereafter filed in or transferred to a court of competent  
11 jurisdiction the latter court shall continue the original bail  
12 in that court subject to the provisions of Section 110-6 of  
13 this Code.

14 (d) After conviction the court may order that the original  
15 bail stand as bail pending appeal or deny, increase or reduce  
16 bail subject to the provisions of Section 110-6.2.

17 (e) After the entry of an order by the trial court allowing  
18 or denying bail pending appeal either party may apply to the  
19 reviewing court having jurisdiction or to a justice thereof  
20 sitting in vacation for an order increasing or decreasing the  
21 amount of bail or allowing or denying bail pending appeal  
22 subject to the provisions of Section 110-6.2.

23 (f) When the conditions of the bail bond have been  
24 performed and the accused has been discharged from all  
25 obligations in the cause the clerk of the court shall return to  
26 the accused or to the defendant's designee by an assignment  
27 executed at the time the bail amount is deposited, unless the  
28 court orders otherwise, 90% of the sum which had been deposited  
29 and shall retain as bail bond costs 10% of the amount  
30 deposited. However, in no event shall the amount retained by  
31 the clerk as bail bond costs be less than \$5. Before bail ~~Bail~~  
32 bond deposited by or on behalf of a defendant in one case may  
33 be used in another case, the bail bond shall first be used to  
34 pay any unpaid child support obligations of the defendant, but  
35 if there are no unpaid child support obligations or the bail  
36 bond is more than sufficient to pay any unpaid child support

1 obligations, the remaining amount of the bail bond may be used,  
2 in the court's discretion, to satisfy financial obligations of  
3 that same defendant incurred in a different case due to a fine,  
4 court costs, restitution or fees of the defendant's attorney of  
5 record. In counties with a population of 3,000,000 or more, the  
6 court shall not order bail bond deposited by or on behalf of a  
7 defendant in one case to be used to satisfy financial  
8 obligations of that same defendant in a different case until  
9 the bail bond is first used to pay any unpaid child support  
10 obligations of the defendant, and is secondarily used to  
11 satisfy court costs and attorney's fees in the case in which  
12 the bail bond has been deposited ~~and any other unpaid child~~  
13 ~~support obligations are satisfied.~~ In counties with a  
14 population of less than 3,000,000, the court shall not order  
15 bail bond deposited by or on behalf of a defendant in one case  
16 to be used to satisfy financial obligations of that same  
17 defendant in a different case, except that the bail bond shall  
18 first be used to pay any unpaid child support obligations of  
19 the defendant, and secondarily ~~until~~ the bail bond is ~~first~~  
20 used to satisfy court costs in the case in which the bail bond  
21 has been deposited.

22 After unpaid child support obligations of the defendant are  
23 paid from the bail deposit, the court, at the request of the  
24 defendant, At the request of the defendant the court may order  
25 what remains of the ~~such~~ 90% of defendant's bail deposit, or  
26 whatever amount remains that is repayable to defendant from  
27 such deposit, to be paid to defendant's attorney of record.

28 (g) If the accused does not comply with the conditions of  
29 the bail bond the court having jurisdiction shall enter an  
30 order declaring the bail to be forfeited. Notice of such order  
31 of forfeiture shall be mailed forthwith to the accused at his  
32 last known address. If the accused does not appear and  
33 surrender to the court having jurisdiction within 30 days from  
34 the date of the forfeiture or within such period satisfy the  
35 court that appearance and surrender by the accused is  
36 impossible and without his fault the court shall first use the

