

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 Sections 10-2, 10-8.1, 10-10, and 10-11 as follows:

6 (305 ILCS 5/10-2) (from Ch. 23, par. 10-2)

7 Sec. 10-2. Extent of Liability. A husband is liable for  
8 the support of his wife and a wife for the support of her  
9 husband. Unless the child is otherwise emancipated, the  
10 parents are severally liable for the support of any child  
11 under age 18, and for any child aged 18 who is attending high  
12 school, until that child graduates from high school, or  
13 attains the age of 19, whichever is earlier 21,~~except that a~~  
14 ~~parent is not liable for a child age 18 or over if such child~~  
15 ~~is not living with the parent or parents, and a parent is not~~  
16 ~~liable for a child of any age if the child has married and is~~  
17 ~~not living with the parent or parents. A child shall be~~  
18 ~~considered to be living with the parent or parents if such~~  
19 ~~child is absent from the parent's or parents' home only in~~  
20 ~~order to regularly attend a school, college or university or~~  
21 ~~to receive technical training designed for preparation for~~  
22 ~~gainful employment.~~ The term "child" includes a child born  
23 out of wedlock, or legally adopted child.

24 In addition to the primary obligation of support imposed  
25 upon responsible relatives, such relatives, if individually  
26 or together in any combination they have sufficient income or  
27 other resources to support a needy person, in whole or in  
28 part, shall be liable for any financial aid extended under  
29 this Code to a person for whose support they are responsible,  
30 including amounts expended for funeral and burial costs.

31 (Source: P.A. 89-641, eff. 8-9-96; 90-18, eff. 7-1-97.)

1 (305 ILCS 5/10-8.1)

2 Sec. 10-8.1. Temporary order for child support.  
3 Notwithstanding any other law to the contrary, pending the  
4 outcome of an administrative determination of parentage, the  
5 Illinois Department shall issue a temporary order for child  
6 support, upon motion by a party and a showing of clear and  
7 convincing evidence of paternity. In determining the amount  
8 of the temporary child support award, the Illinois Department  
9 shall use the guidelines and standards set forth in  
10 subsection (a) of Section 505 and in Section 505.2 of the  
11 Illinois Marriage and Dissolution of Marriage Act.

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

28 All orders for support entered or modified in a case in  
29 which a party is receiving child and spouse support services  
30 under this Article X shall include a provision requiring the  
31 non-custodial parent to notify the Illinois Department,  
32 within 7 days, (i) of the name, address, and telephone number  
33 of any new employer of the non-custodial parent, (ii) whether  
34 the non-custodial parent has access to health insurance

1 coverage through the employer or other group coverage, and,  
2 if so, the policy name and number and the names of persons  
3 covered under the policy, and (iii) of any new residential or  
4 mailing address or telephone number of the non-custodial  
5 parent.

6 In any subsequent action to enforce a support order, upon  
7 sufficient showing that diligent effort has been made to  
8 ascertain the location of the non-custodial parent, service  
9 of process or provision of notice necessary in that action  
10 may be made at the last known address of the non-custodial  
11 parent, in any manner expressly provided by the Code of Civil  
12 Procedure or this Act, which service shall be sufficient for  
13 purposes of due process.

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

29 (Source: P.A. 90-18, eff. 7-1-97.)

30 (305 ILCS 5/10-10) (from Ch. 23, par. 10-10)

31 Sec. 10-10. Court enforcement; applicability also to  
32 persons who are not applicants or recipients. Except where  
33 the Illinois Department, by agreement, acts for the local

