

1 AN ACT in relation to child support.

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

4 Section 5. The Illinois Public Aid Code is amended by
5 changing Section 10-16.5 as follows:

6 (305 ILCS 5/10-16.5)

7 Sec. 10-16.5. Interest on support obligations. A
8 support obligation, or any portion of a support obligation,
9 which becomes due and remains unpaid for 30 days or more
10 shall accrue simple interest at the rate of 9% per annum.

11 (Source: P.A. 91-397, eff. 1-1-00.)

12 Section 10. The Illinois Marriage and Dissolution of
13 Marriage Act is amended by changing Section 505 as follows:

14 (750 ILCS 5/505) (from Ch. 40, par. 505)

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

16 (a) In a proceeding for dissolution of marriage, legal
17 separation, declaration of invalidity of marriage, a
18 proceeding for child support following dissolution of the
19 marriage by a court which lacked personal jurisdiction over
20 the absent spouse, a proceeding for modification of a
21 previous order for child support under Section 510 of this
22 Act, or any proceeding authorized under Section 501 or 601 of
23 this Act, the court may order either or both parents owing a
24 duty of support to a child of the marriage to pay an amount
25 reasonable and necessary for his support, without regard to
26 marital misconduct. The duty of support owed to a minor
27 child includes the obligation to provide for the reasonable
28 and necessary physical, mental and emotional health needs of
29 the child.

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	25%
3	32%
4	40%
5	45%
6 or more	50%

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

- 17 (a) the financial resources and needs of the
18 child;
- 19 (b) the financial resources and needs of the
20 custodial parent;
- 21 (c) the standard of living the child would
22 have enjoyed had the marriage not been dissolved;
- 23 (d) the physical and emotional condition of
24 the child, and his educational needs; and
- 25 (e) the financial resources and needs of the
26 non-custodial parent.

27 If the court deviates from the guidelines, the
28 court's finding shall state the amount of support that
29 would have been required under the guidelines, if
30 determinable. The court shall include the reason or
31 reasons for the variance from the guidelines.

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

- 34 (a) Federal income tax (properly calculated

1 withholding or estimated payments);

2 (b) State income tax (properly calculated

3 withholding or estimated payments);

4 (c) Social Security (FICA payments);

5 (d) Mandatory retirement contributions

6 required by law or as a condition of employment;

7 (e) Union dues;

8 (f) Dependent and individual

9 health/hospitalization insurance premiums;

10 (g) Prior obligations of support or

11 maintenance actually paid pursuant to a court order;

12 (h) Expenditures for repayment of debts that

13 represent reasonable and necessary expenses for the

14 production of income, medical expenditures necessary

15 to preserve life or health, reasonable expenditures

16 for the benefit of the child and the other parent,

17 exclusive of gifts. The court shall reduce net

18 income in determining the minimum amount of support

19 to be ordered only for the period that such payments

20 are due and shall enter an order containing

21 provisions for its self-executing modification upon

22 termination of such payment period.

23 (4) In cases where the court order provides for

24 health/hospitalization insurance coverage pursuant to

25 Section 505.2 of this Act, the premiums for that

26 insurance, or that portion of the premiums for which the

27 supporting party is responsible in the case of insurance

28 provided through an employer's health insurance plan

29 where the employer pays a portion of the premiums, shall

30 be subtracted from net income in determining the minimum

31 amount of support to be ordered.

32 (4.5) In a proceeding for child support following

33 dissolution of the marriage by a court that lacked

34 personal jurisdiction over the absent spouse, and in

1 which the court is requiring payment of support for the
2 period before the date an order for current support is
3 entered, there is a rebuttable presumption that the
4 supporting party's net income for the prior period was
5 the same as his or her net income at the time the order
6 for current support is entered.

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

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

33 (a-5) In an action to enforce an order for support based
34 on the respondent's failure to make support payments as

1 required by the order, notice of proceedings to hold the
2 respondent in contempt for that failure may be served on the
3 respondent by personal service or by regular mail addressed
4 to the respondent's last known address. The respondent's
5 last known address may be determined from records of the
6 clerk of the court, from the Federal Case Registry of Child
7 Support Orders, or by any other reasonable means.

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

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

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

19 (A) work; or

20 (B) conduct a business or other self-employed
21 occupation.

22 The Court may further order any part or all of the
23 earnings of a parent during a sentence of periodic
24 imprisonment paid to the Clerk of the Circuit Court or to the
25 parent having custody or to the guardian having custody of
26 the minor children of the sentenced parent for the support of
27 said minor children until further order of the Court.

