



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1824

Introduced 2/9/2011, by Sen. Matt Murphy

SYNOPSIS AS INTRODUCED:

750 ILCS 5/503	from Ch. 40, par. 503
750 ILCS 5/504	from Ch. 40, par. 504
750 ILCS 5/505	from Ch. 40, par. 505
750 ILCS 5/510	from Ch. 40, par. 510

Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that life insurance benefits deemed to be marital property must be allocated equitably between the parties by the court. Provides that a maintenance award ordered by a court may be secured by existing or court-ordered life insurance and, if applicable, that a judgment shall expressly set forth that payments for such insurance are excludable under the Internal Revenue Code from the gross income of the maintenance payee. Provides that in determining an award for child support, net income does not include life insurance premiums for life insurance ordered by the court to secure child support or maintenance. Provides that upon death of either party or remarriage of the party receiving maintenance, any obligation under the new provisions is terminated without a prior inconsistent agreement between the parties.

LRB097 00152 AJO 48352 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 Marriage and Dissolution of
5 Marriage Act is amended by changing Sections 503, 504, 505, and
6 510 as follows:

7 (750 ILCS 5/503) (from Ch. 40, par. 503)

8 Sec. 503. Disposition of property.

9 (a) For purposes of this Act, "marital property" means all
10 property acquired by either spouse subsequent to the marriage,
11 except the following, which is known as "non-marital property":

12 (1) property acquired by gift, legacy or descent;

13 (2) property acquired in exchange for property
14 acquired before the marriage or in exchange for property
15 acquired by gift, legacy or descent;

16 (3) property acquired by a spouse after a judgment of
17 legal separation;

18 (4) property excluded by valid agreement of the
19 parties;

20 (5) any judgment or property obtained by judgment
21 awarded to a spouse from the other spouse;

22 (6) property acquired before the marriage;

23 (7) the increase in value of property acquired by a

1 method listed in paragraphs (1) through (6) of this
2 subsection, irrespective of whether the increase results
3 from a contribution of marital property, non-marital
4 property, the personal effort of a spouse, or otherwise,
5 subject to the right of reimbursement provided in
6 subsection (c) of this Section; and

7 (8) income from property acquired by a method listed in
8 paragraphs (1) through (7) of this subsection if the income
9 is not attributable to the personal effort of a spouse.

10 (b) (1) For purposes of distribution of property pursuant to
11 this Section, all property acquired by either spouse after the
12 marriage and before a judgment of dissolution of marriage or
13 declaration of invalidity of marriage, including non-marital
14 property transferred into some form of co-ownership between the
15 spouses, is presumed to be marital property, regardless of
16 whether title is held individually or by the spouses in some
17 form of co-ownership such as joint tenancy, tenancy in common,
18 tenancy by the entirety, or community property. The presumption
19 of marital property is overcome by a showing that the property
20 was acquired by a method listed in subsection (a) of this
21 Section.

22 (2) For purposes of distribution of property pursuant to
23 this Section, all pension benefits (including pension benefits
24 under the Illinois Pension Code) acquired by either spouse
25 after the marriage and before a judgment of dissolution of
26 marriage or declaration of invalidity of the marriage are

1 presumed to be marital property, regardless of which spouse
2 participates in the pension plan. The presumption that these
3 pension benefits are marital property is overcome by a showing
4 that the pension benefits were acquired by a method listed in
5 subsection (a) of this Section. The right to a division of
6 pension benefits in just proportions under this Section is
7 enforceable under Section 1-119 of the Illinois Pension Code.

8 The value of pension benefits in a retirement system
9 subject to the Illinois Pension Code shall be determined in
10 accordance with the valuation procedures established by the
11 retirement system.

12 The recognition of pension benefits as marital property and
13 the division of those benefits pursuant to a Qualified Illinois
14 Domestic Relations Order shall not be deemed to be a
15 diminishment, alienation, or impairment of those benefits. The
16 division of pension benefits is an allocation of property in
17 which each spouse has a species of common ownership.