1 governmental unit, as provided in Section 10-3.1, local  
2 governmental units shall refer to the State's Attorney or to  
3 the proper legal representative of the governmental unit, for  
4 judicial enforcement as herein provided, instances of  
5 non-support or insufficient support when the dependents are  
6 applicants or recipients under Article VI. The Child and  
7 Spouse Support Unit established by Section 10-3.1 may  
8 institute in behalf of the Illinois Department any actions  
9 under this Section for judicial enforcement of the support  
10 liability when the dependents are (a) applicants or  
11 recipients under Articles III, IV, V or VII; (b) applicants  
12 or recipients in a local governmental unit when the Illinois  
13 Department, by agreement, acts for the unit; or (c)  
14 non-applicants or non-recipients who are receiving support  
15 enforcement services under this Article X, as provided in  
16 Section 10-1. Where the Child and Spouse Support Unit has  
17 exercised its option and discretion not to apply the  
18 provisions of Sections 10-3 through 10-8, the failure by the  
19 Unit to apply such provisions shall not be a bar to bringing  
20 an action under this Section.

21 Action shall be brought in the circuit court to obtain  
22 support, or for the recovery of aid granted during the period  
23 such support was not provided, or both for the obtainment of  
24 support and the recovery of the aid provided. Actions for  
25 the recovery of aid may be taken separately or they may be  
26 consolidated with actions to obtain support. Such actions  
27 may be brought in the name of the person or persons requiring  
28 support, or may be brought in the name of the Illinois  
29 Department or the local governmental unit, as the case  
30 requires, in behalf of such persons.

31 The court may enter such orders for the payment of moneys  
32 for the support of the person as may be just and equitable  
33 and may direct payment thereof for such period or periods of  
34 time as the circumstances require, including support for a

1 period before the date the order for support is entered. The  
2 order may be entered against any or all of the defendant  
3 responsible relatives and may be based upon the proportionate  
4 ability of each to contribute to the person's support.

5 The Court shall determine the amount of child support  
6 (including child support for a period before the date the  
7 order for child support is entered) by using the guidelines  
8 and standards set forth in subsection (a) of Section 505 and  
9 in Section 505.2 of the Illinois Marriage and Dissolution of  
10 Marriage Act. For purposes of determining the amount of child  
11 support to be paid for a period before the date the order for  
12 child support is entered, there is a rebuttable presumption  
13 that the responsible relative's net income for that period  
14 was the same as his or her net income at the time the order  
15 is entered.

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

28 An order entered under this Section shall include a  
29 provision requiring the obligor to report to the obligee and  
30 to the clerk of court within 10 days each time the obligor  
31 obtains new employment, and each time the obligor's  
32 employment is terminated for any reason. The report shall be  
33 in writing and shall, in the case of new employment, include  
34 the name and address of the new employer. Failure to report

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

14 The Court shall determine the amount of maintenance using  
15 the standards set forth in Section 504 of the Illinois  
16 Marriage and Dissolution of Marriage Act.

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

33 When an order is entered for the support of a minor, the  
34 court may provide therein for reasonable visitation of the

1 minor by the person or persons who provided support pursuant  
2 to the order. Whoever willfully refuses to comply with such  
3 visitation order or willfully interferes with its enforcement  
4 may be declared in contempt of court and punished therefor.

5 Except where the local governmental unit has entered into  
6 an agreement with the Illinois Department for the Child and  
7 Spouse Support Unit to act for it, as provided in Section  
8 10-3.1, support orders entered by the court in cases  
9 involving applicants or recipients under Article VI shall  
10 provide that payments thereunder be made directly to the  
11 local governmental unit. Orders for the support of all other  
12 applicants or recipients shall provide that payments  
13 thereunder be made directly to the Illinois Department. In  
14 accordance with federal law and regulations, the Illinois  
15 Department may continue to collect current maintenance  
16 payments or child support payments, or both, after those  
17 persons cease to receive public assistance and until  
18 termination of services under Article X. The Illinois  
19 Department shall pay the net amount collected to those  
20 persons after deducting any costs incurred in making the  
21 collection or any collection fee from the amount of any  
22 recovery made. In both cases the order shall permit the  
23 local governmental unit or the Illinois Department, as the  
24 case may be, to direct the responsible relative or relatives  
25 to make support payments directly to the needy person, or to  
26 some person or agency in his behalf, upon removal of the  
27 person from the public aid rolls or upon termination of  
28 services under Article X.

