



Rep. LaShawn K. Ford

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09600HB2236ham003

LRB096 08683 AJ0 37672 a

1 AMENDMENT TO HOUSE BILL 2236

2 AMENDMENT NO. _____. Amend House Bill 2236, AS AMENDED,
3 with reference to page and line numbers of House Amendment No.
4 1, on page 1, line 5, by replacing "Section 10-3.1" with
5 "Sections 10-3.1 and 10-16.5"; and

6 on page 8, immediately below line 17, by inserting the
7 following:

8 "(305 ILCS 5/10-16.5)

9 Sec. 10-16.5. Interest on support obligations.

10 (a) A support obligation, or any portion of a support
11 obligation, which becomes due and remains unpaid as of the end
12 of each month, excluding the child support that was due for
13 that month to the extent that it was not paid in that month,
14 shall accrue simple interest as set forth in Section 12-109 of
15 the Code of Civil Procedure. An order for support entered or
16 modified on or after January 1, 2006 shall contain a statement

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

10 (b) Upon motion and notice, a court may forgive interest
11 that has accrued on all or part of a past due child support
12 obligation if the obligor:

13 (1) demonstrates that during the time that the past due
14 child support was accumulating, the obligor was unable to
15 pay child support;

16 (2) agrees to make future support payments on time
17 provided that if the obligor fails to make future support
18 payments on time, the court may reinstate all or part of
19 the interest that was forgiven; or

20 (3) makes a lump sum payment.

21 (Source: P.A. 94-90, eff. 1-1-06.)"; and

22 on page 9, line 7, immediately after "persons.", by inserting
23 the following:

24 "Section 15. The Illinois Marriage and Dissolution of

1 Marriage Act is amended by changing Section 505 as follows:

2 (750 ILCS 5/505) (from Ch. 40, par. 505)

3 Sec. 505. Child support; contempt; penalties.

4 (a) In a proceeding for dissolution of marriage, legal
5 separation, declaration of invalidity of marriage, a
6 proceeding for child support following dissolution of the
7 marriage by a court which lacked personal jurisdiction over the
8 absent spouse, a proceeding for modification of a previous
9 order for child support under Section 510 of this Act, or any
10 proceeding authorized under Section 501 or 601 of this Act, the
11 court may order either or both parents owing a duty of support
12 to a child of the marriage to pay an amount reasonable and
13 necessary for his support, without regard to marital
14 misconduct. The duty of support owed to a child includes the
15 obligation to provide for the reasonable and necessary
16 physical, mental and emotional health needs of the child. For
17 purposes of this Section, the term "child" shall include any
18 child under age 18 and any child under age 19 who is still
19 attending high school.

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

| 22 | Number of Children | Percent of Supporting Party's |
|----|--------------------|-------------------------------|
| 23 | | Net Income |
| 24 | 1 | 20% |
| 25 | 2 | 28% |

| | | |
|---|-----------|-----|
| 1 | 3 | 32% |
| 2 | 4 | 40% |
| 3 | 5 | 45% |
| 4 | 6 or more | 50% |

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

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

12 (b) the financial resources and needs of the
13 custodial parent;

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

16 (d) the physical and emotional condition of the
17 child, and his educational needs; and

18 (e) the financial resources and needs of the
19 non-custodial parent.

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

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

1 (a) Federal income tax (properly calculated
2 withholding or estimated payments);

3 (b) State income tax (properly calculated
4 withholding or estimated payments);

5 (c) Social Security (FICA payments);

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

8 (e) Union dues;

9 (f) Dependent and individual
10 health/hospitalization insurance premiums;

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

13 (h) Expenditures for repayment of debts that
14 represent reasonable and necessary expenses for the
15 production of income, medical expenditures necessary
16 to preserve life or health, reasonable expenditures
17 for the benefit of the child and the other parent,
18 exclusive of gifts. The court shall reduce net income
19 in determining the minimum amount of support to be
20 ordered only for the period that such payments are due
21 and shall enter an order containing provisions for its
22 self-executing modification upon termination of such
23 payment period.

24 (4) In cases where the court order provides for
25 health/hospitalization insurance coverage pursuant to
26 Section 505.2 of this Act, the premiums for that insurance,

1 or that portion of the premiums for which the supporting
2 party is responsible in the case of insurance provided
3 through an employer's health insurance plan where the
4 employer pays a portion of the premiums, shall be
5 subtracted from net income in determining the minimum
6 amount of support to be ordered.

7 (4.5) In a proceeding for child support following
8 dissolution of the marriage by a court that lacked personal
9 jurisdiction over the absent spouse, and in which the court
10 is requiring payment of support for the period before the
11 date an order for current support is entered, there is a
12 rebuttable presumption that the supporting party's net
13 income for the prior period was the same as his or her net
14 income at the time the order for current support is
15 entered.

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

1 on a timely basis, the applicable support ordered.

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

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

24 (b) Failure of either parent to comply with an order to pay
25 support shall be punishable as in other cases of contempt. In
26 addition to other penalties provided by law the Court may,

1 after finding the parent guilty of contempt, order that the
2 parent 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; provided, however, that the Court may
7 permit the parent to be released for periods of time during
8 the day or night to:

9 (A) work; or

10 (B) conduct a business or other self-employed
11 occupation.