18 (3) For purposes of distribution of property under this
19 Section, all stock options granted to either spouse after the
20 marriage and before a judgment of dissolution of marriage or
21 declaration of invalidity of marriage, whether vested or
22 non-vested or whether their value is ascertainable, are
23 presumed to be marital property. This presumption of marital
24 property is overcome by a showing that the stock options were
25 acquired by a method listed in subsection (a) of this Section.
26 The court shall allocate stock options between the parties at

1 the time of the judgment of dissolution of marriage or
2 declaration of invalidity of marriage recognizing that the
3 value of the stock options may not be then determinable and
4 that the actual division of the options may not occur until a
5 future date. In making the allocation between the parties, the
6 court shall consider, in addition to the factors set forth in
7 subsection (d) of this Section, the following:

8 (i) All circumstances underlying the grant of the stock
9 option including but not limited to whether the grant was
10 for past, present, or future efforts, or any combination
11 thereof.

12 (ii) The length of time from the grant of the option to
13 the time the option is exercisable.

14 (b-5) As to any policy of life insurance insuring the life
15 of either spouse, or any interest in such policy, that
16 constitutes marital property, whether whole life, term life,
17 group term life, universal life, or other form of life
18 insurance policy, and whether or not the value is
19 ascertainable, the court shall allocate ownership, death
20 benefits or the right to assign death benefits, and the
21 obligation for premium payments, if any, equitably between the
22 parties at the time of the judgment for dissolution or
23 declaration of invalidity of marriage.

24 (c) Commingled marital and non-marital property shall be
25 treated in the following manner, unless otherwise agreed by the
26 spouses:

1 (1) When marital and non-marital property are
2 commingled by contributing one estate of property into
3 another resulting in a loss of identity of the contributed
4 property, the classification of the contributed property
5 is transmuted to the estate receiving the contribution,
6 subject to the provisions of paragraph (2) of this
7 subsection; provided that if marital and non-marital
8 property are commingled into newly acquired property
9 resulting in a loss of identity of the contributing
10 estates, the commingled property shall be deemed
11 transmuted to marital property, subject to the provisions
12 of paragraph (2) of this subsection.

13 (2) When one estate of property makes a contribution to
14 another estate of property, or when a spouse contributes
15 personal effort to non-marital property, the contributing
16 estate shall be reimbursed from the estate receiving the
17 contribution notwithstanding any transmutation; provided,
18 that no such reimbursement shall be made with respect to a
19 contribution which is not retraceable by clear and
20 convincing evidence, or was a gift, or, in the case of a
21 contribution of personal effort of a spouse to non-marital
22 property, unless the effort is significant and results in
23 substantial appreciation of the non-marital property.
24 Personal effort of a spouse shall be deemed a contribution
25 by the marital estate. The court may provide for
26 reimbursement out of the marital property to be divided or

1 by imposing a lien against the non-marital property which
2 received the contribution.

3 (d) In a proceeding for dissolution of marriage or
4 declaration of invalidity of marriage, or in a proceeding for
5 disposition of property following dissolution of marriage by a
6 court which lacked personal jurisdiction over the absent spouse
7 or lacked jurisdiction to dispose of the property, the court
8 shall assign each spouse's non-marital property to that spouse.
9 It also shall divide the marital property without regard to
10 marital misconduct in just proportions considering all
11 relevant factors, including:

12 (1) the contribution of each party to the acquisition,
13 preservation, or increase or decrease in value of the
14 marital or non-marital property, including (i) any such
15 decrease attributable to a payment deemed to have been an
16 advance from the parties' marital estate under subsection
17 (c-1)(2) of Section 501 and (ii) the contribution of a
18 spouse as a homemaker or to the family unit;

19 (2) the dissipation by each party of the marital or
20 non-marital property;

21 (3) the value of the property assigned to each spouse;

22 (4) the duration of the marriage;

23 (5) the relevant economic circumstances of each spouse
24 when the division of property is to become effective,
25 including the desirability of awarding the family home, or
26 the right to live therein for reasonable periods, to the

1 spouse having custody of the children;

2 (6) any obligations and rights arising from a prior
3 marriage of either party;

4 (7) any antenuptial agreement of the parties;

5 (8) the age, health, station, occupation, amount and
6 sources of income, vocational skills, employability,
7 estate, liabilities, and needs of each of the parties;

8 (9) the custodial provisions for any children;

9 (10) whether the apportionment is in lieu of or in
10 addition to maintenance;

11 (11) the reasonable opportunity of each spouse for
12 future acquisition of capital assets and income; and

13 (12) the tax consequences of the property division upon
14 the respective economic circumstances of the parties.