29 If the notice of support due issued pursuant to Section  
30 10-7 directs that support payments be made directly to the  
31 needy person, or to some person or agency in his behalf, and  
32 the recipient is removed from the public aid rolls, court  
33 action may be taken against the responsible relative  
34 hereunder if he fails to furnish support in accordance with

1 the terms of such notice.

2 Actions may also be brought under this Section in behalf  
3 of any person who is in need of support from responsible  
4 relatives, as defined in Section 2-11 of Article II who is  
5 not an applicant for or recipient of financial aid under this  
6 Code. In such instances, the State's Attorney of the county  
7 in which such person resides shall bring action against the  
8 responsible relatives hereunder. If the Illinois Department,  
9 as authorized by Section 10-1, extends the support services  
10 provided by this Article to spouses and dependent children  
11 who are not applicants or recipients under this Code, the  
12 Child and Spouse Support Unit established by Section 10-3.1  
13 shall bring action against the responsible relatives  
14 hereunder and any support orders entered by the court in such  
15 cases shall provide that payments thereunder be made directly  
16 to the Illinois Department.

17 Whenever it is determined in a proceeding to establish or  
18 enforce a child support or maintenance obligation that the  
19 person owing a duty of support is unemployed, the court may  
20 order the person to seek employment and report periodically  
21 to the court with a diary, listing or other memorandum of his  
22 or her efforts in accordance with such order. Additionally,  
23 the court may order the unemployed person to report to the  
24 Department of Employment Security for job search services or  
25 to make application with the local Job Training Partnership  
26 Act provider for participation in job search, training or  
27 work programs and where the duty of support is owed to a  
28 child receiving support services under this Article X, the  
29 court may order the unemployed person to report to the  
30 Illinois Department for participation in job search, training  
31 or work programs established under Section 9-6 and Article  
32 IXA of this Code.

33 Whenever it is determined that a person owes past-due  
34 support for a child receiving assistance under this Code, the



1 court shall order at the request of the Illinois Department:

2 (1) that the person pay the past-due support in  
3 accordance with a plan approved by the court; or

4 (2) if the person owing past-due support is  
5 unemployed, is subject to such a plan, and is not  
6 incapacitated, that the person participate in such job  
7 search, training, or work programs established under  
8 Section 9-6 and Article IXA of this Code as the court  
9 deems appropriate.

10 A determination under this Section shall not be  
11 administratively reviewable by the procedures specified in  
12 Sections 10-12, and 10-13 to 10-13.10. Any determination  
13 under these Sections, if made the basis of court action under  
14 this Section, shall not affect the de novo judicial  
15 determination required under this Section.

16 A one-time charge of 20% is imposable upon the amount of  
17 past-due child support owed on July 1, 1988 which has accrued  
18 under a support order entered by the court. The charge shall  
19 be imposed in accordance with the provisions of Section 10-21  
20 of this Code and shall be enforced by the court upon  
21 petition.

22 All orders for support, when entered or modified, shall  
23 include a provision requiring the non-custodial parent to  
24 notify the court and, in cases in which a party is receiving  
25 child and spouse support services under this Article X, the  
26 Illinois Department, within 7 days, (i) of the name, address,  
27 and telephone number of any new employer of the non-custodial  
28 parent, (ii) whether the non-custodial parent has access to  
29 health insurance coverage through the employer or other group  
30 coverage and, if so, the policy name and number and the names  
31 of persons covered under the policy, and (iii) of any new  
32 residential or mailing address or telephone number of the  
33 non-custodial parent. In any subsequent action to enforce a  
34 support order, upon a sufficient showing that a diligent

1 effort has been made to ascertain the location of the  
2 non-custodial parent, service of process or provision of  
3 notice necessary in the case may be made at the last known  
4 address of the non-custodial parent in any manner expressly  
5 provided by the Code of Civil Procedure or this Code, which  
6 service shall be sufficient for purposes of due process.

