



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3982

by Rep. Kelly Burke

SYNOPSIS AS INTRODUCED:

750 ILCS 5/505
750 ILCS 5/510

from Ch. 40, par. 505
from Ch. 40, par. 510

Amends the Illinois Marriage and Dissolution of Marriage Act. Deletes provisions concerning child support award guidelines, income calculation for child support purposes, and allocation of other child-related expenses. Provides that the Department of Healthcare and Family Services shall promulgate guidelines and worksheets for the purpose of calculating child support guidelines, and that the court shall apply the guidelines unless the court determines, after weighing specified factors, that application of the guidelines would be inappropriate. Adds provisions concerning child support purposes and applicability, duty of support, income calculation for support purposes, minimum orders, deviation factors, shared parenting, split care, allocation of other child-related expenses, and modification of support orders. Contains applicability language.

LRB099 03583 HEP 31770 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 505 and 510 as
6 follows:

7 (750 ILCS 5/505) (from Ch. 40, par. 505)

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

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

1 "child" shall include any child under age 18 and any child
2 ~~under~~ age 19 or younger who is still attending high school.

3 (1) Child support guidelines. The Department of
4 Healthcare and Family Services shall adopt rules
5 establishing child support guidelines which include
6 worksheets to aid in the calculation of the child support
7 award and a table that reflects the percentage of combined
8 net income that parents living in the same household in
9 this State ordinarily spend on their children. The child
10 support guidelines have the following purposes:

11 (A) to establish as State policy an adequate
12 standard of support for children, subject to the
13 ability of parents to pay;

14 (B) to make awards more equitable by ensuring more
15 consistent treatment of persons in similar
16 circumstances;

17 (C) to improve the efficiency of the court process
18 by promoting settlements and giving courts and the
19 parties guidance in establishing levels of awards;

20 (D) to calculate child support based upon the
21 parents' combined adjusted net income estimated to
22 have been allocated to the child if the parents and
23 children were living in an intact household;

24 (E) to adjust the child support based upon the
25 needs of the children; and

26 (F) to allocate the amount of child support to be

1 paid by each parent based upon the child support and
2 the child's physical care arrangements.

3 (2) Duty of support. The court shall award child
4 support in each case by applying the child support
5 guidelines unless the court makes a finding that
6 application of the guidelines would be inappropriate,
7 after considering the best interest of the child in light
8 of evidence which shows relevant factors including, but not
9 limited to, one or more of the following:

10 (A) the financial resources and needs of the child;

11 (B) the financial resources and needs of the
12 custodial parent;

13 (C) the standard of living the child would have
14 enjoyed had the marriage or civil union not been
15 dissolved;

16 (D) the physical and emotional condition of the
17 child and his or her educational needs; and

18 (E) the financial resources and needs of the
19 noncustodial parent.

20 (3) Income.

21 (A) As used in this Section, "gross income" means
22 the total of all income from all sources, except "gross
23 income" does not include (i) benefits received by the
24 parent from means-tested public assistance programs,
25 including, but not limited to, Temporary Assistance to
26 Needy Families, Supplemental Security Income, and the

1 Supplemental Nutrition Assistance Program or (ii)
2 benefits and income received by the parent for other
3 children in the household, including, but not limited
4 to, child support, survivor benefits, and foster care
5 payments. Social security disability and retirement
6 benefits paid for the benefit of the subject child must
7 be included in the disabled or retired parent's gross
8 income for purposes of calculating the parent's child
9 support obligation, but the parent is entitled to a
10 child support credit for the amount of benefits paid to
11 the other parent for the child. Spousal support or
12 spousal maintenance received pursuant to a court order
13 in the pending proceedings or any other proceedings
14 must be included in the recipient's gross income for
15 purposes of calculating the parent's child support
16 obligation.

17 (B) As used in this Section, "net income" means
18 gross income minus either the standardized tax amount
19 calculated pursuant to subparagraph (C) of this
20 paragraph (3) or the individualized tax amount
21 calculated pursuant to subparagraph (D) of this
22 paragraph (3), and minus any adjustments pursuant to
23 subparagraph (F) of this paragraph (3). The
24 standardized tax amount shall be used unless the
25 requirements for an individualized tax amount set
26 forth in subparagraph (F) of this paragraph (3) are

1 met.