1 bail bond to pay any unpaid child support obligations of the  
2 defendant, and secondarily, enter judgment for the State if the  
3 charge for which the bond was given was a felony or  
4 misdemeanor, or if the charge was quasi-criminal or traffic,  
5 judgment for the political subdivision of the State which  
6 prosecuted the case, against the accused for the amount of the  
7 bail and costs of the court proceedings; however, after the  
8 payment of any unpaid child support obligations of the  
9 defendant ~~in counties with a population of less than 3,000,000,~~  
10 instead of the court entering a judgment for the State or the  
11 political subdivision for the full amount of the bond the court  
12 may, in its discretion, enter judgment for the cash deposit on  
13 the bond, less unpaid child support obligations and costs,  
14 retain the deposit for further disposition or, if a cash bond  
15 was posted for failure to appear in a matter involving  
16 enforcement of ~~child support or~~ maintenance, the amount of the  
17 cash deposit on the bond, less outstanding child support  
18 obligations and costs, may be awarded to the person ~~or entity~~  
19 to whom the ~~child support or~~ maintenance is due. The deposit  
20 made in accordance with paragraph (a) shall be first applied to  
21 any unpaid child support obligations and secondarily to the  
22 payment of costs. If judgment is entered and any amount of such  
23 deposit remains after the payment of any unpaid child support  
24 obligations and costs it shall be applied to payment of the  
25 judgment and transferred to the treasury of the municipal  
26 corporation wherein the bond was taken if the offense was a  
27 violation of any penal ordinance of a political subdivision of  
28 this State, or to the treasury of the county wherein the bond  
29 was taken if the offense was a violation of any penal statute  
30 of this State. The balance of the judgment may be enforced and  
31 collected in the same manner as a judgment entered in a civil  
32 action.

33 (h) After a judgment for a fine and court costs or either  
34 is entered in the prosecution of a cause in which a deposit had  
35 been made in accordance with paragraph (a) the balance of such  
36 deposit, after deduction of any unpaid child support

1 obligations and bail bond costs, shall be applied to the  
2 payment of the judgment.

3 (Source: P.A. 93-371, eff. 1-1-04; 93-760, eff. 1-1-05; 94-556,  
4 eff. 9-11-05.)

5 Section 10. The Illinois Marriage and Dissolution of  
6 Marriage Act is amended by changing Section 505 as follows:

7 (750 ILCS 5/505) (from Ch. 40, par. 505)

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 which 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 his support, without regard to marital  
19 misconduct. The duty of support owed to a child includes the  
20 obligation to provide for the reasonable and necessary  
21 physical, mental and emotional health needs of the child. For  
22 purposes of this Section, the term "child" shall include any  
23 child under age 18 and any child under age 19 who is still  
24 attending high school.

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

Number of Children	Percent of Supporting Party's
	Net Income
1	20%
2	28%
3	32%
4	40%
5	45%
6 or more	50%

1           (2) The above guidelines shall be applied in each case  
2 unless the court makes a finding that application of the  
3 guidelines would be inappropriate, after considering the  
4 best interests of the child in light of evidence including  
5 but not limited to one or more of the following relevant  
6 factors:

7           (a) the financial resources and needs of the child;

8           (b) the financial resources and needs of the  
9 custodial parent;

10          (c) the standard of living the child would have  
11 enjoyed had the marriage not been dissolved;

12          (d) the physical and emotional condition of the  
13 child, and his educational needs; and

14          (e) the financial resources and needs of the  
15 non-custodial parent.

16          If the court deviates from the guidelines, the court's  
17 finding shall state the amount of support that would have  
18 been required under the guidelines, if determinable. The  
19 court shall include the reason or reasons for the variance  
20 from the guidelines.

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

23          (a) Federal income tax (properly calculated  
24 withholding or estimated payments);

25          (b) State income tax (properly calculated  
26 withholding or estimated payments);

27          (c) Social Security (FICA payments);

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

30          (e) Union dues;

31          (f) Dependent and individual  
32 health/hospitalization insurance premiums;

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

35          (h) Expenditures for repayment of debts that  
36 represent reasonable and necessary expenses for the

1 production of income, medical expenditures necessary  
2 to preserve life or health, reasonable expenditures  
3 for the benefit of the child and the other parent,  
4 exclusive of gifts. The court shall reduce net income  
5 in determining the minimum amount of support to be  
6 ordered only for the period that such payments are due  
7 and shall enter an order containing provisions for its  
8 self-executing modification upon termination of such  
9 payment period.