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

22 Upon notification in writing or by electronic  
23 transmission from the Illinois Department to the clerk of the  
24 court that a person who is receiving support payments under  
25 this Section is receiving services under the Child Support  
26 Enforcement Program established by Title IV-D of the Social  
27 Security Act, any support payments subsequently received by  
28 the clerk of the court shall be transmitted in accordance  
29 with the instructions of the Illinois Department until the  
30 Illinois Department gives notice to the clerk of the court to  
31 cease the transmittal. After providing the notification  
32 authorized under this paragraph, the Illinois Department  
33 shall be entitled as a party to notice of any further  
34 proceedings in the case. The clerk of the court shall file a

1 copy of the Illinois Department's notification in the court  
2 file. The clerk's failure to file a copy of the notification  
3 in the court file shall not, however, affect the Illinois  
4 Department's right to receive notice of further proceedings.

5 Payments under this Section to the Illinois Department  
6 pursuant to the Child Support Enforcement Program established  
7 by Title IV-D of the Social Security Act shall be paid into  
8 the Child Support Enforcement Trust Fund. All payments under  
9 this Section to the Illinois Department of Human Services  
10 shall be deposited in the DHS Recoveries Trust Fund.  
11 Disbursements from these funds shall be as provided in  
12 Sections 12-9.1 and 12-10.2 of this Code. Payments received  
13 by a local governmental unit shall be deposited in that  
14 unit's General Assistance Fund.

15 To the extent the provisions of this Section are  
16 inconsistent with the requirements pertaining to the State  
17 Disbursement Unit under Sections 10-10.4 and 10-26 of this  
18 Code, the requirements pertaining to the State Disbursement  
19 Unit shall apply.

20 (Source: P.A. 91-24, eff. 7-1-99; 91-212, eff. 7-20-99;  
21 91-357, eff. 7-29-99; 91-767, eff. 6-9-00; 92-16, eff.  
22 6-28-01.)

23 (305 ILCS 5/10-11) (from Ch. 23, par. 10-11)

24 Sec. 10-11. Administrative Orders. In lieu of actions  
25 for court enforcement of support under Section 10-10, the  
26 Child and Spouse Support Unit of the Illinois Department, in  
27 accordance with the rules of the Illinois Department, may  
28 issue an administrative order requiring the responsible  
29 relative to comply with the terms of the determination and  
30 notice of support due, determined and issued under Sections  
31 10-6 and 10-7. The Unit may also enter an administrative  
32 order under subsection (b) of Section 10-7. The  
33 administrative order shall be served upon the responsible

1 relative by United States registered or certified mail. In  
2 cases in which the responsible relative appeared at the  
3 office of the Child and Spouse Support Unit in response to  
4 the notice of support obligation issued under Section 10-4,  
5 however, or in cases of default in which the notice was  
6 served on the responsible relative by certified mail, return  
7 receipt requested, or by any method provided by law for  
8 service of summons, the administrative determination of  
9 paternity or administrative support order may be sent to the  
10 responsible relative by ordinary mail addressed to the  
11 responsible relative's last known address.

12 If a responsible relative or a person receiving child and  
13 spouse support services under this Article fails to petition  
14 the Illinois Department for release from or modification of  
15 the administrative order, as provided in Section 10-12 or  
16 Section 10-12.1, the order shall become final and there shall  
17 be no further administrative or judicial remedy. Likewise a  
18 decision by the Illinois Department as a result of an  
19 administrative hearing, as provided in Sections 10-13 to  
20 10-13.10, shall become final and enforceable if not  
21 judicially reviewed under the Administrative Review Law, as  
22 provided in Section 10-14.