2 (C) As used in this Section, "standardized tax
3 amount" means the total of federal and state income
4 taxes for a single person claiming the standard tax
5 deduction, one personal exemption, and the applicable
6 number of dependency exemptions for the minor child or
7 children of the parties, and Social Security tax and
8 Medicaid tax calculated at the Federal Insurance
9 Contributions Act rate.

10 (I) Unless a court has previously determined
11 otherwise or the parties otherwise agree, the
12 custodial parent shall be deemed entitled to claim
13 the dependency exemption for the parties' minor
14 child or children.

15 (II) The Department of Healthcare and Family
16 Services shall promulgate a chart that computes
17 net income by deducting the standardized tax
18 amount from gross income.

19 (D) As used in this Section, "individualized tax
20 amount" means the aggregate of the following taxes:

21 (I) federal income tax (properly calculated
22 withholding or estimated payments);

23 (II) State income tax (properly calculated
24 withholding or estimated payments); and

25 (III) Social Security (or, if none, mandatory
26 retirement contributions required by law or as a

1 condition of employment) and Medicare tax
2 calculated at the Federal Insurance Contributions
3 Act rate.

4 (E) In lieu of a standardized tax amount, a
5 determination of an individualized tax amount may be
6 made under items (I), (II), or (III) below. If an
7 individualized tax amount determination is made under
8 this subparagraph (E), all relevant tax attributes
9 (including filing status, allocation of dependency
10 exemptions, and whether a party is to claim the
11 standard deduction or itemized deductions for federal
12 income tax purposes) shall be as the parties agree or
13 as the court determines. To determine a party's
14 reported income, the court may order the party to
15 complete an Internal Revenue Service Form 4506-T,
16 Request for Tax Transcript.

17 (I) Agreement. Irrespective of whether the
18 parties agree on any other issue before the court,
19 if they jointly stipulate for the record their
20 concurrence on a computation method for the
21 individualized tax amount that is different from
22 the method set forth under subparagraph (D), the
23 stipulated method shall be used by the court unless
24 the court rejects the proposed stipulated method
25 for good cause.

26 (II) Summary hearing. If the court determines

1 child support in a summary hearing under Section
2 501 and an eligible party opts in to the
3 computation method under this item (II), the
4 individualized tax amount shall be determined by
5 the court on the basis of information contained in
6 one or both parties' financial disclosure
7 statement, financial affidavit, or similar
8 instrument and relevant supporting documents under
9 applicable court rules. No party, however, is
10 eligible to opt in unless the party, under
11 applicable rules, has served the other party with
12 the required statement, affidavit, or other
13 instrument and has also substantially turned over
14 supporting documents to the extent required by the
15 applicable rule at the time of service of the
16 statement, affidavit, or other instrument.

17 (III) Evidentiary hearing. If the court
18 determines child support in an evidentiary
19 hearing, whether for purposes of a temporary order
20 or at the conclusion of a proceeding, item (II) of
21 this subparagraph (E) does not apply. In each such
22 case (unless item (I) governs), the individualized
23 tax amount shall be as determined by the court on
24 the basis of the record established.

25 (F) Adjustments to gross income.

26 (I) If a parent also is legally responsible for

1 support of children not shared with the other
2 parent and not subject to the present proceeding,
3 there shall be an adjustment to gross income as
4 follows:

5 (i) The amount of child support actually
6 paid by the parent pursuant to a support order
7 shall be deducted from the parent's gross
8 income.

9 (ii) The amount of financial support
10 actually paid by the parent for children living
11 in or outside of that parent's household or 75%
12 of the support the parent would pay under the
13 child support guidelines, whichever is less,
14 shall be deducted from that parent's gross
15 income.

16 (II) Obligations pursuant to a court order for
17 maintenance in the pending proceeding actually
18 paid or payable under Section 504 to the same party
19 to whom child support is to be payable shall be
20 deducted from the parent's gross income.

