



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB6199

Introduced 2/11/2010, by Rep. Paul D. Froehlich

SYNOPSIS AS INTRODUCED:

305 ILCS 5/10-16.8 new	
750 ILCS 5/505	from Ch. 40, par. 505
750 ILCS 5/608	from Ch. 40, par. 608
750 ILCS 16/24 new	
750 ILCS 45/14	from Ch. 40, par. 2514

Amends the Illinois Public Aid Code, the Illinois Marriage and Dissolution of Marriage Act, the Non-Support Punishment Act, and the Illinois Parentage Act of 1984. Provides that the court may order, if it is in the best interest of the minor child on whose behalf support payments are ordered, the custodial parent to provide an accounting of expenditures of support funds. Requires the moving party to certify that a motion for an accounting is well grounded and not brought for an improper purpose. Provides that the court may order the custodial parent to produce verification of the expenses and may enter any orders necessary to ensure that the funds are expended in the best interest of the child. Effective January 1, 2011.

LRB096 19469 AJO 34861 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT regarding accounting for child support expenses.

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

4 Section 5. The Illinois Public Aid Code is amended by
5 adding Section 10-16.8 as follows:

6 (305 ILCS 5/10-16.8 new)

7 Sec. 10-16.8. Child support accounting.

8 (a) Upon entering an order for the support of a minor child
9 or at any subsequent time, upon motion of the party obligated
10 to make support payments or on its own motion, the court may
11 order, if it is in the best interest of the minor child on
12 whose behalf support payments are ordered, the custodial parent
13 to provide an accounting of expenditures of support funds on
14 behalf of the minor child to the court and serve a copy of the
15 accounting upon the party obligated to pay support or that
16 party's attorney. The accounting shall be recorded on forms
17 provided by the Administrative Office of the Illinois Courts.

18 (b) In accounting for general household expenditures (e.g.
19 mortgage, rent, utilities) made on behalf of the child, the
20 custodial parent shall attribute as an expenditure for the
21 child an amount which may be no more than the percentage
22 equivalence that the child on whose behalf support is received
23 is to the total number of people in the household (e.g. if the

1 child is one of 4 household members, support payments may be
2 used to pay, at most, 25% of the monthly mortgage payment).

3 (c) The court may order the custodial parent to produce
4 receipts and other documentation verifying the expenses
5 reported.

6 (d) If the court, after hearing upon motion by the party
7 obligated to pay support or by the State, or on its own motion,
8 finds the expenditure of support funds by the custodial parent
9 is contrary to the best interests of the child, the court may
10 enter such orders as are necessary to ensure that the funds are
11 expended in the best interest of the child.

12 (e) The party moving for an accounting must, prior to any
13 hearing thereon, certify in writing that, to the best of the
14 movant's knowledge, information, and belief, formed after
15 reasonable inquiry, the motion for an accounting is well
16 grounded in fact and that it is not brought for any improper
17 purpose, such as to harass or to cause unnecessary delay or
18 needless increase in the cost of litigation. If the movant
19 violates this certification, the court, upon motion of the
20 party receiving support or on its own motion, may impose upon
21 the person bringing the motion an appropriate sanction, which
22 may include an order to pay the other party the amount of
23 reasonable expenses incurred because of the bringing of the
24 motion for accounting, including reasonable attorney fees
25 incurred and wages lost as a result of having to appear in
26 court. All proceedings under this subsection (e) shall be

1 brought in the manner set forth in Supreme Court Rule 137.

2 Section 10. The Illinois Marriage and Dissolution of
3 Marriage Act is amended by changing Sections 505 and 608 as
4 follows:

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

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

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

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

1	Number of Children	Percent of Supporting Party's
2		Net Income
3	1	20%
4	2	28%
5	3	32%
6	4	40%
7	5	45%
8	6 or more	50%

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

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

16 (b) the financial resources and needs of the
17 custodial parent;

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

20 (d) the physical and emotional condition of the
21 child, and his educational needs; and

22 (e) the financial resources and needs of the
23 non-custodial parent.