23 Any new or existing support order entered by the Illinois  
24 Department under this Section shall be deemed to be a series  
25 of judgments against the person obligated to pay support  
26 thereunder, each such judgment to be in the amount of each  
27 payment or installment of support and each such judgment to  
28 be deemed entered as of the date the corresponding payment or  
29 installment becomes due under the terms of the support order.  
30 Each such judgment shall have the full force, effect and  
31 attributes of any other judgment of this State, including the  
32 ability to be enforced. Any such judgment is subject to  
33 modification or termination only in accordance with Section  
34 510 of the Illinois Marriage and Dissolution of Marriage Act.

1 A lien arises by operation of law against the real and  
2 personal property of the noncustodial parent for each  
3 installment of overdue support owed by the noncustodial  
4 parent.

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

25 A one-time charge of 20% is imposable upon the amount of  
26 past-due child support owed on July 1, 1988, which has  
27 accrued under a support order entered by the Illinois  
28 Department under this Section. The charge shall be imposed  
29 in accordance with the provisions of Section 10-21 and shall  
30 be enforced by the court in a suit filed under Section 10-15.

31 An order for support shall include a date on which the  
32 support obligation terminates. The termination date shall be  
33 no earlier than the date on which the child covered by the  
34 order will attain the age of 18. However, if the child will

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

11 (Source: P.A. 90-18, eff. 7-1-97; 90-539, eff. 6-1-98;  
12 90-655, eff. 7-30-98; 90-790, eff. 8-14-98; 91-212, eff.  
13 7-20-99.)

14 Section 10. The Illinois Marriage and Dissolution of  
15 Marriage Act is amended by changing Sections 505, 505.2, 510,  
16 and 513 as follows:

17 (750 ILCS 5/505) (from Ch. 40, par. 505)

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

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

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

3 (1) The Court shall determine the minimum amount of  
4 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%

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

19 (a) the financial resources and needs of the  
20 child;

21 (b) the financial resources and needs of the  
22 custodial parent;

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

25 (d) the physical and emotional condition of  
26 the child, and his educational needs; and

27 (e) the financial resources and needs of the  
28 non-custodial parent.

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

34 (3) "Net income" is defined as the total of all

1 income from all sources, minus the following deductions:

2 (a) Federal income tax (properly calculated  
3 withholding or estimated payments);

4 (b) State income tax (properly calculated  
5 withholding or estimated payments);

6 (c) Social Security (FICA payments);

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

9 (e) Union dues;

10 (f) Dependent and individual  
11 health/hospitalization insurance premiums;

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

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

25 (4) In cases where the court order provides for  
26 health/hospitalization insurance coverage pursuant to  
27 Section 505.2 of this Act, the premiums for that  
28 insurance, or that portion of the premiums for which the  
29 supporting party is responsible in the case of insurance  
30 provided through an employer's health insurance plan  
31 where the employer pays a portion of the premiums, shall  
32 be subtracted from net income in determining the minimum  
33 amount of support to be ordered.

34 (4.5) In a proceeding for child support following



1 dissolution of the marriage by a court that lacked  
2 personal jurisdiction over the absent spouse, and in  
3 which the court is requiring payment of support for the  
4 period before the date an order for current support is  
5 entered, there is a rebuttable presumption that the  
6 supporting party's net income for the prior period was  
7 the same as his or her net income at the time the order  
8 for current support is entered.

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

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

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

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

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

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

21                         (A) work; or

22                         (B) conduct a business or other self-employed  
23 occupation.

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

30           If there is a unity of interest and ownership sufficient  
31 to render no financial separation between a non-custodial  
32 parent and another person or persons or business entity, the  
33 court may pierce the ownership veil of the person, persons,  
34 or business entity to discover assets of the non-custodial

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

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

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

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

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

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

1 suspending the driving privileges of the parent or granting  
2 the issuance of a family financial responsibility driving  
3 permit to the Secretary of State on forms prescribed by the  
4 Secretary. Upon receipt of the authenticated documents, the  
5 Secretary of State shall suspend the parent's driving  
6 privileges until further order of the court and shall, if  
7 ordered by the court, subject to the provisions of Section  
8 7-702.1 of the Illinois Vehicle Code, issue a family  
9 financial responsibility driving permit to the parent.