21 (3.1) Business income. For purposes of calculating
22 child support, net business income from the operation of a
23 business means gross receipts minus ordinary and necessary
24 expenses required to carry on the trade or business. As
25 used in this paragraph, "business" includes, but is not
26 limited to, sole proprietorships, closely held

1 corporations, partnerships, other flow-through business
2 entities, and self-employment. The court shall apply the
3 following:

4 (A) The accelerated component of depreciation and
5 any business expenses determined either judicially or
6 administratively to be inappropriate or excessive
7 shall be excluded from the total of ordinary and
8 necessary business expenses to be deducted in the
9 determination of net business income from gross
10 business income.

11 (B) Any item of reimbursement or in-kind payment
12 received by a parent from the business, including, but
13 not limited to, a company car, free housing or a
14 housing allowance, or reimbursed meals, shall be
15 counted as income if not otherwise included in the
16 recipient's gross income, if the item is significant in
17 amount and reduces personal expenses.

18 (3.2) Unemployment or underemployment. If a parent is
19 voluntarily unemployed or underemployed, child support
20 shall be calculated based on a determination of potential
21 income. A determination of potential income shall be made
22 by determining employment potential and probable earnings
23 level based on the obligor's work history, occupational
24 qualifications, prevailing job opportunities, the
25 ownership by a parent of a substantial non-income producing
26 asset, and earnings levels in the community. If there is

1 insufficient work history to determine employment
2 potential and probable earnings level, there shall be a
3 rebuttable presumption that the parent's potential income
4 is 75% of the most recent United States Department of
5 Health and Human Services Federal Poverty Guidelines for a
6 family of one person.

7 (3.3) Minimum orders. There is a rebuttable
8 presumption in any judicial or administrative proceeding
9 for child support that the amount of the award which would
10 result from the application of the child support guidelines
11 is the correct amount of child support to be awarded.

12 There is a rebuttable presumption that a minimum child
13 support obligation of \$40 per month, per child, will be
14 entered for a payor parent who has actual or imputed income
15 at or less than 75% of the most recent United States
16 Department of Health and Human Services Federal Poverty
17 Guidelines for a family of one person, with a maximum total
18 child support obligation for that payor of \$120 per month
19 to be divided equally among all of the payor parent's
20 children.

21 For parents with no gross income, including those who
22 receive only means-tested assistance or who cannot work due
23 to a medically proven disability, incarceration, or
24 institutionalization, there is a rebuttable presumption
25 that the \$40 per month minimum support order is
26 inappropriate and a zero dollar order shall be entered.

1 (3.4) Deviation factors. In any action to establish or
2 modify child support, whether temporary or permanent, the
3 child support guidelines shall be used as a rebuttable
4 presumption for the establishment or modification of the
5 amount of child support. The court may deviate from the
6 child support guidelines if the application would be
7 inequitable, unjust, or inappropriate. Any deviation shall
8 be accompanied by written findings by the court specifying
9 the reasons for the deviation and the presumed amount under
10 the child support guidelines without a deviation. These
11 reasons may include:

12 (A) extraordinary medical expenditures necessary
13 to preserve the life or health of a party or a child of
14 either or both of the parties;

15 (B) additional expenses incurred for a child
16 subject to the child support order who has special
17 medical, physical, or developmental needs; and

18 (C) any other factor the court determines should be
19 applied upon a finding that the application of the
20 child support guidelines would be inappropriate, after
21 considering the best interest of the child.

22 (3.5) Income in excess of table. A court may use
23 discretion to determine child support if the combined
24 adjusted gross income exceeds the uppermost levels of the
25 schedule of basic child support obligations, except that
26 the presumptive basic child support obligation shall not be

1 less than it would be based on the highest level of
2 adjusted gross income set forth in the schedule of basic
3 child support obligations.

4 (3.6) Extracurricular activities and school expenses.
5 The court, in its discretion, in addition to the basic
6 child support obligation, may order either or both parents
7 owing a duty of support to the child to contribute to the
8 reasonable school and extracurricular activity expenses
9 incurred which are intended to enhance the educational,
10 athletic, social, or cultural development of the child.

11 (3.7) Child care expenses. The court, in its
12 discretion, in addition to the basic child support
13 obligation, may order either or both parents owing a duty
14 of support to the child to contribute to the reasonable
15 child care expenses of the child. The child care expenses
16 shall be made payable directly to a party or directly to
17 the child care provider at the time of services.