24 If the court deviates from the guidelines, the court's
25 finding shall state the amount of support that would have
26 been required under the guidelines, if determinable. The

1 court shall include the reason or reasons for the variance
2 from the guidelines.

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

5 (a) Federal income tax (properly calculated
6 withholding or estimated payments);

7 (b) State income tax (properly calculated
8 withholding or estimated payments);

9 (c) Social Security (FICA payments);

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

12 (e) Union dues;

13 (f) Dependent and individual
14 health/hospitalization insurance premiums;

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

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

1 payment period.

2 (4) In cases where the court order provides for
3 health/hospitalization insurance coverage pursuant to
4 Section 505.2 of this Act, the premiums for that insurance,
5 or that portion of the premiums for which the supporting
6 party is responsible in the case of insurance provided
7 through an employer's health insurance plan where the
8 employer pays a portion of the premiums, shall be
9 subtracted from net income in determining the minimum
10 amount of support to be ordered.

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

20 (5) If the net income cannot be determined because of
21 default or any other reason, the court shall order support
22 in an amount considered reasonable in the particular case.
23 The final order in all cases shall state the support level
24 in dollar amounts. However, if the court finds that the
25 child support amount cannot be expressed exclusively as a
26 dollar amount because all or a portion of the payor's net

1 income is uncertain as to source, time of payment, or
2 amount, the court may order a percentage amount of support
3 in addition to a specific dollar amount and enter such
4 other orders as may be necessary to determine and enforce,
5 on a timely basis, the applicable support ordered.

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

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

1 or by any other reasonable means.

2 (b) Failure of either parent to comply with an order to pay
3 support shall be punishable as in other cases of contempt. In
4 addition to other penalties provided by law the Court may,
5 after finding the parent guilty of contempt, order that the
6 parent be:

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

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

13 (A) work; or

14 (B) conduct a business or other self-employed
15 occupation.

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

22 If there is a unity of interest and ownership sufficient to
23 render no financial separation between a non-custodial parent
24 and another person or persons or business entity, the court may
25 pierce the ownership veil of the person, persons, or business
26 entity to discover assets of the non-custodial parent held in

1 the name of that person, those persons, or that business
2 entity. The following circumstances are sufficient to
3 authorize a court to order discovery of the assets of a person,
4 persons, or business entity and to compel the application of
5 any discovered assets toward payment on the judgment for
6 support:

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

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

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

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

23 The court may also order in cases where the parent is 90
24 days or more delinquent in payment of support or has been
25 adjudicated in arrears in an amount equal to 90 days obligation
26 or more, that the parent's Illinois driving privileges be

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

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

1 Section 50 of that Act if the person is currently participating
2 in a work program pursuant to Section 505.1 of this Act.

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

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

25 (d) Any new or existing support order entered by the court
26 under this Section shall be deemed to be a series of judgments

1 against the person obligated to pay support thereunder, each
2 such judgment to be in the amount of each payment or
3 installment of support and each such judgment to be deemed
4 entered as of the date the corresponding payment or installment
5 becomes due under the terms of the support order. Each such
6 judgment shall have the full force, effect and attributes of
7 any other judgment of this State, including the ability to be
8 enforced. A lien arises by operation of law against the real
9 and personal property of the noncustodial parent for each
10 installment of overdue support owed by the noncustodial parent.

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

20 (f) All orders for support, when entered or modified, shall
21 include a provision requiring the obligor to notify the court
22 and, in cases in which a party is receiving child and spouse
23 services under Article X of the Illinois Public Aid Code, the
24 Department of Healthcare and Family Services, within 7 days,
25 (i) of the name and address of any new employer of the obligor,
26 (ii) whether the obligor has access to health insurance

1 coverage through the employer or other group coverage and, if
2 so, the policy name and number and the names of persons covered
3 under the policy, and (iii) of any new residential or mailing
4 address or telephone number of the non-custodial parent. In any
5 subsequent action to enforce a support order, upon a sufficient
6 showing that a diligent effort has been made to ascertain the
7 location of the non-custodial parent, service of process or
8 provision of notice necessary in the case may be made at the
9 last known address of the non-custodial parent in any manner
10 expressly provided by the Code of Civil Procedure or this Act,
11 which service shall be sufficient for purposes of due process.