28 If there is a unity of interest and ownership sufficient
29 to render no financial separation between a non-custodial
30 parent and another person or persons or business entity, the
31 court may pierce the ownership veil of the person, persons,
32 or business entity to discover assets of the non-custodial
33 parent held in the name of that person, those persons, or
34 that business entity. The following circumstances are

1 sufficient to authorize a court to order discovery of the
2 assets of a person, persons, or business entity and to compel
3 the application of any discovered assets toward payment on
4 the judgment for support:

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

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

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

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

22 The court may also order in cases where the parent is 90
23 days or more delinquent in payment of support or has been
24 adjudicated in arrears in an amount equal to 90 days
25 obligation or more, that the parent's Illinois driving
26 privileges be suspended until the court determines that the
27 parent is in compliance with the order of support. The court
28 may also order that the parent be issued a family financial
29 responsibility driving permit that would allow limited
30 driving privileges for employment and medical purposes in
31 accordance with Section 7-702.1 of the Illinois Vehicle Code.
32 The clerk of the circuit court shall certify the order
33 suspending the driving privileges of the parent or granting
34 the issuance of a family financial responsibility driving

1 permit to the Secretary of State on forms prescribed by the
2 Secretary. Upon receipt of the authenticated documents, the
3 Secretary of State shall suspend the parent's driving
4 privileges until further order of the court and shall, if
5 ordered by the court, subject to the provisions of Section
6 7-702.1 of the Illinois Vehicle Code, issue a family
7 financial responsibility driving permit to the parent.

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

21 A support obligation, or any portion of a support
22 obligation, which becomes due and remains unpaid for 30 days
23 or more shall accrue simple interest at the rate of 9% per
24 annum.

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

31 (d) Any new or existing support order entered by the
32 court under this Section shall be deemed to be a series of
33 judgments against the person obligated to pay support
34 thereunder, each such judgment to be in the amount of each

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

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

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

1 address of the non-custodial parent in any manner expressly
2 provided by the Code of Civil Procedure or this Act, which
3 service shall be sufficient for purposes of due process.

4 (g) An order for support shall include a date on which
5 the current support obligation terminates. The termination
6 date shall be no earlier than the date on which the child
7 covered by the order will attain the age of majority or is
8 otherwise emancipated. The order for support shall state that
9 the termination date does not apply to any arrearage that may
10 remain unpaid on that date. Nothing in this subsection shall
11 be construed to prevent the court from modifying the order.

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

32 (Source: P.A. 90-18, eff. 7-1-97; 90-476, eff. 1-1-98;
33 90-539, eff. 6-1-98; 90-655, eff. 7-30-98; 90-733, eff.
34 8-11-98; 91-113, eff. 7-15-99; 91-397, eff. 1-1-00; 91-655,

1 eff. 6-1-00; 91-767, eff. 6-9-00; revised 6-28-00.)

2 Section 15. The Non-Support Punishment Act is amended by
3 changing Section 20 as follows:

4 (750 ILCS 16/20)

5 Sec. 20. Entry of order for support; income withholding.

6 (a) In a case in which no court or administrative order
7 for support is in effect against the defendant:

8 (1) at any time before the trial, upon motion of the
9 State's Attorney, or of the Attorney General if the
10 action has been instituted by his office, and upon notice
11 to the defendant, or at the time of arraignment or as a
12 condition of postponement of arraignment, the court may
13 enter such temporary order for support as may seem just,
14 providing for the support or maintenance of the spouse or
15 child or children of the defendant, or both, pendente
16 lite; or

17 (2) before trial with the consent of the defendant,
18 or at the trial on entry of a plea of guilty, or after
19 conviction, instead of imposing the penalty provided in
20 this Act, or in addition thereto, the court may enter an
21 order for support, subject to modification by the court
22 from time to time as circumstances may require, directing
23 the defendant to pay a certain sum for maintenance of the
24 spouse, or for support of the child or children, or both.

25 (b) The court shall determine the amount of child support
26 by using the guidelines and standards set forth in subsection
27 (a) of Section 505 and in Section 505.2 of the Illinois
28 Marriage and Dissolution of Marriage Act.