10 In addition to the penalties or punishment that may be  
11 imposed under this Section, any person whose conduct  
12 constitutes a violation of Section 15 of the Non-Support  
13 Punishment Act may be prosecuted under that Act, and a person  
14 convicted under that Act may be sentenced in accordance with  
15 that Act. The sentence may include but need not be limited  
16 to a requirement that the person perform community service  
17 under Section 50 of that Act or participate in a work  
18 alternative program under Section 50 of that Act. A person  
19 may not be required to participate in a work alternative  
20 program under Section 50 of that Act if the person is  
21 currently participating in a work program pursuant to Section  
22 505.1 of this Act.

23 A support obligation, or any portion of a support  
24 obligation, which becomes due and remains unpaid for 30 days  
25 or more shall accrue simple interest at the rate of 9% per  
26 annum. An order for support entered or modified on or after  
27 January 1, 2002 shall contain a statement that a support  
28 obligation required under the order, or any portion of a  
29 support obligation required under the order, that becomes due  
30 and remains unpaid for 30 days or more shall accrue simple  
31 interest at the rate of 9% per annum. Failure to include the  
32 statement in the order for support does not affect the  
33 validity of the order or the accrual of interest as provided  
34 in this Section.

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

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

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

29           (f) All orders for support, when entered or modified,  
30 shall include a provision requiring the obligor to notify the  
31 court and, in cases in which a party is receiving child and  
32 spouse services under Article X of the Illinois Public Aid  
33 Code, the Illinois Department of Public Aid, within 7 days,  
34 (i) of the name and address of any new employer of the

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

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

29 (h) An order entered under this Section shall include a  
30 provision requiring the obligor to report to the obligee and  
31 to the clerk of court within 10 days each time the obligor  
32 obtains new employment, and each time the obligor's  
33 employment is terminated for any reason. The report shall be  
34 in writing and shall, in the case of new employment, include

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

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

20 (Source: P.A. 91-113, eff. 7-15-99; 91-397, eff. 1-1-00;  
 21 91-655, eff. 6-1-00; 91-767, eff. 6-9-00; 92-16, eff.  
 22 6-28-01; 92-203, eff. 8-1-01; 92-374, eff. 8-15-01; revised  
 23 10-15-01.)

24 (750 ILCS 5/505.2) (from Ch. 40, par. 505.2)

25 Sec. 505.2. Health insurance.

26 (a) Definitions. As used in this Section:

27 (1) "Obligee" means the individual to whom the duty  
 28 of support is owed or the individual's legal  
 29 representative.

30 (2) "Obligor" means the individual who owes a duty  
 31 of support pursuant to an order for support.

32 (3) "Public office" means any elected official or  
 33 any State or local agency which is or may become

1 responsible by law for enforcement of, or which is or may  
 2 become authorized to enforce, an order for support,  
 3 including, but not limited to: the Attorney General, the  
 4 Illinois Department of Public Aid, the Illinois  
 5 Department of Human Services, the Illinois Department of  
 6 Children and Family Services, and the various State's  
 7 Attorneys, Clerks of the Circuit Court and supervisors of  
 8 general assistance.

9 (4) "Child" shall have the meaning ascribed to it  
 10 in Section 505.

11 (b) Order.