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

25 (g-5) If there is an unpaid arrearage or delinquency (as
26 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. Each order for support entered or modified on or
17 after the effective date of this amendatory Act of the 93rd
18 General Assembly must contain a statement notifying the parties
19 of the requirements of this subsection. Failure to include the
20 statement in the order for support does not affect the validity
21 of the order or the operation of the provisions of this
22 subsection with regard to the order. This subsection shall not
23 be construed to prevent or affect the establishment or
24 modification of an order for support of a minor child or the
25 establishment or modification of an order for support of a
26 non-minor child or educational expenses under Section 513 of

1 this Act.

2 (h) 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 child, or both, would be seriously endangered by
20 disclosure of the party's address.

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

26 (j) (1) Upon entering an order for the support of a minor

1 child or at any subsequent time, upon motion of the
2 noncustodial parent or on its own motion, the court may order,
3 if it is in the best interest of the minor child on whose
4 behalf support payments are ordered, the custodial parent to
5 provide an accounting of expenditures of support funds on
6 behalf of the minor child to the court and serve a copy of the
7 accounting upon the noncustodial parent or that party's
8 attorney. The accounting shall be recorded on forms provided by
9 the Administrative Office of the Illinois Courts.

10 (2) In accounting for general household expenditures (e.g.
11 mortgage, rent, utilities) made on behalf of the child, the
12 custodial parent shall attribute as an expenditure for the
13 child an amount which may be no more than the percentage
14 equivalence that the child on whose behalf support is received
15 is to the total number of people in the household (e.g. if the
16 child is one of 4 household members, support payments may be
17 used to pay, at most, 25% of the monthly mortgage payment).

18 (3) The court may order the custodial parent to produce
19 receipts and other documentation verifying the expenses
20 reported.

21 (4) The court may use its authority under Section 608 to
22 ensure that support funds are expended in the best interest of
23 the child.

24 (5) The party moving for an accounting must, prior to any
25 hearing thereon, certify in writing that, to the best of the
26 movant's knowledge, information, and belief, formed after

1 reasonable inquiry, the motion for an accounting is well
2 grounded in fact and that it is not brought for any improper
3 purpose, such as to harass or to cause unnecessary delay or
4 needless increase in the cost of litigation. If the movant
5 violates this certification, the court, upon motion of the
6 party receiving support or on its own motion, may impose upon
7 the person bringing the motion an appropriate sanction, which
8 may include an order to pay the other party the amount of
9 reasonable expenses incurred because of the bringing of the
10 motion for accounting, including reasonable attorney fees
11 incurred and wages lost as a result of having to appear in
12 court. All proceedings under this subdivision (i) (5) shall be
13 brought in the manner set forth in Supreme Court Rule 137.

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

15 (750 ILCS 5/608) (from Ch. 40, par. 608)

16 Sec. 608. Judicial Supervision.

17 (a) Except as otherwise agreed by the parties in writing at
18 the time of the custody judgment or as otherwise ordered by the
19 court, the custodian may determine the child's upbringing,
20 including but not limited to, his education, health care and
21 religious training, as well as how to expend child support
22 funds received from the noncustodial parent, unless the court,
23 after hearing, finds, upon motion by the noncustodial parent,
24 that the absence of a specific limitation of the custodian's
25 authority would clearly be contrary to the best interests of

1 the child.

2 (b) If both parents or all contestants agree to the order,
3 or if the court finds that in the absence of agreement the
4 child's physical health would be endangered or his emotional
5 development significantly impaired, the court may order the
6 Department of Children and Family Services to exercise
7 continuing supervision over the case to assure that the
8 custodial or visitation terms of the judgment are carried out.
9 Supervision shall be carried out under the provisions of
10 Section 5 of the Children and Family Services Act.