12 The Court may further order any part or all of the earnings
13 of a parent during a sentence of periodic imprisonment paid to
14 the Clerk of the Circuit Court or to the parent having custody
15 or to the guardian having custody of the children of the
16 sentenced parent for the support of said children until further
17 order of the Court.

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

1 any discovered assets toward payment on the judgment for
2 support:

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

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

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

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

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

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

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

25 A support obligation, or any portion of a support
26 obligation, which becomes due and remains unpaid as of the end

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

15 (c) 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 (c-5) Upon motion and notice, a court may forgive interest
22 that has accrued on all or part of a past due child support
23 obligation if the obligor:

24 (1) demonstrates that during the time that the past due
25 child support was accumulating, the obligor was unable to
26 pay child support;

1 (2) agrees to make future support payments on time
2 provided that if the obligor fails to make future support
3 payments on time, the court may reinstate all or part of
4 the interest that was forgiven; or

5 (3) makes a lump sum payment.

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

18 (e) When child support is to be paid through the clerk of
19 the court in a county of 1,000,000 inhabitants or less, the
20 order shall direct the obligor to pay to the clerk, in addition
21 to the child support payments, all fees imposed by the county
22 board under paragraph (3) of subsection (u) of Section 27.1 of
23 the Clerks of Courts Act. Unless paid in cash or pursuant to an
24 order for withholding, the payment of the fee shall be by a
25 separate instrument from the support payment and shall be made
26 to the order of the Clerk.

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

19 (g) An order for support shall include a date on which the
20 current support obligation terminates. The termination date
21 shall be no earlier than the date on which the child covered by
22 the order will attain the age of 18. However, if the child will
23 not graduate from high school until after attaining the age of
24 18, then the termination date shall be no earlier than the
25 earlier of the date on which the child's high school graduation
26 will occur or the date on which the child will attain the age

1 of 19. The order for support shall state that the termination
2 date does not apply to any arrearage that may remain unpaid on
3 that date. Nothing in this subsection shall be construed to
4 prevent the court from modifying the order or terminating the
5 order in the event the child is otherwise emancipated.

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

1 statement in the order for support does not affect the validity
2 of the order or the operation of the provisions of this
3 subsection with regard to the order. This subsection shall not
4 be construed to prevent or affect the establishment or
5 modification of an order for support of a minor child or the
6 establishment or modification of an order for support of a
7 non-minor child or educational expenses under Section 513 of
8 this Act.

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

1 disclosure of the party's address.

2 (i) The court does not lose the powers of contempt,
3 driver's license suspension, or other child support
4 enforcement mechanisms, including, but not limited to,
5 criminal prosecution as set forth in this Act, upon the
6 emancipation of the minor child or children.

7 (Source: P.A. 94-90, eff. 1-1-06; 95-331, eff. 8-21-07.)

8 Section 20. The Non-Support Punishment Act is amended by
9 changing Section 23 as follows:

10 (750 ILCS 16/23)

11 Sec. 23. Interest on support obligations.

12 (a) A support obligation, or any portion of a support
13 obligation, which becomes due and remains unpaid as of the end
14 of each month, excluding the child support that was due for
15 that month to the extent that it was not paid in that month,
16 shall accrue interest as set forth in Section 12-109 of the
17 Code of Civil Procedure.

18 (b) Upon motion and notice, a court may forgive interest
19 that has accrued on all or part of a past due child support
20 obligation if the obligor:

21 (1) demonstrates that during the time that the past due
22 child support was accumulating, the obligor was unable to
23 pay child support;

24 (2) agrees to make future support payments on time

1 provided that if the obligor fails to make future support
2 payments on time, the court may reinstate all or part of
3 the interest that was forgiven; or
4 (3) makes a lump sum payment.

5 (Source: P.A. 94-90, eff. 1-1-06.)

6 Section 25. The Illinois Parentage Act of 1984 is amended
7 by changing Section 20.7 as follows:

8 (750 ILCS 45/20.7)

9 Sec. 20.7. Interest on support obligations.

10 (a) A support obligation, or any portion of a support
11 obligation, which becomes due and remains unpaid as of the end
12 of each month, excluding the child support that was due for
13 that month to the extent that it was not paid in that month,
14 shall accrue simple interest as set forth in Section 12-109 of
15 the Code of Civil Procedure. An order for support entered or
16 modified on or after January 1, 2006 shall contain a statement
17 that a support obligation required under the order, or any
18 portion of a support obligation required under the order, that
19 becomes due and remains unpaid as of the end of each month,
20 excluding the child support that was due for that month to the
21 extent that it was not paid in that month, shall accrue simple
22 interest as set forth in Section 12-109 of the Code of Civil
23 Procedure. Failure to include the statement in the order for
24 support does not affect the validity of the order or the

1 accrual of interest as provided in this Section.

2 (b) Upon motion and notice, a court may forgive interest
3 that has accrued on all or part of a past due child support
4 obligation if the obligor:

5 (1) demonstrates that during the time that the past due
6 child support was accumulating, the obligor was unable to
7 pay child support;

8 (2) agrees to make future support payments on time
9 provided that if the obligor fails to make future support
10 payments on time, the court may reinstate all or part of
11 the interest that was forgiven; or

12 (3) makes a lump sum payment.

13 (Source: P.A. 94-90, eff. 1-1-06.)".