18 (A) As used in this paragraph (3.7), "child care
19 expenses" means actual annualized monthly child care
20 expenses reasonably necessary to enable a parent or
21 non-parent custodian to be employed, attend education
22 and training activities, or job search, and includes
23 after-school care and all work-related child care
24 expenses incurred while receiving education or
25 training to improve employment opportunities. "Child
26 care expenses" includes deposits for the retention of

1 securing placement in child care programs. "Child care
2 expenses" may include camps when school is not in
3 session. Parties may agree on additional day camps.
4 Child care expenses due to a child's special needs
5 shall be a consideration in determining reasonable
6 child care expenses for a child with special needs.

7 (B) Child care expenses shall be calculated as set
8 forth in this paragraph. Child care expenses shall be
9 prorated in proportion to each parent's percentage
10 share of combined parental net income, and added to the
11 basic child support obligation. The obligor's portion
12 of actual child care expenses shall appear in the
13 support order. The obligee's share of child care
14 expenses shall be paid by the obligee directly to the
15 child care provider.

16 (C) The amount of child care expenses shall be
17 adequate to obtain reasonable and necessary child
18 care. The family's actual child care expenses shall be
19 used to calculate the child care expense
20 contributions, if available. When actual child care
21 expenses vary, the actual child care expenses shall be
22 averaged over the most recent 12-month period. When the
23 parent is temporarily unemployed or temporarily not
24 attending school, then child care expenses shall be
25 based upon prospective expenses to be incurred upon
26 return to employment.

1 (D) An order for child care expenses may be
2 modified upon a showing of a substantial change in
3 circumstances. Persons incurring child care expenses
4 shall notify the obligor within 14 days of any change
5 in the amount of child care expenses that would affect
6 the annualized child care amount as determined in the
7 support order.

8 (3.8) Shared parenting. If each parent exercises 146 or
9 more overnights per year with the child, the basic child
10 support obligation is multiplied by 1.5 to calculate the
11 shared care child support obligation. The child support
12 obligation is then computed for each parent by multiplying
13 that parent's portion of the shared care support obligation
14 by the percentage of time the child spends with the other
15 parent. The respective child support obligations are then
16 offset, with the parent owing more child support paying the
17 difference between the 2 amounts. Child support for cases
18 with shared physical care are calculated using a child
19 support worksheet promulgated by the Department of
20 Healthcare and Family Services. An adjustment for shared
21 physical care is made only when each parent has the child
22 for 146 or more overnights per year.

23 (3.9) Split care. Split care refers to a situation in
24 which there is more than one child and each parent has
25 physical care of at least one but not all of the children.
26 In a split care situation, the support is calculated by

1 using 2 child support worksheets to determine the support
2 each parent owes the other. The resulting obligations are
3 then offset, with one parent owing the other the difference
4 as a child support order. The support shall be calculated
5 as follows:

6 (A) compute the support the first parent would owe
7 to other parent as if the child in his or her care was
8 the only child of the parties; then

9 (B) compute the support the other parent would owe
10 to the first parent as if the child in his or her care
11 were the only child of the parties; then

12 (C) subtract the lesser support obligation from
13 the greater.

14 The parent who owes the greater obligation shall be
15 ordered to pay the difference in support to the other
16 parent, unless the court determines, pursuant to other
17 provisions of this Section, that it should deviate from the
18 guidelines.

19 (4) Health care.

20 (A) A portion of the basic child support obligation
21 is intended to cover basic ordinary out-of-pocket
22 medical expenses. The court, in its discretion, in
23 addition to the basic child support obligation, shall
24 also provide for the child's current and future medical
25 needs by ordering either or both parents to initiate
26 health or medical coverage for the child through

1 currently effective health or medical insurance
2 policies held by the parent or parents, purchase either
3 or all of health or medical, dental, or vision
4 insurance policies for the child, or provide for the
5 child's current and future medical needs through some
6 other manner.

7 (B) The court, in its discretion, may also order
8 either or both parents to contribute to the reasonable
9 health care needs of the child not covered by
10 insurance, including, but not limited to, unreimbursed
11 medical, dental, orthodontic, or vision expenses and
12 any prescription medication for the child not covered
13 under the child's health or medical insurance.