11 (c) The court may order individual counseling for the
12 child, family counseling for one or more of the parties and the
13 child, or parental education for one or more of the parties,
14 when it finds one or more of the following:

15 (1) both parents or all parties agree to the order;

16 (2) the court finds that the child's physical health is
17 endangered or his or her emotional development is impaired
18 including, but not limited to, a finding of visitation
19 abuse as defined by Section 607.1; or

20 (3) the court finds that one or both of the parties
21 have violated the joint parenting agreement with regard to
22 conduct affecting or in the presence of the child.

23 (d) If the court finds that one or more of the parties has
24 violated an order of the court with regards to custody,
25 visitation, or joint parenting, the court shall assess the
26 costs of counseling against the violating party or parties.

1 Otherwise, the court may apportion the costs between the
2 parties as appropriate.

3 (e) The remedies provided in this Section are in addition
4 to, and shall not diminish or abridge in any way, the court's
5 power to exercise its authority through contempt or other
6 proceedings.

7 (f) All counseling sessions shall be confidential. The
8 communications in counseling shall not be used in any manner in
9 litigation nor relied upon by any expert appointed by the court
10 or retained by any party.

11 (Source: P.A. 94-640, eff. 1-1-06.)

12 Section 15. The Non-Support Punishment Act is amended by
13 adding Section 24 as follows:

14 (750 ILCS 16/24 new)

15 Sec. 24. Child support accounting.

16 (a) Upon entering an order for the support of a minor child
17 or at any subsequent time, upon motion of the party obligated
18 to make support payments or on its own motion, the court may
19 order, if it is in the best interest of the minor child on
20 whose behalf support payments are ordered, the custodial parent
21 to provide an accounting of expenditures of support funds on
22 behalf of the minor child to the court and serve a copy of the
23 accounting upon the party obligated to pay support or that
24 party's attorney. The accounting shall be recorded on forms

1 provided by the Administrative Office of the Illinois Courts.

2 (b) In accounting for general household expenditures (e.g.
3 mortgage, rent, utilities) made on behalf of the child, the
4 custodial parent shall attribute as an expenditure for the
5 child an amount which may be no more than the percentage
6 equivalence that the child on whose behalf support is received
7 is to the total number of people in the household (e.g. if the
8 child is one of 4 household members, support payments may be
9 used to pay, at most, 25% of the monthly mortgage payment).

10 (c) The court may order the custodial parent to produce
11 receipts and other documentation verifying the expenses
12 reported.

13 (d) If the court, after hearing upon motion by the party
14 obligated to pay support or on its own motion, finds the
15 expenditure of support funds by the custodial parent is
16 contrary to the best interest of the child, the court may enter
17 such orders as are necessary to ensure that the funds are
18 expended in the best interest of the child.

19 (e) The party moving for an accounting must, prior to any
20 hearing thereon, certify in writing that, to the best of the
21 movant's knowledge, information, and belief, formed after
22 reasonable inquiry, the motion for an accounting is well
23 grounded in fact and that it is not brought for any improper
24 purpose, such as to harass or to cause unnecessary delay or
25 needless increase in the cost of litigation. If the movant
26 violates this certification, the court, upon motion of the

1 party receiving support or on its own motion, may impose upon
2 the person bringing the motion an appropriate sanction, which
3 may include an order to pay the other party the amount of
4 reasonable expenses incurred because of the bringing of the
5 motion for accounting, including reasonable attorney fees
6 incurred and wages lost as a result of having to appear in
7 court. All proceedings under this subsection (e) shall be
8 brought in the manner set forth in Supreme Court Rule 137.