15 (e) Each spouse has a species of common ownership in the
16 marital property which vests at the time dissolution
17 proceedings are commenced and continues only during the
18 pendency of the action. Any such interest in marital property
19 shall not encumber that property so as to restrict its
20 transfer, assignment or conveyance by the title holder unless
21 such title holder is specifically enjoined from making such
22 transfer, assignment or conveyance.

23 (f) In a proceeding for dissolution of marriage or
24 declaration of invalidity of marriage or in a proceeding for
25 disposition of property following dissolution of marriage by a
26 court that lacked personal jurisdiction over the absent spouse

1 or lacked jurisdiction to dispose of the property, the court,
2 in determining the value of the marital and non-marital
3 property for purposes of dividing the property, shall value the
4 property as of the date of trial or some other date as close to
5 the date of trial as is practicable.

6 (g) The court if necessary to protect and promote the best
7 interests of the children may set aside a portion of the
8 jointly or separately held estates of the parties in a separate
9 fund or trust for the support, maintenance, education, physical
10 and mental health, and general welfare of any minor, dependent,
11 or incompetent child of the parties. In making a determination
12 under this subsection, the court may consider, among other
13 things, the conviction of a party of any of the offenses set
14 forth in Section 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-13,
15 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 if
16 the victim is a child of one or both of the parties, and there
17 is a need for, and cost of, care, healing and counseling for
18 the child who is the victim of the crime.

19 (h) Unless specifically directed by a reviewing court, or
20 upon good cause shown, the court shall not on remand consider
21 any increase or decrease in the value of any "marital" or
22 "non-marital" property occurring since the assessment of such
23 property at the original trial or hearing, but shall use only
24 that assessment made at the original trial or hearing.

25 (i) The court may make such judgments affecting the marital
26 property as may be just and may enforce such judgments by

1 ordering a sale of marital property, with proceeds therefrom to
2 be applied as determined by the court.

3 (j) After proofs have closed in the final hearing on all
4 other issues between the parties (or in conjunction with the
5 final hearing, if all parties so stipulate) and before judgment
6 is entered, a party's petition for contribution to fees and
7 costs incurred in the proceeding shall be heard and decided, in
8 accordance with the following provisions:

9 (1) A petition for contribution, if not filed before
10 the final hearing on other issues between the parties,
11 shall be filed no later than 30 days after the closing of
12 proofs in the final hearing or within such other period as
13 the court orders.

14 (2) Any award of contribution to one party from the
15 other party shall be based on the criteria for division of
16 marital property under this Section 503 and, if maintenance
17 has been awarded, on the criteria for an award of
18 maintenance under Section 504.

19 (3) The filing of a petition for contribution shall not
20 be deemed to constitute a waiver of the attorney-client
21 privilege between the petitioning party and current or
22 former counsel; and such a waiver shall not constitute a
23 prerequisite to a hearing for contribution. If either
24 party's presentation on contribution, however, includes
25 evidence within the scope of the attorney-client
26 privilege, the disclosure or disclosures shall be narrowly

1 construed and shall not be deemed by the court to
2 constitute a general waiver of the privilege as to matters
3 beyond the scope of the presentation.

4 (4) No finding on which a contribution award is based
5 or denied shall be asserted against counsel or former
6 counsel for purposes of any hearing under subsection (c) or
7 (e) of Section 508.

8 (5) A contribution award (payable to either the
9 petitioning party or the party's counsel, or jointly, as
10 the court determines) may be in the form of either a set
11 dollar amount or a percentage of fees and costs (or a
12 portion of fees and costs) to be subsequently agreed upon
13 by the petitioning party and counsel or, alternatively,
14 thereafter determined in a hearing pursuant to subsection
15 (c) of Section 508 or previously or thereafter determined
16 in an independent proceeding under subsection (e) of
17 Section 508.

