



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB6852

Introduced 4/21/2010, by Rep. Jim Sacia

SYNOPSIS AS INTRODUCED:

305 ILCS 5/10-16.8 new	
750 ILCS 5/505	from Ch. 40, par. 505
750 ILCS 5/602	from Ch. 40, par. 602
750 ILCS 5/602.1	from Ch. 40, par. 602.1
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 parent receiving support 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. Creates a rebuttable presumption in favor of joint custody and equal parenting time.

LRB096 21935 AJO 40025 b

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 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, 602, 602.1,
4 and 608 as 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 (j)(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 5/602) (from Ch. 40, par. 602)

16 Sec. 602. Best Interest of Child.

17 (a) The court shall determine custody in accordance with
18 the best interest of the child. The court shall consider all
19 relevant factors including:

20 (1) the wishes of the child's parent or parents as to
21 his custody;

22 (2) the wishes of the child as to his custodian;

23 (3) the interaction and interrelationship of the child
24 with his parent or parents, his siblings and any other
25 person who may significantly affect the child's best

1 interest;

2 (4) the child's adjustment to his home, school and
3 community;

4 (5) the mental and physical health of all individuals
5 involved;

6 (6) the physical violence or threat of physical
7 violence by the child's potential custodian, whether
8 directed against the child or directed against another
9 person;

10 (7) the occurrence of ongoing or repeated abuse as
11 defined in Section 103 of the Illinois Domestic Violence
12 Act of 1986, whether directed against the child or directed
13 against another person;

14 (8) the willingness and ability of each parent to
15 facilitate and encourage a close and continuing
16 relationship between the other parent and the child;

17 (9) whether one of the parents is a sex offender; and

18 (10) the terms of a parent's military family-care plan
19 that a parent must complete before deployment if a parent
20 is a member of the United States Armed Forces who is being
21 deployed.

22 In the case of a custody proceeding in which a stepparent
23 has standing under Section 601, it is presumed to be in the
24 best interest of the minor child that the natural parent have
25 the custody of the minor child unless the presumption is
26 rebutted by the stepparent.

1 (b) The court shall not consider conduct of a present or
2 proposed custodian that does not affect his relationship to the
3 child.

4 (c) Unless the court finds the occurrence of ongoing abuse
5 as defined in Section 103 of the Illinois Domestic Violence Act
6 of 1986, the court shall presume that the maximum involvement
7 and cooperation of both parents regarding the physical, mental,
8 moral, and emotional well-being of their child is in the best
9 interest of the child. There shall be a rebuttable ~~no~~
10 presumption in favor of ~~or against~~ joint custody.

11 (Source: P.A. 95-331, eff. 8-21-07; 96-676, eff. 1-1-10.)

12 (750 ILCS 5/602.1) (from Ch. 40, par. 602.1)

13 Sec. 602.1. (a) The dissolution of marriage, the
14 declaration of invalidity of marriage, the legal separation of
15 the parents, or the parents living separate and apart shall not
16 diminish parental powers, rights, and responsibilities except
17 as the court for good reason may determine under the standards
18 of Section 602.

19 (b) Upon the application of either or both parents, or upon
20 its own motion, the court shall consider an award of joint
21 custody. Joint custody means custody determined pursuant to a
22 Joint Parenting Agreement or a Joint Parenting Order. In such
23 cases, the court shall initially request the parents to produce
24 a Joint Parenting Agreement. Such Agreement shall specify each
25 parent's powers, rights and responsibilities for the personal

1 care of the child and for major decisions such as education,
2 health care, and religious training. The Agreement shall
3 further specify a procedure by which proposed changes, disputes
4 and alleged breaches may be mediated or otherwise resolved and
5 shall provide for a periodic review of its terms by the
6 parents. In producing a Joint Parenting Agreement, the parents
7 shall be flexible in arriving at resolutions which further the
8 policy of this State as expressed in Sections 102 and 602. For
9 the purpose of assisting the court in making a determination
10 whether an award of joint custody is appropriate, the court may
11 order mediation and may direct that an investigation be
12 conducted pursuant to the provisions of Section 605. If there
13 is a danger to the health or safety of a partner, joint
14 mediation shall not be required by the court. In the event the
15 parents fail to produce a Joint Parenting Agreement, the court
16 may enter an appropriate Joint Parenting Order under the
17 standards of Section 602 which shall specify and contain the
18 same elements as a Joint Parenting Agreement, or it may award
19 sole custody under the standards of Sections 602, 607, and 608.