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

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

28 (5) If the net income cannot be determined because of  
29 default or any other reason, the court shall order support  
30 in an amount considered reasonable in the particular case.  
31 The final order in all cases shall state the support level  
32 in dollar amounts. However, if the court finds that the  
33 child support amount cannot be expressed exclusively as a  
34 dollar amount because all or a portion of the payor's net  
35 income is uncertain as to source, time of payment, or  
36 amount, the court may order a percentage amount of support



1 in addition to a specific dollar amount and enter such  
2 other orders as may be necessary to determine and enforce,  
3 on a timely basis, the applicable support ordered.

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

17 (a-5) In an action to enforce an order for support based on  
18 the respondent's failure to make support payments as required  
19 by the order, notice of proceedings to hold the respondent in  
20 contempt for that failure may be served on the respondent by  
21 personal service or by regular mail addressed to the  
22 respondent's last known address. The respondent's last known  
23 address may be determined from records of the clerk of the  
24 court, from the Federal Case Registry of Child Support Orders,  
25 or by any other reasonable means.

26 (b) Failure of either parent to comply with an order to pay  
27 support shall be punishable as in other cases of contempt. In  
28 addition to other penalties provided by law the Court may,  
29 after finding the parent guilty of contempt, order that the  
30 parent be:

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

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

1 (A) work; or

2 (B) conduct a business or other self-employed  
3 occupation.

4 The Court may further order any part or all of the earnings  
5 of a parent during a sentence of periodic imprisonment paid to  
6 the Clerk of the Circuit Court or to the parent having custody  
7 or to the guardian having custody of the children of the  
8 sentenced parent for the support of said children until further  
9 order of the Court.

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

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

23 (2) the non-custodial parent and the person, persons,  
24 or business entity fail to maintain an arms length  
25 relationship between themselves with regard to any assets.

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

29 With respect to assets which are real property, no order  
30 entered under this paragraph shall affect the rights of bona  
31 fide purchasers, mortgagees, judgment creditors, or other lien  
32 holders who acquire their interests in the property prior to  
33 the time a notice of lis pendens pursuant to the Code of Civil  
34 Procedure or a copy of the order is placed of record in the  
35 office of the recorder of deeds for the county in which the  
36 real property is located.

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

21           In addition to the penalties or punishment that may be  
22 imposed under this Section, any person whose conduct  
23 constitutes a violation of Section 15 of the Non-Support  
24 Punishment Act may be prosecuted under that Act, and a person  
25 convicted under that Act may be sentenced in accordance with  
26 that Act. The sentence may include but need not be limited to a  
27 requirement that the person perform community service under  
28 Section 50 of that Act or participate in a work alternative  
29 program under Section 50 of that Act. A person may not be  
30 required to participate in a work alternative program under  
31 Section 50 of that Act if the person is currently participating  
32 in a work program pursuant to Section 505.1 of this Act.

33           A support obligation, or any portion of a support  
34 obligation, which becomes due and remains unpaid as of the end  
35 of each month, excluding the child support that was due for  
36 that month to the extent that it was not paid in that month,

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

13 (c) A one-time charge of 20% is imposable upon the amount  
14 of past-due child support owed on July 1, 1988 which has  
15 accrued under a support order entered by the court. The charge  
16 shall be imposed in accordance with the provisions of Section  
17 10-21 of the Illinois Public Aid Code and shall be enforced by  
18 the court upon petition.

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

31 (e) When child support is to be paid through the clerk of  
32 the court in a county of 1,000,000 inhabitants or less, the  
33 order shall direct the obligor to pay to the clerk, in addition  
34 to the child support payments, all fees imposed by the county  
35 board under paragraph (3) of subsection (u) of Section 27.1 of  
36 the Clerks of Courts Act. Unless paid in cash or pursuant to an

1 order for withholding, the payment of the fee shall be by a  
2 separate instrument from the support payment and shall be made  
3 to the order of the Clerk.