18 (6) The changes to this Section 503 made by this
19 amendatory Act of 1996 apply to cases pending on or after
20 June 1, 1997, except as otherwise provided in Section 508.

21 (Source: P.A. 95-374, eff. 1-1-08; 96-583, eff. 1-1-10.)

22 (750 ILCS 5/504) (from Ch. 40, par. 504)
23 Sec. 504. Maintenance.

24 (a) In a proceeding for dissolution of marriage or legal
25 separation or declaration of invalidity of marriage, or a

1 proceeding for maintenance following dissolution of the
2 marriage by a court which lacked personal jurisdiction over the
3 absent spouse, the court may grant a temporary or permanent
4 maintenance award for either spouse in amounts and for periods
5 of time as the court deems just, without regard to marital
6 misconduct, in gross or for fixed or indefinite periods of
7 time, and the maintenance may be paid from the income or
8 property of the other spouse after consideration of all
9 relevant factors, including:

10 (1) the income and property of each party, including
11 marital property apportioned and non-marital property
12 assigned to the party seeking maintenance;

13 (2) the needs of each party;

14 (3) the present and future earning capacity of each
15 party;

16 (4) any impairment of the present and future earning
17 capacity of the party seeking maintenance due to that party
18 devoting time to domestic duties or having forgone or
19 delayed education, training, employment, or career
20 opportunities due to the marriage;

21 (5) the time necessary to enable the party seeking
22 maintenance to acquire appropriate education, training,
23 and employment, and whether that party is able to support
24 himself or herself through appropriate employment or is the
25 custodian of a child making it appropriate that the
26 custodian not seek employment;

1 (6) the standard of living established during the
2 marriage;

3 (7) the duration of the marriage;

4 (8) the age and the physical and emotional condition of
5 both parties;

6 (9) the tax consequences of the property division upon
7 the respective economic circumstances of the parties;

8 (10) contributions and services by the party seeking
9 maintenance to the education, training, career or career
10 potential, or license of the other spouse;

11 (11) any valid agreement of the parties; and

12 (12) any other factor that the court expressly finds to
13 be just and equitable.

14 (b) (Blank).

15 (b-5) Any maintenance obligation including any unallocated
16 maintenance and child support obligation, or any portion of any
17 support obligation, that becomes due and remains unpaid shall
18 accrue simple interest as set forth in Section 505 of this Act.

19 (b-7) Any new or existing maintenance order including any
20 unallocated maintenance and child support order entered by the
21 court under this Section shall be deemed to be a series of
22 judgments against the person obligated to pay support
23 thereunder. Each such judgment to be in the amount of each
24 payment or installment of support and each such judgment to be
25 deemed entered as of the date the corresponding payment or
26 installment becomes due under the terms of the support order,

1 except no judgment shall arise as to any installment coming due
2 after the termination of maintenance as provided by Section 510
3 of the Illinois Marriage and Dissolution of Marriage Act or the
4 provisions of any order for maintenance. Each such judgment
5 shall have the full force, effect and attributes of any other
6 judgment of this State, including the ability to be enforced. A
7 lien arises by operation of law against the real and personal
8 property of the obligor for each installment of overdue support
9 owed by the obligor.

10 (c) The court may grant and enforce the payment of
11 maintenance during the pendency of an appeal as the court shall
12 deem reasonable and proper.

13 (d) No maintenance shall accrue during the period in which
14 a party is imprisoned for failure to comply with the court's
15 order for the payment of such maintenance.

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

25 (f) An award ordered by a court may be reasonably secured,
26 in whole or in part, by life insurance on the payor's life on

1 terms as to which the parties agree, or, if they do not agree,
2 on such terms determined by the court, subject to the
3 following:

4 (1) With respect to existing life insurance, provided
5 the court is apprised through evidence, stipulation, or
6 otherwise as to level of death benefits, premium, and other
7 relevant data and makes findings relative thereto, the
8 court may allocate death benefits, the right to assign
9 death benefits, or the obligation for future premium
10 payments between the parties as it deems just.