14 (C) If neither parent has access to appropriate
15 private health care coverage, the court may order:

16 (I) one or both parents to provide health care
17 coverage at any time it becomes available at a
18 reasonable cost; or

19 (II) the parent with primary physical
20 responsibility for the child to apply for public
21 health care coverage for the child and the other
22 parent to pay a reasonable amount of the cost for
23 medical support.

24 If cash medical support is ordered, the order may
25 also provide that any time private health care coverage
26 is available at a reasonable cost to that party it will

1 be provided instead of cash medical support. As used in
2 this Section, "cash medical support" means an amount
3 ordered to be paid toward the cost of health insurance
4 provided by a public entity or by another person
5 through employment or otherwise or for other medical
6 costs not covered by insurance.

7 (D) The amount to be added to the basic child
8 support obligation shall be the actual amount of the
9 total insurance premium that is attributable to the
10 child who is the subject of the order. If this amount
11 is not available or cannot be verified, the total cost
12 of the premium shall be divided by the total number of
13 persons covered by the policy. The cost per person
14 derived from this calculation shall be multiplied by
15 the number of children who are the subject of the order
16 and who are covered under the policy. This amount shall
17 be added to the basic child support obligation and
18 shall be divided between the parents in proportion to
19 their adjusted gross incomes.

20 (E) After the health insurance premium for the
21 child is added to the basic child support obligation
22 and divided between the parents in proportion to their
23 respective incomes for child support purposes, if the
24 obligor is paying the premium, the amount calculated
25 for the obligee's share of the health insurance premium
26 for the child shall be deducted from the obligor's

1 share of the total child support obligation. If the
2 obligee is paying the premium, no further adjustment is
3 necessary.

4 (F) Prior to allowing the health insurance
5 adjustment, the parent requesting the adjustment must
6 submit proof that the child has been enrolled in a
7 health insurance plan and must submit proof of the cost
8 of the premium. The court shall require the parent
9 receiving the adjustment to annually submit proof of
10 continued coverage of the child to the child support
11 enforcement unit and to the other parent.

12 (G) A reasonable cost for providing health care
13 coverage for the child or children may not exceed 5% of
14 the providing parent's gross income. Parents with a net
15 income below 133% of the most recent United States
16 Department of Health and Human Services Federal
17 Poverty Guidelines or whose child is covered by
18 Medicaid based on that parent's income may not be
19 ordered to contribute toward or provide private
20 coverage, unless private coverage is obtainable
21 without any financial contribution by that parent.

22 (H) If dental or vision insurance is included as
23 part of the employer's medical plan, the coverage shall
24 be maintained for the child. If not included in the
25 employer's medical plan, adding the dental or vision
26 insurance for the child is at the discretion of the

1 court.

2 (I) If a parent has been directed to provide health
 3 insurance pursuant to this paragraph and that parent's
 4 spouse or legally recognized partner provides the
 5 insurance for the benefit of the child either directly
 6 or through employment, a credit on the child support
 7 worksheet shall be given to that parent in the same
 8 manner as if the premium were paid by that parent.

9 ~~(1) The Court shall determine the minimum amount of~~
 10 ~~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%

19 ~~(2) The above guidelines shall be applied in each case~~
 20 ~~unless the court finds that a deviation from the guidelines~~
 21 ~~is appropriate after considering the best interest of the~~
 22 ~~child in light of the evidence, including, but not limited~~
 23 ~~to, one or more of the following relevant factors:~~

- 24 ~~(a) the financial resources and needs of the child;~~
- 25 ~~(b) the financial resources and needs of the~~
- 26 ~~custodial parent;~~

1 ~~(c) the standard of living the child would have~~
2 ~~enjoyed had the marriage not been dissolved;~~

3 ~~(d) the physical, mental, and emotional needs of~~
4 ~~the child;~~

5 ~~(d 5) the educational needs of the child; and~~

6 ~~(e) the financial resources and needs of the~~
7 ~~non-custodial parent.~~

8 ~~If the court deviates from the guidelines, the court's~~
9 ~~finding shall state the amount of support that would have~~
10 ~~been required under the guidelines, if determinable. The~~
11 ~~court shall include the reason or reasons for the variance~~
12 ~~from the guidelines.~~