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

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

35 (g-5) If there is an unpaid arrearage or delinquency (as  
36 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 or  
9 delinquency. That periodic payment shall be in addition to any  
10 periodic payment previously required for satisfaction of the  
11 arrearage or delinquency. The total periodic amount to be paid  
12 toward satisfaction of the arrearage or delinquency may be  
13 enforced and collected by any method provided by law for  
14 enforcement and collection of child support, including but not  
15 limited to income withholding under the Income Withholding for  
16 Support Act or an action on a bail bond under Section 110-7 of  
17 the Code of Criminal Procedure of 1963. Each order for support  
18 entered or modified on or after the effective date of this  
19 amendatory Act of the 93rd General Assembly must contain a  
20 statement notifying the parties of the requirements of this  
21 subsection. Failure to include the statement in the order for  
22 support does not affect the validity of the order or the  
23 operation of the provisions of this subsection with regard to  
24 the order. This subsection shall not be construed to prevent or  
25 affect the establishment or modification of an order for  
26 support of a minor child or the establishment or modification  
27 of an order for support of a non-minor child or educational  
28 expenses under Section 513 of this Act.

29 (h) An order entered under this Section shall include a  
30 provision requiring the obligor to report to the obligee and to  
31 the clerk of court within 10 days each time the obligor obtains  
32 new employment, and each time the obligor's employment is  
33 terminated for any reason. The report shall be in writing and  
34 shall, in the case of new employment, include the name and  
35 address of the new employer. Failure to report new employment  
36 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 (j) In any proceeding in which a party is delinquent in  
18 payment of support or has been adjudicated in arrears in  
19 payment of support, the bail bond deposited by or on behalf of  
20 that party in that case or in another case, subject to certain  
21 limitations and procedures, may be used to pay any unpaid child  
22 support obligations of the party pursuant to Section 110-7 of  
23 the Code of Criminal Procedure of 1963.

24 (Source: P.A. 93-148, eff. 7-10-03; 93-1061, eff. 1-1-05;  
25 94-90, eff. 1-1-06.)

26 Section 15. The Non-Support Punishment Act is amended by  
27 changing Section 20 as follows:

28 (750 ILCS 16/20)

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

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

32 (1) at any time before the trial, upon motion of the  
33 State's Attorney, or of the Attorney General if the action  
34 has been instituted by his office, and upon notice to the

1 defendant, or at the time of arraignment or as a condition  
2 of postponement of arraignment, the court may enter such  
3 temporary order for support as may seem just, providing for  
4 the support or maintenance of the spouse or child or  
5 children of the defendant, or both, pendente lite; or

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

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

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

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

33 (d) The court may, for violation of any order under this  
34 Section, punish the offender as for a contempt of court, but no  
35 pendente lite order shall remain in effect longer than 4  
36 months, or after the discharge of any panel of jurors summoned



1 for service thereafter in such court, whichever is sooner.

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

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

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

29 An order for support entered under this Section shall also  
30 include a provision requiring the obligor and obligee parents  
31 to advise each other of a change in residence within 5 days of  
32 the change except when the court finds that the physical,  
33 mental, or emotional health of a party or of a minor child, or  
34 both, would be seriously endangered by disclosure of the  
35 party's address.

36 (g) An order for support entered or modified in a case in

1 which a party is receiving child support enforcement services  
2 under Article X of the Illinois Public Aid Code shall include a  
3 provision requiring the noncustodial parent to notify the  
4 Illinois Department of Public Aid, within 7 days, of the name  
5 and address of any new employer of the noncustodial parent,  
6 whether the noncustodial parent has access to health insurance  
7 coverage through the employer or other group coverage and, if  
8 so, the policy name and number and the names of persons covered  
9 under the policy.

