



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB4681

Introduced 1/12/2006, by Rep. Roger Jenisch

SYNOPSIS AS INTRODUCED:

750 ILCS 45/14

from Ch. 40, par. 2514

Amends the Illinois Parentage Act of 1984. Provides that in an action brought within 2 years after a judicial determination of parentage (now, within 2 years after a child's birth), the judgment or order shall (now, may) direct either parent to pay the reasonable expenses incurred by either parent or the Department of Healthcare and Family Services (now, either parent) related to the mother's pregnancy and the delivery of the child.

LRB094 17759 AJO 53058 b

FISCAL NOTE ACT
MAY APPLY

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 Parentage Act of 1984 is amended by
5 changing Section 14 as follows:

6 (750 ILCS 45/14) (from Ch. 40, par. 2514)

7 Sec. 14. Judgment.

8 (a) (1) The judgment shall contain or explicitly reserve
9 provisions concerning any duty and amount of child support and
10 may contain provisions concerning the custody and guardianship
11 of the child, visitation privileges with the child, the
12 furnishing of bond or other security for the payment of the
13 judgment, which the court shall determine in accordance with
14 the relevant factors set forth in the Illinois Marriage and
15 Dissolution of Marriage Act and any other applicable law of
16 Illinois, to guide the court in a finding in the best interests
17 of the child. In determining custody, joint custody, removal,
18 or visitation, the court shall apply the relevant standards of
19 the Illinois Marriage and Dissolution of Marriage Act,
20 including Section 609. Specifically, in determining the amount
21 of any child support award, the court shall use the guidelines
22 and standards set forth in subsection (a) of Section 505 and in
23 Section 505.2 of the Illinois Marriage and Dissolution of
24 Marriage Act. For purposes of Section 505 of the Illinois
25 Marriage and Dissolution of Marriage Act, "net income" of the
26 non-custodial parent shall include any benefits available to
27 that person under the Illinois Public Aid Code or from other
28 federal, State or local government-funded programs. The court
29 shall, in any event and regardless of the amount of the
30 non-custodial parent's net income, in its judgment order the
31 non-custodial parent to pay child support to the custodial
32 parent in a minimum amount of not less than \$10 per month. In

1 an action brought within 2 years after a judicial determination
2 of parentage ~~a child's birth~~, the judgment or order shall ~~may~~
3 direct either parent to pay the reasonable expenses incurred by
4 either parent or the Department of Healthcare and Family
5 Services related to the mother's pregnancy and the delivery of
6 the child. The judgment or order shall contain the father's
7 social security number, which the father shall disclose to the
8 court; however, failure to include the father's social security
9 number on the judgment or order does not invalidate the
10 judgment or order.

11 (2) If a judgment of parentage contains no explicit award
12 of custody, the establishment of a support obligation or of
13 visitation rights in one parent shall be considered a judgment
14 granting custody to the other parent. If the parentage judgment
15 contains no such provisions, custody shall be presumed to be
16 with the mother; however, the presumption shall not apply if
17 the father has had physical custody for at least 6 months prior
18 to the date that the mother seeks to enforce custodial rights.

19 (b) The court shall order all child support payments,
20 determined in accordance with such guidelines, to commence with
21 the date summons is served. The level of current periodic
22 support payments shall not be reduced because of payments set
23 for the period prior to the date of entry of the support order.
24 The Court may order any child support payments to be made for a
25 period prior to the commencement of the action. In determining
26 whether and the extent to which the payments shall be made for
27 any prior period, the court shall consider all relevant facts,
28 including the factors for determining the amount of support
29 specified in the Illinois Marriage and Dissolution of Marriage
30 Act and other equitable factors including but not limited to:

31 (1) The father's prior knowledge of the fact and
32 circumstances of the child's birth.

33 (2) The father's prior willingness or refusal to help
34 raise or support the child.

35 (3) The extent to which the mother or the public agency
36 bringing the action previously informed the father of the

1 child's needs or attempted to seek or require his help in
2 raising or supporting the child.

3 (4) The reasons the mother or the public agency did not
4 file the action earlier.

5 (5) The extent to which the father would be prejudiced
6 by the delay in bringing the action.

7 For purposes of determining the amount of child support to
8 be paid for any period before the date the order for current
9 child support is entered, there is a rebuttable presumption
10 that the father's net income for the prior period was the same
11 as his net income at the time the order for current child
12 support is entered.

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

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

1 (d) If the judgment or order of the court is at variance
2 with the child's birth certificate, the court shall order that
3 a new birth certificate be issued under the Vital Records Act.

4 (e) On request of the mother and the father, the court
5 shall order a change in the child's name. After hearing
6 evidence the court may stay payment of support during the
7 period of the father's minority or period of disability.

8 (f) If, upon a showing of proper service, the father fails
9 to appear in court, or otherwise appear as provided by law, the
10 court may proceed to hear the cause upon testimony of the
11 mother or other parties taken in open court and shall enter a
12 judgment by default. The court may reserve any order as to the
13 amount of child support until the father has received notice,
14 by regular mail, of a hearing on the matter.

15 (g) A one-time charge of 20% is imposable upon the amount
16 of past-due child support owed on July 1, 1988 which has
17 accrued under a support order entered by the court. The charge
18 shall be imposed in accordance with the provisions of Section
19 10-21 of the Illinois Public Aid Code and shall be enforced by
20 the court upon petition.

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

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

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

18 (i-5) If there is an unpaid arrearage or delinquency (as
19 those terms are defined in the Income Withholding for Support
20 Act) equal to at least one month's support obligation on the
21 termination date stated in the order for support or, if there
22 is no termination date stated in the order, on the date the
23 child attains the age of majority or is otherwise emancipated,
24 the periodic amount required to be paid for current support of
25 that child immediately prior to that date shall automatically
26 continue to be an obligation, not as current support but as
27 periodic payment toward satisfaction of the unpaid arrearage or
28 delinquency. That periodic payment shall be in addition to any
29 periodic payment previously required for satisfaction of the
30 arrearage or delinquency. The total periodic amount to be paid
31 toward satisfaction of the arrearage or delinquency may be
32 enforced and collected by any method provided by law for
33 enforcement and collection of child support, including but not
34 limited to income withholding under the Income Withholding for
35 Support Act. Each order for support entered or modified on or
36 after the effective date of this amendatory Act of the 93rd

1 General Assembly must contain a statement notifying the parties
2 of the requirements of this subsection. Failure to include the
3 statement in the order for support does not affect the validity
4 of the order or the operation of the provisions of this
5 subsection with regard to the order. This subsection shall not
6 be construed to prevent or affect the establishment or
7 modification of an order for support of a minor child or the
8 establishment or modification of an order for support of a
9 non-minor child or educational expenses under Section 513 of
10 the Illinois Marriage and Dissolution of Marriage Act.

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

30 (Source: P.A. 92-590, eff. 7-1-02; 92-876, eff. 6-1-03; 93-139,
31 eff. 7-10-03; 93-1061, eff. 1-1-05; revised 12-15-05.)