11 (2) To the extent the court determines that its award
12 should be secured, in whole or in part, by new life
13 insurance on the payor's life, the court may only order:

14 (i) that the payor cooperate on all appropriate
15 steps for the payee to obtain such new life insurance;

16 and

17 (ii) that the payee, at his or her sole option and
18 expense, may obtain such new life insurance on the
19 payor's life up to a maximum level of death benefit
20 coverage, or descending death benefit coverage, as is
21 set by the court, such level not to exceed a reasonable
22 amount in light of the court's award, with the payee or
23 the payee's designee being the beneficiary of such life
24 insurance.

25 (3) A judgment shall expressly set forth that all death
26 benefits paid under life insurance on a payor's life

1 maintained or obtained pursuant to this subsection to
2 secure maintenance are designated as excludable from the
3 gross income of the maintenance payee under Section
4 71(b)(1)(B) of the Internal Revenue Code, unless an
5 agreement or stipulation of the parties otherwise
6 provides.

7 (Source: P.A. 94-89, eff. 1-1-06.)

8 (750 ILCS 5/505) (from Ch. 40, par. 505)

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

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

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

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

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

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

18 (b) the financial resources and needs of the
 19 custodial parent;

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

22 (d) the physical and emotional condition of the
 23 child, and his educational needs; and

24 (e) the financial resources and needs of the
 25 non-custodial parent.

26 If the court deviates from the guidelines, the court's

1 finding shall state the amount of support that would have
2 been required under the guidelines, if determinable. The
3 court shall include the reason or reasons for the variance
4 from the guidelines.

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

7 (a) Federal income tax (properly calculated
8 withholding or estimated payments);

9 (b) State income tax (properly calculated
10 withholding or estimated payments);

11 (c) Social Security (FICA payments);

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

14 (e) Union dues;

15 (f) Dependent and individual
16 health/hospitalization insurance premiums and life
17 insurance premiums for life insurance ordered by the
18 court to reasonably secure child support or support
19 ordered pursuant to Section 513, any such order to
20 entail provisions on which the parties agree or,
21 otherwise, in accordance with the limitations set
22 forth in subsection 504(f) (1) and (2);

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

25 (h) Expenditures for repayment of debts that
26 represent reasonable and necessary expenses for the

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

10 (i) Foster care payments paid by the Department of
11 Children and Family Services for providing licensed
12 foster care to a foster child.

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

22 (4.5) In a proceeding for child support following
23 dissolution of the marriage by a court that lacked personal
24 jurisdiction over the absent spouse, and in which the court
25 is requiring payment of support for the period before the
26 date an order for current support is entered, there is a

1 rebuttable presumption that the supporting party's net
2 income for the prior period was the same as his or her net
3 income at the time the order for current support is
4 entered.

5 (5) If the net income cannot be determined because of
6 default or any other reason, the court shall order support
7 in an amount considered reasonable in the particular case.
8 The final order in all cases shall state the support level
9 in dollar amounts. However, if the court finds that the
10 child support amount cannot be expressed exclusively as a
11 dollar amount because all or a portion of the payor's net
12 income is uncertain as to source, time of payment, or
13 amount, the court may order a percentage amount of support
14 in addition to a specific dollar amount and enter such
15 other orders as may be necessary to determine and enforce,
16 on a timely basis, the applicable support ordered.

17 (6) If (i) the non-custodial parent was properly served
18 with a request for discovery of financial information
19 relating to the non-custodial parent's ability to provide
20 child support, (ii) the non-custodial parent failed to
21 comply with the request, despite having been ordered to do
22 so by the court, and (iii) the non-custodial parent is not
23 present at the hearing to determine support despite having
24 received proper notice, then any relevant financial
25 information concerning the non-custodial parent's ability
26 to provide child support that was obtained pursuant to

1 subpoena and proper notice shall be admitted into evidence
2 without the need to establish any further foundation for
3 its admission.

4 (a-5) In an action to enforce an order for support based on
5 the respondent's failure to make support payments as required
6 by the order, notice of proceedings to hold the respondent in
7 contempt for that failure may be served on the respondent by
8 personal service or by regular mail addressed to the
9 respondent's last known address. The respondent's last known
10 address may be determined from records of the clerk of the
11 court, from the Federal Case Registry of Child Support Orders,
12 or by any other reasonable means.