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

18 (i) 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  
27 date does not apply to any arrearage that may remain unpaid on  
28 that date. Nothing in this subsection shall be construed to  
29 prevent the court from modifying the order or terminating the  
30 order in the event the child is otherwise emancipated.

31 (i-5) If there is an unpaid arrearage or delinquency (as  
32 those terms are defined in the Income Withholding for Support  
33 Act) equal to at least one month's support obligation on the  
34 termination date stated in the order for support or, if there  
35 is no termination date stated in the order, on the date the  
36 child attains the age of majority or is otherwise emancipated,

1 the periodic amount required to be paid for current support of  
2 that child immediately prior to that date shall automatically  
3 continue to be an obligation, not as current support but as  
4 periodic payment toward satisfaction of the unpaid arrearage or  
5 delinquency. That periodic payment shall be in addition to any  
6 periodic payment previously required for satisfaction of the  
7 arrearage or delinquency. The total periodic amount to be paid  
8 toward satisfaction of the arrearage or delinquency may be  
9 enforced and collected by any method provided by law for  
10 enforcement and collection of child support, including but not  
11 limited to income withholding under the Income Withholding for  
12 Support Act or an action on a bail bond under Section 110-7 of  
13 the Code of Criminal Procedure of 1963. Each order for support  
14 entered or modified on or after the effective date of this  
15 amendatory Act of the 93rd General Assembly must contain a  
16 statement notifying the parties of the requirements of this  
17 subsection. Failure to include the statement in the order for  
18 support does not affect the validity of the order or the  
19 operation of the provisions of this subsection with regard to  
20 the order. This subsection shall not be construed to prevent or  
21 affect the establishment or modification of an order for  
22 support of a minor child or the establishment or modification  
23 of an order for support of a non-minor child or educational  
24 expenses under Section 513 of the Illinois Marriage and  
25 Dissolution of Marriage Act.

26 (j) A support obligation, or any portion of a support  
27 obligation, which becomes due and remains unpaid as of the end  
28 of each month, excluding the child support that was due for  
29 that month to the extent that it was not paid in that month,  
30 shall accrue simple interest as set forth in Section 12-109 of  
31 the Code of Civil Procedure. An order for support entered or  
32 modified on or after January 1, 2006 shall contain a statement  
33 that a support obligation required under the order, or any  
34 portion of a support obligation required under the order, that  
35 becomes due and remains unpaid as of the end of each month,  
36 excluding the child support that was due for that month to the

1 extent that it was not paid in that month, shall accrue simple  
2 interest as set forth in Section 12-109 of the Code of Civil  
3 Procedure. Failure to include the statement in the order for  
4 support does not affect the validity of the order or the  
5 accrual of interest as provided in this Section.

6 (k) In any proceeding in which a party is delinquent in  
7 payment of support or has been adjudicated in arrears in  
8 payment of support, the bail bond deposited by or on behalf of  
9 that party in that case or in another case, subject to certain  
10 limitations and procedures, may be used to pay any unpaid child  
11 support obligations of the party pursuant to Section 110-7 of  
12 the Code of Criminal Procedure of 1963.

13 (Source: P.A. 93-1061, eff. 1-1-05; 94-90, eff. 1-1-06.)

14 Section 20. The Illinois Parentage Act of 1984 is amended  
15 by changing Section 15 as follows:

16 (750 ILCS 45/15) (from Ch. 40, par. 2515)

17 Sec. 15. Enforcement of Judgment or Order.

18 (a) If existence of the parent and child relationship is  
19 declared, or paternity or duty of support has been established  
20 under this Act or under prior law or under the law of any other  
21 jurisdiction, the judgment rendered thereunder may be enforced  
22 in the same or other proceedings by any party or any person or  
23 agency that has furnished or may furnish financial assistance  
24 or services to the child. The Income Withholding for Support  
25 Act, an action on a bail bond under Section 110-7 of the Code  
26 of Criminal Procedure of 1963, and Sections 14 and 16 of this  
27 Act shall also be applicable with respect to entry,  
28 modification and enforcement of any support judgment entered  
29 under provisions of the "Paternity Act", approved July 5, 1957,  
30 as amended, repealed July 1, 1985.