13 ~~(2.5) The court, in its discretion, in addition to~~
14 ~~setting child support pursuant to the guidelines and~~
15 ~~factors, may order either or both parents owing a duty of~~
16 ~~support to a child of the marriage to contribute to the~~
17 ~~following expenses, if determined by the court to be~~
18 ~~reasonable:~~

19 ~~(a) health needs not covered by insurance;~~

20 ~~(b) child care;~~

21 ~~(c) education; and~~

22 ~~(d) extracurricular activities.~~

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

25 ~~(a) Federal income tax (properly calculated~~
26 ~~withholding or estimated payments);~~

1 ~~(b) State income tax (properly calculated~~
2 ~~withholding or estimated payments);~~

3 ~~(c) Social Security (FICA payments);~~

4 ~~(d) Mandatory retirement contributions required by~~
5 ~~law or as a condition of employment;~~

6 ~~(e) Union dues;~~

7 ~~(f) Dependent and individual~~
8 ~~health/hospitalization insurance premiums and premiums~~
9 ~~for life insurance ordered by the court to reasonably~~
10 ~~secure payment of ordered child support;~~

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

13 ~~(g-5) Obligations pursuant to a court order for~~
14 ~~maintenance in the pending proceeding actually paid or~~
15 ~~payable under Section 504 to the same party to whom~~
16 ~~child support is to be payable;~~

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 ~~(i) Foster care payments paid by the Department of~~
3 ~~Children and Family Services for providing licensed~~
4 ~~foster care to a foster child.~~

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

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

23 (5) If the net income cannot be determined because of
24 default or any other reason, the court shall order support
25 in an amount considered reasonable in the particular case.
26 The final order in all cases shall state the support level

1 in dollar amounts. However, if the court finds that the
2 child support amount cannot be expressed exclusively as a
3 dollar amount because all or a portion of the payor's net
4 income is uncertain as to source, time of payment, or
5 amount, the court may order a percentage amount of support
6 in addition to a specific dollar amount and enter such
7 other orders as may be necessary to determine and enforce,
8 on a timely basis, the applicable support ordered.

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

22 (a-5) In an action to enforce an order for support based on
23 the respondent's failure to make support payments as required
24 by the order, notice of proceedings to hold the respondent in
25 contempt for that failure may be served on the respondent by
26 personal service or by regular mail addressed to the

1 respondent's last known address. The respondent's last known
2 address may be determined from records of the clerk of the
3 court, from the Federal Case Registry of Child Support Orders,
4 or by any other reasonable means.

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

10 (1) placed on probation with such conditions of
11 probation as the court ~~Court~~ deems advisable;

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

16 (A) work; or

17 (B) conduct a business or other self-employed
18 occupation.

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

25 If a parent who is found guilty of contempt for failure to
26 comply with an order to pay support is a person who conducts a

1 business or who is self-employed, the court in addition to
2 other penalties provided by law may order that the parent do
3 one or more of the following: (i) provide to the court monthly
4 financial statements showing income and expenses from the
5 business or the self-employment; (ii) seek employment and
6 report periodically to the court with a diary, listing, or
7 other memorandum of his or her employment search efforts; or
8 (iii) report to the Department of Employment Security for job
9 search services to find employment that will be subject to
10 withholding for child support.

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

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

24 (2) the non-custodial parent and the person, persons,
25 or business entity fail to maintain an arm's length
26 relationship between themselves with regard to any assets.

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

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

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

1 State shall suspend the parent's driving privileges until
2 further order of the court and shall, if ordered by the court,
3 subject to the provisions of Section 7-702.1 of the Illinois
4 Vehicle Code, issue a family financial responsibility driving
5 permit to the parent.

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

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

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

8 (c) A one-time charge of 20% is imposable upon the amount
9 of past-due child support owed on July 1, 1988 which has
10 accrued under a support order entered by the court. The charge
11 shall be imposed in accordance with the provisions of Section
12 10-21 of the Illinois Public Aid Code and shall be enforced by
13 the court upon petition.