29 If (i) the non-custodial parent was properly served with
30 a request for discovery of financial information relating to
31 the non-custodial parent's ability to provide child support,
32 (ii) the non-custodial parent failed to comply with the

1 request, despite having been ordered to do so by the court,
2 and (iii) the non-custodial parent is not present at the
3 hearing to determine support despite having received proper
4 notice, then any relevant financial information concerning
5 the non-custodial parent's ability to provide support that
6 was obtained pursuant to subpoena and proper notice shall be
7 admitted into evidence without the need to establish any
8 further foundation for its admission.

9 (c) The court shall determine the amount of maintenance
10 using the standards set forth in Section 504 of the Illinois
11 Marriage and Dissolution of Marriage Act.

12 (d) The court may, for violation of any order under this
13 Section, punish the offender as for a contempt of court, but
14 no pendente lite order shall remain in effect longer than 4
15 months, or after the discharge of any panel of jurors
16 summoned for service thereafter in such court, whichever is
17 sooner.

18 (e) Any order for support entered by the court under this
19 Section shall be deemed to be a series of judgments against
20 the person obligated to pay support under the judgments, each
21 such judgment to be in the amount of each payment or
22 installment of support and each judgment to be deemed entered
23 as of the date the corresponding payment or installment
24 becomes due under the terms of the support order. Each
25 judgment shall have the full force, effect, and attributes of
26 any other judgment of this State, including the ability to be
27 enforced. Each judgment is subject to modification or
28 termination only in accordance with Section 510 of the
29 Illinois Marriage and Dissolution of Marriage Act. A lien
30 arises by operation of law against the real and personal
31 property of the noncustodial parent for each installment of
32 overdue support owed by the noncustodial parent.

33 (f) An order for support entered under this Section shall
34 include a provision requiring the obligor to report to the

1 obligee and to the clerk of the court within 10 days each
2 time the obligor obtains new employment, and each time the
3 obligor's employment is terminated for any reason. The
4 report shall be in writing and shall, in the case of new
5 employment, include the name and address of the new employer.

6 Failure to report new employment or the termination of
7 current employment, if coupled with nonpayment of support for
8 a period in excess of 60 days, is indirect criminal contempt.
9 For any obligor arrested for failure to report new
10 employment, bond shall be set in the amount of the child
11 support that should have been paid during the period of
12 unreported employment.

13 An order for support entered under this Section shall
14 also include a provision requiring the obligor and obligee
15 parents to advise each other of a change in residence within
16 5 days of the change except when the court finds that the
17 physical, mental, or emotional health of a party or of a
18 minor child, or both, would be seriously endangered by
19 disclosure of the party's address.

20 (g) An order for support entered or modified in a case in
21 which a party is receiving child and spouse support services
22 under Article X of the Illinois Public Aid Code shall include
23 a provision requiring the noncustodial parent to notify the
24 Illinois Department of Public Aid, within 7 days, of the name
25 and address of any new employer of the noncustodial parent,
26 whether the noncustodial parent has access to health
27 insurance coverage through the employer or other group
28 coverage and, if so, the policy name and number and the names
29 of persons covered under the policy.

30 (h) In any subsequent action to enforce an order for
31 support entered under this Act, upon sufficient showing that
32 diligent effort has been made to ascertain the location of
33 the noncustodial parent, service of process or provision of
34 notice necessary in that action may be made at the last known

1 address of the noncustodial parent, in any manner expressly
2 provided by the Code of Civil Procedure or in this Act, which
3 service shall be sufficient for purposes of due process.

4 (i) An order for support shall include a date on which
5 the current support obligation terminates. The termination
6 date shall be no earlier than the date on which the child
7 covered by the order will attain the age of majority or is
8 otherwise emancipated. The order for support shall state that
9 the termination date does not apply to any arrearage that may
10 remain unpaid on that date. Nothing in this subsection shall
11 be construed to prevent the court from modifying the order.

12 (j) A support obligation, or any portion of a support
13 obligation, which becomes due and remains unpaid for 30 days
14 or more shall accrue simple interest at the rate of 9% per
15 annum.

16 (Source: P.A. 91-613, eff. 10-1-99; 91-767, eff. 6-9-00.)

17 Section 20. The Illinois Parentage Act of 1984 is
18 amended by changing Section 20.7 as follows:

19 (750 ILCS 45/20.7)

20 Sec. 20.7. Interest on support obligations. A support
21 obligation, or any portion of a support obligation, which
22 becomes due and remains unpaid for 30 days or more shall
23 accrue simple interest at the rate of 9% per annum.

24 (Source: P.A. 91-397, eff. 1-1-00.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.