13 (b) Failure of either parent to comply with an order to pay
14 support shall be punishable as in other cases of contempt. In
15 addition to other penalties provided by law the Court may,
16 after finding the parent guilty of contempt, order that the
17 parent be:

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

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

24 (A) work; or

25 (B) conduct a business or other self-employed
26 occupation.

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

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

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

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

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

26 With respect to assets which are real property, no order

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

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

1 parent.

2 In addition to the penalties or punishment that may be
3 imposed under this Section, any person whose conduct
4 constitutes a violation of Section 15 of the Non-Support
5 Punishment Act may be prosecuted under that Act, and a person
6 convicted under that Act may be sentenced in accordance with
7 that Act. The sentence may include but need not be limited to a
8 requirement that the person perform community service under
9 Section 50 of that Act or participate in a work alternative
10 program under Section 50 of that Act. A person may not be
11 required to participate in a work alternative program under
12 Section 50 of that Act if the person is currently participating
13 in a work program pursuant to Section 505.1 of this Act.

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

1 Procedure. Failure to include the statement in the order for
2 support does not affect the validity of the order or the
3 accrual of interest as provided in this Section.

4 (c) A one-time charge of 20% is imposable upon the amount
5 of past-due child support owed on July 1, 1988 which has
6 accrued under a support order entered by the court. The charge
7 shall be imposed in accordance with the provisions of Section
8 10-21 of the Illinois Public Aid Code and shall be enforced by
9 the court upon petition.

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

22 (e) When child support is to be paid through the clerk of
23 the court in a county of 1,000,000 inhabitants or less, the
24 order shall direct the obligor to pay to the clerk, in addition
25 to the child support payments, all fees imposed by the county
26 board under paragraph (3) of subsection (u) of Section 27.1 of

1 the Clerks of Courts Act. Unless paid in cash or pursuant to an
2 order for withholding, the payment of the fee shall be by a
3 separate instrument from the support payment and shall be made
4 to the order of the Clerk.

5 (f) All orders for support, when entered or modified, shall
6 include a provision requiring the obligor to notify the court
7 and, in cases in which a party is receiving child and spouse
8 services under Article X of the Illinois Public Aid Code, the
9 Department of Healthcare and Family Services, within 7 days,
10 (i) of the name and address of any new employer of the obligor,
11 (ii) whether the obligor has access to health insurance
12 coverage through the employer or other group coverage and, if
13 so, the policy name and number and the names of persons covered
14 under the policy, and (iii) of any new residential or mailing
15 address 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 (g) 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 (g-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 this Act.

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

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

11 (Source: P.A. 95-331, eff. 8-21-07; 96-1134, eff. 7-21-10.)

12 (750 ILCS 5/510) (from Ch. 40, par. 510)

13 Sec. 510. Modification and termination of provisions for
14 maintenance, support, educational expenses, and property
15 disposition.

16 (a) Except as otherwise provided in paragraph (f) of
17 Section 502 and in subsection (b), clause (3) of Section 505.2,
18 the provisions of any judgment respecting maintenance or
19 support may be modified only as to installments accruing
20 subsequent to due notice by the moving party of the filing of
21 the motion for modification. An order for child support may be
22 modified as follows:

23 (1) upon a showing of a substantial change in
24 circumstances; and

25 (2) without the necessity of showing a substantial

1 change in circumstances, as follows:

2 (A) upon a showing of an inconsistency of at least
3 20%, but no less than \$10 per month, between the amount
4 of the existing order and the amount of child support
5 that results from application of the guidelines
6 specified in Section 505 of this Act unless the
7 inconsistency is due to the fact that the amount of the
8 existing order resulted from a deviation from the
9 guideline amount and there has not been a change in the
10 circumstances that resulted in that deviation; or

11 (B) Upon a showing of a need to provide for the
12 health care needs of the child under the order through
13 health insurance or other means. In no event shall the
14 eligibility for or receipt of medical assistance be
15 considered to meet the need to provide for the child's
16 health care needs.

17 The provisions of subparagraph (a)(2)(A) shall apply only
18 in cases in which a party is receiving child support
19 enforcement services from the Department of Healthcare and
20 Family Services under Article X of the Illinois Public Aid
21 Code, and only when at least 36 months have elapsed since the
22 order for child support was entered or last modified.