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

1 (e) When child support is to be paid through the Clerk of
2 the Court ~~clerk of the court~~ in a county of 1,000,000
3 inhabitants or less, the order shall direct the obligor to pay
4 to the Clerk ~~clerk~~, in addition to the child support payments,
5 all fees imposed by the county board under paragraph (3) of
6 subsection (u) of Section 27.1 of the Clerks of Courts Act.
7 Unless paid in cash or pursuant to an order for withholding,
8 the payment of the fee shall be by a separate instrument from
9 the support payment and shall be made to the order of the
10 Clerk.

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

1 expressly provided by the Code of Civil Procedure or this Act,
2 which service shall be sufficient for purposes of due process.

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

16 (g-5) If there is an unpaid arrearage or delinquency (as
17 those terms are defined in the Income Withholding for Support
18 Act) equal to at least one month's support obligation on the
19 termination date stated in the order for support or, if there
20 is no termination date stated in the order, on the date the
21 child attains the age of majority or is otherwise emancipated,
22 the periodic amount required to be paid for current support of
23 that child immediately prior to that date shall automatically
24 continue to be an obligation, not as current support but as
25 periodic payment toward satisfaction of the unpaid arrearage or
26 delinquency. That periodic payment shall be in addition to any

1 periodic payment previously required for satisfaction of the
2 arrearage or delinquency. The total periodic amount to be paid
3 toward satisfaction of the arrearage or delinquency may be
4 enforced and collected by any method provided by law for
5 enforcement and collection of child support, including but not
6 limited to income withholding under the Income Withholding for
7 Support Act. Each order for support entered or modified on or
8 after the effective date of this amendatory Act of the 93rd
9 General Assembly must contain a statement notifying the parties
10 of the requirements of this subsection. Failure to include the
11 statement in the order for support does not affect the validity
12 of the order or the operation of the provisions of this
13 subsection with regard to the order. This subsection shall not
14 be construed to prevent or affect the establishment or
15 modification of an order for support of a minor child or the
16 establishment or modification of an order for support of a
17 non-minor child or educational expenses under Section 513 of
18 this Act.

19 (h) An order entered under this Section shall include a
20 provision requiring the obligor to report to the obligee and to
21 the Clerk of Court ~~clerk of court~~ within 10 days each time the
22 obligor obtains new employment, and each time the obligor's
23 employment is terminated for any reason. The report shall be in
24 writing and shall, in the case of new employment, include the
25 name and address of the new employer. Failure to report new
26 employment or the termination of current employment, if coupled

1 with nonpayment of support for a period in excess of 60 days,
2 is indirect criminal contempt. For any obligor arrested for
3 failure to report new employment bond shall be set in the
4 amount of the child support that should have been paid during
5 the period of unreported employment. An order entered under
6 this Section shall also include a provision requiring the
7 obligor and obligee parents to advise each other of a change in
8 residence within 5 days of the change except when the court
9 finds that the physical, mental, or emotional health of a party
10 or that of a child, or both, would be seriously endangered by
11 disclosure of the party's address.

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

17 (Source: P.A. 97-186, eff. 7-22-11; 97-608, eff. 1-1-12;
18 97-813, eff. 7-13-12; 97-878, eff. 8-2-12; 97-941, eff. 1-1-13;
19 97-1029, eff. 1-1-13; 98-463, eff. 8-16-13; 98-961, eff.
20 1-1-15.)

21 (750 ILCS 5/510) (from Ch. 40, par. 510)

22 Sec. 510. Modification and termination of provisions for
23 maintenance, support, educational expenses, and property
24 disposition.

25 (a) Except as otherwise provided in paragraph (f) of

1 Section 502 and in subsection (b), clause (3) of Section 505.2,
2 the provisions of any judgment respecting maintenance or
3 support may be modified only as to installments accruing
4 subsequent to due notice by the moving party of the filing of
5 the motion for modification. An order for child support may be
6 modified as follows:

7 (1) upon a showing of a substantial change in
8 circumstances; and

9 (2) without the necessity of showing a substantial
10 change in circumstances, as follows:

11 (A) upon a showing of an inconsistency of at least
12 20%, but no less than \$10 per month, between the amount
13 of the existing order and the amount of child support
14 that results from application of the guidelines
15 specified in Section 505 of this Act unless the
16 inconsistency is due to the fact that the amount of the
17 existing order resulted from a deviation from the
18 guideline amount and there has not been a change in the
19 circumstances that resulted in that deviation; or

20 (B) upon a showing of a need to provide for the
21 health care needs of the child under the order through
22 health insurance or other means. In no event shall the
23 eligibility for or receipt of medical assistance be
24 considered to meet the need to provide for the child's
25 health care needs.