20 (c) The court may enter an order of joint custody if it
21 determines that joint custody would be in the best interests of
22 the child, taking into account the following:

23 (1) the ability of the parents to cooperate effectively
24 and consistently in matters that directly affect the joint
25 parenting of the child. "Ability of the parents to
26 cooperate" means the parents' capacity to substantially

1 comply with a Joint Parenting Order. The court shall not
2 consider the inability of the parents to cooperate
3 effectively and consistently in matters that do not
4 directly affect the joint parenting of the child;

5 (2) The residential circumstances of each parent; and

6 (3) all other factors which may be relevant to the best
7 interest of the child.

8 (d) There shall be a rebuttable presumption ~~Nothing within~~
9 ~~this section shall imply or presume~~ that joint custody shall
10 ~~necessarily~~ mean equal parenting time. The physical residence
11 of the child in joint custodial situations shall be determined
12 by:

13 (1) express agreement of the parties; or

14 (2) order of the court under the standards of this
15 Section.

16 (e) Notwithstanding any other provision of law, access to
17 records and information pertaining to a child, including but
18 not limited to medical, dental, child care and school records,
19 shall not be denied to a parent for the reason that such parent
20 is not the child's custodial parent; however, no parent shall
21 have access to the school records of a child if the parent is
22 prohibited by an order of protection from inspecting or
23 obtaining such records pursuant to the Illinois Domestic
24 Violence Act of 1986, as now or hereafter amended or pursuant
25 to the Code of Criminal Procedure of 1963. No parent who is a
26 named respondent in an order of protection issued pursuant to

1 the Illinois Domestic Violence Act of 1986 or the Code of
2 Criminal Procedure of 1963 shall have access to the health care
3 records of a child who is a protected person under that order
4 of protection.

5 (Source: P.A. 95-912, eff. 1-1-09; 96-651, eff. 1-1-10.)

6 (750 ILCS 5/608) (from Ch. 40, par. 608)

7 Sec. 608. Judicial Supervision.

8 (a) Except as otherwise agreed by the parties in writing at
9 the time of the custody judgment or as otherwise ordered by the
10 court, the custodian may determine the child's upbringing,
11 including but not limited to, his education, health care and
12 religious training, as well as how to expend child support
13 funds received from the noncustodial parent, unless the court,
14 after hearing, finds, upon motion by the noncustodial parent,
15 that the absence of a specific limitation of the custodian's
16 authority would clearly be contrary to the best interests of
17 the child.

18 (b) If both parents or all contestants agree to the order,
19 or if the court finds that in the absence of agreement the
20 child's physical health would be endangered or his emotional
21 development significantly impaired, the court may order the
22 Department of Children and Family Services to exercise
23 continuing supervision over the case to assure that the
24 custodial or visitation terms of the judgment are carried out.
25 Supervision shall be carried out under the provisions of

1 Section 5 of the Children and Family Services Act.

2 (c) The court may order individual counseling for the
3 child, family counseling for one or more of the parties and the
4 child, or parental education for one or more of the parties,
5 when it finds one or more of the following:

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

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

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

14 (d) If the court finds that one or more of the parties has
15 violated an order of the court with regards to custody,
16 visitation, or joint parenting, the court shall assess the
17 costs of counseling against the violating party or parties.
18 Otherwise, the court may apportion the costs between the
19 parties as appropriate.

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

24 (f) All counseling sessions shall be confidential. The
25 communications in counseling shall not be used in any manner in
26 litigation nor relied upon by any expert appointed by the court

1 or retained by any party.

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

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

5 (750 ILCS 16/24 new)

6 Sec. 24. Child support accounting.

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

17 (b) 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).