23 (a-5) An order for maintenance may be modified or
24 terminated only upon a showing of a substantial change in
25 circumstances. In all such proceedings, as well as in
26 proceedings in which maintenance is being reviewed, the court

1 shall consider the applicable factors set forth in subsection
2 (a) of Section 504 and the following factors:

3 (1) any change in the employment status of either party
4 and whether the change has been made in good faith;

5 (2) the efforts, if any, made by the party receiving
6 maintenance to become self-supporting, and the
7 reasonableness of the efforts where they are appropriate;

8 (3) any impairment of the present and future earning
9 capacity of either party;

10 (4) the tax consequences of the maintenance payments
11 upon the respective economic circumstances of the parties;

12 (5) the duration of the maintenance payments
13 previously paid (and remaining to be paid) relative to the
14 length of the marriage;

15 (6) the property, including retirement benefits,
16 awarded to each party under the judgment of dissolution of
17 marriage, judgment of legal separation, or judgment of
18 declaration of invalidity of marriage and the present
19 status of the property;

20 (7) the increase or decrease in each party's income
21 since the prior judgment or order from which a review,
22 modification, or termination is being sought;

23 (8) the property acquired and currently owned by each
24 party after the entry of the judgment of dissolution of
25 marriage, judgment of legal separation, or judgment of
26 declaration of invalidity of marriage; and

1 (9) any other factor that the court expressly finds to
2 be just and equitable.

3 (b) The provisions as to property disposition may not be
4 revoked or modified, unless the court finds the existence of
5 conditions that justify the reopening of a judgment under the
6 laws of this State.

7 (c) Unless otherwise agreed by the parties in a written
8 agreement set forth in the judgment or otherwise approved by
9 the court, the obligation to pay future maintenance is
10 terminated upon the death of either party, or the remarriage of
11 the party receiving maintenance, or if the party receiving
12 maintenance cohabits with another person on a resident,
13 continuing conjugal basis. Any obligation of a payor party for
14 premium payments respecting insurance on such party's life
15 imposed under subsection (f) of Section 504 is also terminated
16 on the occurrence of any of the foregoing events, unless
17 otherwise agreed by the parties. Any termination of an
18 obligation for maintenance as a result of the death of the
19 payor party, however, shall be inapplicable to any right of the
20 other party or such other party's designee to receive a death
21 benefit under such insurance on the payor party's life.

22 (d) Unless otherwise provided in this Act, or as agreed in
23 writing or expressly provided in the judgment, provisions for
24 the support of a child are terminated by emancipation of the
25 child, or if the child has attained the age of 18 and is still
26 attending high school, provisions for the support of the child

1 are terminated upon the date that the child graduates from high
2 school or the date the child attains the age of 19, whichever
3 is earlier, but not by the death of a parent obligated to
4 support or educate the child. An existing obligation to pay for
5 support or educational expenses, or both, is not terminated by
6 the death of a parent. When a parent obligated to pay support
7 or educational expenses, or both, dies, the amount of support
8 or educational expenses, or both, may be enforced, modified,
9 revoked or commuted to a lump sum payment, as equity may
10 require, and that determination may be provided for at the time
11 of the dissolution of the marriage or thereafter.

12 (e) The right to petition for support or educational
13 expenses, or both, under Sections 505 and 513 is not
14 extinguished by the death of a parent. Upon a petition filed
15 before or after a parent's death, the court may award sums of
16 money out of the decedent's estate for the child's support or
17 educational expenses, or both, as equity may require. The time
18 within which a claim may be filed against the estate of a
19 decedent under Sections 505 and 513 and subsection (d) and this
20 subsection shall be governed by the provisions of the Probate
21 Act of 1975, as a barrable, noncontingent claim.

22 (f) A petition to modify or terminate child support,
23 custody, or visitation shall not delay any child support
24 enforcement litigation or supplementary proceeding on behalf
25 of the obligee, including, but not limited to, a petition for a
26 rule to show cause, for non-wage garnishment, or for a

1 restraining order.

2 (Source: P.A. 95-331, eff. 8-21-07.)