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

11 (750 ILCS 45/14) (from Ch. 40, par. 2514)

12 Sec. 14. Judgment.

13 (a) (1) The judgment shall contain or explicitly reserve
14 provisions concerning any duty and amount of child support and
15 may contain provisions concerning the custody and guardianship
16 of the child, visitation privileges with the child, the
17 furnishing of bond or other security for the payment of the
18 judgment, which the court shall determine in accordance with
19 the relevant factors set forth in the Illinois Marriage and
20 Dissolution of Marriage Act and any other applicable law of
21 Illinois, to guide the court in a finding in the best interests
22 of the child. In determining custody, joint custody, removal,
23 or visitation, the court shall apply the relevant standards of
24 the Illinois Marriage and Dissolution of Marriage Act,

1 including Section 609. Specifically, in determining the amount
2 of any child support award or child health insurance coverage,
3 the court shall use the guidelines and standards set forth in
4 subsection (a) of Section 505 and in Section 505.2 of the
5 Illinois Marriage and Dissolution of Marriage Act. For purposes
6 of Section 505 of the Illinois Marriage and Dissolution of
7 Marriage Act, "net income" of the non-custodial parent shall
8 include any benefits available to that person under the
9 Illinois Public Aid Code or from other federal, State or local
10 government-funded programs. The court shall, in any event and
11 regardless of the amount of the non-custodial parent's net
12 income, in its judgment order the non-custodial parent to pay
13 child support to the custodial parent in a minimum amount of
14 not less than \$10 per month, as long as such an order is
15 consistent with the requirements of Title IV, Part D of the
16 Social Security Act. In an action brought within 2 years after
17 a judicial determination of parentage, the judgment or order
18 may direct either parent to pay the reasonable expenses
19 incurred by either parent or the Department of Healthcare and
20 Family Services related to the mother's pregnancy and the
21 delivery of the child. The judgment or order shall contain the
22 father's social security number, which the father shall
23 disclose to the court; however, failure to include the father's
24 social security number on the judgment or order does not
25 invalidate the judgment or order.

26 (2) If a judgment of parentage contains no explicit award

1 of custody, the establishment of a support obligation or of
2 visitation rights in one parent shall be considered a judgment
3 granting custody to the other parent. If the parentage judgment
4 contains no such provisions, custody shall be presumed to be
5 with the mother; however, the presumption shall not apply if
6 the father has had physical custody for at least 6 months prior
7 to the date that the mother seeks to enforce custodial rights.

8 (b) The court shall order all child support payments,
9 determined in accordance with such guidelines, to commence with
10 the date summons is served. The level of current periodic
11 support payments shall not be reduced because of payments set
12 for the period prior to the date of entry of the support order.
13 The Court may order any child support payments to be made for a
14 period prior to the commencement of the action. In determining
15 whether and the extent to which the payments shall be made for
16 any prior period, the court shall consider all relevant facts,
17 including the factors for determining the amount of support
18 specified in the Illinois Marriage and Dissolution of Marriage
19 Act and other equitable factors including but not limited to:

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

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

24 (3) The extent to which the mother or the public agency
25 bringing the action previously informed the father of the
26 child's needs or attempted to seek or require his help in

1 raising or supporting the child.

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

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

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

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

24 (c) 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

1 judgment to be in the amount of each payment or installment of
2 support and each such judgment to be deemed entered as of the
3 date the corresponding payment or installment becomes due under
4 the terms of the support order. Each judgment shall have the
5 full force, effect and attributes of any other judgment of this
6 State, including the ability to be enforced. A lien arises by
7 operation of law against the real and personal property of the
8 noncustodial parent for each installment of overdue support
9 owed by the noncustodial parent.

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

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

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

24 (g) A one-time charge of 20% is imposable upon the amount
25 of past-due child support owed on July 1, 1988 which has
26 accrued under a support order entered by the court. The charge

1 shall be imposed in accordance with the provisions of Section
2 10-21 of the Illinois Public Aid Code and shall be enforced by
3 the court upon petition.

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

23 (i) An order for support shall include a date on which the
24 current support obligation terminates. The termination date
25 shall be no earlier than the date on which the child covered by
26 the order will attain the age of 18. However, if the child will

1 not graduate from high school until after attaining the age of
2 18, then the termination date shall be no earlier than the
3 earlier of the date on which the child's high school graduation
4 will occur or the date on which the child will attain the age
5 of 19. The order for support shall state that the termination
6 date does not apply to any arrearage that may remain unpaid on
7 that date. Nothing in this subsection shall be construed to
8 prevent the court from modifying the order or terminating the
9 order in the event the child is otherwise emancipated.