31 (b) Failure to comply with any order of the court shall be  
32 punishable as contempt as in other cases of failure to comply  
33 under the "Illinois Marriage and Dissolution of Marriage Act",  
34 as now or hereafter amended. In addition to other penalties

1 provided by law, the court may, after finding the party guilty  
2 of contempt, order that the party be:

3 (1) Placed on probation with such conditions of  
4 probation as the court deems advisable;

5 (2) Sentenced to periodic imprisonment for a period not  
6 to exceed 6 months. However, the court may permit the party  
7 to be released for periods of time during the day or night  
8 to work or conduct business or other self-employed  
9 occupation. The court may further order any part of all the  
10 earnings of a party during a sentence of periodic  
11 imprisonment to be paid to the Clerk of the Circuit Court  
12 or to the person or parent having custody of the minor  
13 child for the support of said child until further order of  
14 the court.

15 (2.5) The court may also pierce the ownership veil of a  
16 person, persons, or business entity to discover assets of a  
17 non-custodial parent held in the name of that person, those  
18 persons, or that business entity if there is a unity of  
19 interest and ownership sufficient to render no financial  
20 separation between the non-custodial parent and that  
21 person, those persons, or the business entity. The  
22 following circumstances are sufficient for a court to order  
23 discovery of the assets of a person, persons, or business  
24 entity and to compel the application of any discovered  
25 assets toward payment on the judgment for support:

26 (A) the non-custodial parent and the person,  
27 persons, or business entity maintain records together.

28 (B) the non-custodial parent and the person,  
29 persons, or business entity fail to maintain an arms  
30 length relationship between themselves with regard to  
31 any assets.

32 (C) the non-custodial parent transfers assets to  
33 the person, persons, or business entity with the intent  
34 to perpetrate a fraud on the custodial parent.

35 With respect to assets which are real property, no  
36 order entered under this subdivision (2.5) shall affect the

1 rights of bona fide purchasers, mortgagees, judgment  
2 creditors, or other lien holders who acquire their  
3 interests in the property prior to the time a notice of lis  
4 pendens pursuant to the Code of Civil Procedure or a copy  
5 of the order is placed of record in the office of the  
6 recorder of deeds for the county in which the real property  
7 is located.

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

29 In addition to the penalties or punishment that may be  
30 imposed under this Section, any person whose conduct  
31 constitutes a violation of Section 15 of the Non-Support  
32 Punishment Act may be prosecuted under that Act, and a person  
33 convicted under that Act may be sentenced in accordance with  
34 that Act. The sentence may include but need not be limited to a  
35 requirement that the person perform community service under  
36 Section 50 of that Act or participate in a work alternative

1 program under Section 50 of that Act. A person may not be  
2 required to participate in a work alternative program under  
3 Section 50 of that Act if the person is currently participating  
4 in a work program pursuant to Section 15.1 of this Act.

5 (c) In any post-judgment proceeding to enforce or modify  
6 the judgment the parties shall continue to be designated as in  
7 the original proceeding.

8 (d) In any proceeding in which a party is delinquent in  
9 payment of support or has been adjudicated in arrears in  
10 payment of support, the bail bond deposited by or on behalf of  
11 that party in that case or in another case, subject to certain  
12 limitations and procedures, may be used to pay any unpaid child  
13 support obligations of the party pursuant to Section 110-7 of  
14 the Code of Criminal Procedure of 1963.

15 (Source: P.A. 91-357, eff. 7-29-99; 92-16, eff. 6-28-01.)