26 The provisions of subparagraph (a) (2) (A) shall apply only

1 in cases in which a party is receiving child support
2 enforcement services from the Department of Healthcare and
3 Family Services under Article X of the Illinois Public Aid
4 Code, and only when at least 36 months have elapsed since the
5 order for child support was entered or last modified.

6 The court may grant a petition for modification that seeks
7 to apply the changes made to subsection (a) of Section 505 by
8 this amendatory Act of the 99th General Assembly to an order
9 entered before the effective date of this amendatory Act of the
10 99th General Assembly only upon a finding of a substantial
11 change in circumstances that warrants application of the
12 changes. The enactment of this amendatory Act of the 99th
13 General Assembly itself does not constitute a substantial
14 change in circumstances warranting a modification.

15 (a-5) An order for maintenance may be modified or
16 terminated only upon a showing of a substantial change in
17 circumstances. In all such proceedings, as well as in
18 proceedings in which maintenance is being reviewed, the court
19 shall consider the applicable factors set forth in subsection
20 (a) of Section 504 and the following factors:

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

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

26 (3) any impairment of the present and future earning

1 capacity of either party;

2 (4) the tax consequences of the maintenance payments
3 upon the respective economic circumstances of the parties;

4 (5) the duration of the maintenance payments
5 previously paid (and remaining to be paid) relative to the
6 length of the marriage;

7 (6) the property, including retirement benefits,
8 awarded to each party under the judgment of dissolution of
9 marriage, judgment of legal separation, or judgment of
10 declaration of invalidity of marriage and the present
11 status of the property;

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

15 (8) the property acquired and currently owned by each
16 party after the entry of the judgment of dissolution of
17 marriage, judgment of legal separation, or judgment of
18 declaration of invalidity of marriage; and

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

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

25 (c) Unless otherwise agreed by the parties in a written
26 agreement set forth in the judgment or otherwise approved by

1 the court, the obligation to pay future maintenance is
2 terminated upon the death of either party, or the remarriage of
3 the party receiving maintenance, or if the party receiving
4 maintenance cohabits with another person on a resident,
5 continuing conjugal basis. Any obligation of a payor party for
6 premium payments respecting insurance on such party's life
7 imposed under subsection (f) of Section 504 is also terminated
8 on the occurrence of any of the foregoing events, unless
9 otherwise agreed by the parties. Any termination of an
10 obligation for maintenance as a result of the death of the
11 payor party, however, shall be inapplicable to any right of the
12 other party or such other party's designee to receive a death
13 benefit under such insurance on the payor party's life.

14 (d) Unless otherwise provided in this Act, or as agreed in
15 writing or expressly provided in the judgment, provisions for
16 the support of a child are terminated by emancipation of the
17 child, or if the child has attained the age of 18 and is still
18 attending high school, provisions for the support of the child
19 are terminated upon the date that the child graduates from high
20 school or the date the child attains the age of 19, whichever
21 is earlier, but not by the death of a parent obligated to
22 support or educate the child. An existing obligation to pay for
23 support or educational expenses, or both, is not terminated by
24 the death of a parent. When a parent obligated to pay support
25 or educational expenses, or both, dies, the amount of support
26 or educational expenses, or both, may be enforced, modified,

1 revoked or commuted to a lump sum payment, as equity may
2 require, and that determination may be provided for at the time
3 of the dissolution of the marriage or thereafter.

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

14 (f) A petition to modify or terminate child support,
15 custody, or visitation shall not delay any child support
16 enforcement litigation or supplementary proceeding on behalf
17 of the obligee, including, but not limited to, a petition for a
18 rule to show cause, for non-wage garnishment, or for a
19 restraining order.

20 (Source: P.A. 97-608, eff. 1-1-12.)