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

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

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

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

3 (750 ILCS 45/14) (from Ch. 40, par. 2514)

4 Sec. 14. Judgment.

5 (a) (1) The judgment shall contain or explicitly reserve
6 provisions concerning any duty and amount of child support and
7 may contain provisions concerning the custody and guardianship
8 of the child, visitation privileges with the child, the
9 furnishing of bond or other security for the payment of the
10 judgment, which the court shall determine in accordance with
11 the relevant factors set forth in the Illinois Marriage and
12 Dissolution of Marriage Act and any other applicable law of
13 Illinois, to guide the court in a finding in the best interests
14 of the child. In determining custody, joint custody, removal,
15 or visitation, the court shall apply the relevant standards of
16 the Illinois Marriage and Dissolution of Marriage Act,
17 including Section 609. Specifically, in determining the amount
18 of any child support award or child health insurance coverage,
19 the court shall use the guidelines and standards set forth in
20 subsection (a) of Section 505 and in Section 505.2 of the
21 Illinois Marriage and Dissolution of Marriage Act. For purposes
22 of Section 505 of the Illinois Marriage and Dissolution of
23 Marriage Act, "net income" of the non-custodial parent shall
24 include any benefits available to that person under the
25 Illinois Public Aid Code or from other federal, State or local

1 government-funded programs. The court shall, in any event and
2 regardless of the amount of the non-custodial parent's net
3 income, in its judgment order the non-custodial parent to pay
4 child support to the custodial parent in a minimum amount of
5 not less than \$10 per month, as long as such an order is
6 consistent with the requirements of Title IV, Part D of the
7 Social Security Act. In an action brought within 2 years after
8 a judicial determination of parentage, the judgment or order
9 may direct either parent to pay the reasonable expenses
10 incurred by either parent or the Department of Healthcare and
11 Family Services related to the mother's pregnancy and the
12 delivery of the child. The judgment or order shall contain the
13 father's social security number, which the father shall
14 disclose to the court; however, failure to include the father's
15 social security number on the judgment or order does not
16 invalidate the judgment or order.

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

25 (b) The court shall order all child support payments,
26 determined in accordance with such guidelines, to commence with

1 the date summons is served. The level of current periodic
2 support payments shall not be reduced because of payments set
3 for the period prior to the date of entry of the support order.
4 The Court may order any child support payments to be made for a
5 period prior to the commencement of the action. In determining
6 whether and the extent to which the payments shall be made for
7 any prior period, the court shall consider all relevant facts,
8 including the factors for determining the amount of support
9 specified in the Illinois Marriage and Dissolution of Marriage
10 Act and other equitable factors including but not limited to:

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

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

15 (3) The extent to which the mother or the public agency
16 bringing the action previously informed the father of the
17 child's needs or attempted to seek or require his help in
18 raising or supporting the child.

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

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

23 For purposes of determining the amount of child support to
24 be paid for any period before the date the order for current
25 child support is entered, there is a rebuttable presumption
26 that the father's net income for the prior period was the same

1 as his net income at the time the order for current child
2 support is entered.

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

15 (c) Any new or existing support order entered by the court
16 under this Section shall be deemed to be a series of judgments
17 against the person obligated to pay support thereunder, each
18 judgment to be in the amount of each payment or installment of
19 support and each such judgment to be deemed entered as of the
20 date the corresponding payment or installment becomes due under
21 the terms of the support order. Each judgment shall have the
22 full force, effect and attributes of any other judgment of this
23 State, including the ability to be enforced. A lien arises by
24 operation of law against the real and personal property of the
25 noncustodial parent for each installment of overdue support
26 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 Department of Healthcare and
26 Family Services, within 7 days, (i) of the name and address of

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

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

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

1 establishment or modification of an order for support of a
2 non-minor child or educational expenses under Section 513 of
3 the Illinois Marriage and Dissolution of Marriage Act.

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

23 (k) (1) Upon entering an order for the support of a minor
24 child or at any subsequent time, upon motion of the party
25 obligated to make support payments or on its own motion, the
26 court may order, if it is in the best interest of the minor

1 child on whose behalf support payments are ordered, the
2 custodial parent to provide an accounting of expenditures of
3 support funds on behalf of the minor child to the court and
4 serve a copy of the accounting upon the party obligated to pay
5 support or that party's attorney. The accounting shall be
6 recorded on forms provided by the Administrative Office of the
7 Illinois Courts.

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

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

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

25 (5) The party moving for an accounting must, prior to any
26 hearing thereon, certify in writing that, to the best of the

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

15 (Source: P.A. 94-923, eff. 1-1-07; 94-1061, eff. 1-1-07;
16 95-331, eff. 8-21-07; 95-864, eff. 1-1-09.)