10 (i-5) If there is an unpaid arrearage or delinquency (as
11 those terms are defined in the Income Withholding for Support
12 Act) equal to at least one month's support obligation on the
13 termination date stated in the order for support or, if there
14 is no termination date stated in the order, on the date the
15 child attains the age of majority or is otherwise emancipated,
16 the periodic amount required to be paid for current support of
17 that child immediately prior to that date shall automatically
18 continue to be an obligation, not as current support but as
19 periodic payment toward satisfaction of the unpaid arrearage or
20 delinquency. That periodic payment shall be in addition to any
21 periodic payment previously required for satisfaction of the
22 arrearage or delinquency. The total periodic amount to be paid
23 toward satisfaction of the arrearage or delinquency may be
24 enforced and collected by any method provided by law for
25 enforcement and collection of child support, including but not
26 limited to income withholding under the Income Withholding for

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

13 (j) An order entered under this Section shall include a
14 provision requiring the obligor to report to the obligee and to
15 the clerk of court within 10 days each time the obligor obtains
16 new employment, and each time the obligor's employment is
17 terminated for any reason. The report shall be in writing and
18 shall, in the case of new employment, include the name and
19 address of the new employer. Failure to report new employment
20 or the termination of current employment, if coupled with
21 nonpayment of support for a period in excess of 60 days, is
22 indirect criminal contempt. For any obligor arrested for
23 failure to report new employment bond shall be set in the
24 amount of the child support that should have been paid during
25 the period of unreported employment. An order entered under
26 this Section shall also include a provision requiring the

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

6 (k) (1) Upon entering an order for the support of a minor
7 child or at any subsequent time, upon motion of the party
8 obligated to make support payments or on its own motion, the
9 court may order, if it is in the best interest of the minor
10 child on whose behalf support payments are ordered, the
11 custodial parent to provide an accounting of expenditures of
12 support funds on behalf of the minor child to the court and
13 serve a copy of the accounting upon the party obligated to pay
14 support or that party's attorney. The accounting shall be
15 recorded on forms provided by the Administrative Office of the
16 Illinois Courts.

17 (2) In accounting for general household expenditures (e.g.
18 mortgage, rent, utilities) made on behalf of the child, the
19 custodial parent shall attribute as an expenditure for the
20 child an amount which may be no more than the percentage
21 equivalence that the child on whose behalf support is received
22 is to the total number of people in the household (e.g. if the
23 child is one of 4 household members, support payments may be
24 used to pay, at most, 25% of the monthly mortgage payment).

25 (3) The court may order the custodial parent to produce
26 receipts and other documentation verifying the expenses

1 reported.

2 (4) If the court, after hearing upon motion by the party
3 obligated to pay support or by the State, or on its own motion,
4 finds the expenditure of support funds by the custodial parent
5 is contrary to the best interest of the child, the court may
6 enter such orders as are necessary to ensure that the funds are
7 expended in the best interest of the child.

8 (5) The party moving for an accounting must, prior to any
9 hearing thereon, certify in writing that, to the best of the
10 movant's knowledge, information, and belief, formed after
11 reasonable inquiry, the motion for an accounting is well
12 grounded in fact and that it is not brought for any improper
13 purpose, such as to harass or to cause unnecessary delay or
14 needless increase in the cost of litigation. If the movant
15 violates this certification, the court, upon motion of the
16 party receiving support or on its own motion, may impose upon
17 the person bringing the motion an appropriate sanction, which
18 may include an order to pay the other party the amount of
19 reasonable expenses incurred because of the bringing of the
20 motion for accounting, including reasonable attorney fees
21 incurred and wages lost as a result of having to appear in
22 court. All proceedings under this subdivision (k)(5) shall be
23 brought in the manner set forth in Supreme Court Rule 137.

24 (Source: P.A. 94-923, eff. 1-1-07; 94-1061, eff. 1-1-07;
25 95-331, eff. 8-21-07; 95-864, eff. 1-1-09.)

26 Section 99. Effective date. This Act takes effect January

1 1, 2011.