12 (1) Whenever the court establishes, modifies or  
 13 enforces an order for child support or for child support  
 14 and maintenance the court shall include in the order a  
 15 provision for the health care coverage of the child which  
 16 shall, upon request of the obligee or Public Office,  
 17 require that any child covered by the order be named as a  
 18 beneficiary of any health insurance plan that is  
 19 available to the obligor through an employer or labor  
 20 union or trade union. If the court finds that such a  
 21 plan is not available to the obligor, or that the plan is  
 22 not accessible to the obligee, the court may, upon  
 23 request of the obligee or Public Office, order the  
 24 obligor to name the child covered by the order as a  
 25 beneficiary of any health insurance plan that is  
 26 available to the obligor on a group basis, or as a  
 27 beneficiary of an independent health insurance plan to be  
 28 obtained by the obligor, after considering the following  
 29 factors:

- 30 (A) the medical needs of the child;
- 31 (B) the availability of a plan to meet those
- 32 needs; and
- 33 (C) the cost of such a plan to the obligor.

34 (2) If the employer or labor union or trade union



1 offers more than one plan, the order shall require the  
2 obligor to name the child as a beneficiary of the plan in  
3 which the obligor is enrolled.

4 (3) Nothing in this Section shall be construed to  
5 limit the authority of the court to establish or modify a  
6 support order to provide for payment of expenses,  
7 including deductibles, copayments and any other health  
8 expenses, which are in addition to expenses covered by an  
9 insurance plan of which a child is ordered to be named a  
10 beneficiary pursuant to this Section.

11 (c) Implementation and enforcement.

12 (1) When the court order requires that a minor  
13 child be named as a beneficiary of a health insurance  
14 plan, other than a health insurance plan available  
15 through an employer or labor union or trade union, the  
16 obligor shall provide written proof to the obligee or  
17 Public Office that the required insurance has been  
18 obtained, or that application for insurability has been  
19 made, within 30 days of receiving notice of the court  
20 order. Unless the obligor was present in court when the  
21 order was issued, notice of the order shall be given  
22 pursuant to Illinois Supreme Court Rules. If an obligor  
23 fails to provide the required proof, he may be held in  
24 contempt of court.

25 (2) When the court requires that a ~~minor~~ child be  
26 named as a beneficiary of a health insurance plan  
27 available through an employer or labor union or trade  
28 union, the court's order shall be implemented in  
29 accordance with the Income Withholding for Support Act.

30 (d) Failure to maintain insurance. The dollar amount of  
31 the premiums for court-ordered health insurance, or that  
32 portion of the premiums for which the obligor is responsible  
33 in the case of insurance provided under a group health  
34 insurance plan through an employer or labor union or trade

1 union where the employer or labor union or trade union pays a  
2 portion of the premiums, shall be considered an additional  
3 child support obligation owed by the obligor. Whenever the  
4 obligor fails to provide or maintain health insurance  
5 pursuant to an order for support, the obligor shall be liable  
6 to the obligee for the dollar amount of the premiums which  
7 were not paid, and shall also be liable for all medical  
8 expenses incurred by the ~~minor~~ child which would have been  
9 paid or reimbursed by the health insurance which the obligor  
10 was ordered to provide or maintain. In addition, the obligee  
11 may petition the court to modify the order based solely on  
12 the obligor's failure to pay the premiums for court-ordered  
13 health insurance.

14 (e) Authorization for payment. The signature of the  
15 obligee is a valid authorization to the insurer to process a  
16 claim for payment under the insurance plan to the provider of  
17 the health care services or to the obligee.

18 (f) Disclosure of information. The obligor's employer  
19 or labor union or trade union shall disclose to the obligee  
20 or Public Office, upon request, information concerning any  
21 dependent coverage plans which would be made available to a  
22 new employee or labor union member or trade union member.  
23 The employer or labor union or trade union shall disclose  
24 such information whether or not a court order for medical  
25 support has been entered.

26 (g) Employer obligations. If a parent is required by an  
27 order for support to provide coverage for a child's health  
28 care expenses and if that coverage is available to the parent  
29 through an employer who does business in this State, the  
30 employer must do all of the following upon receipt of a copy  
31 of the order of support or order for withholding:

32 (1) The employer shall, upon the parent's request,  
33 permit the parent to include in that coverage a child who  
34 is otherwise eligible for that coverage, without regard

1 to any enrollment season restrictions that might  
2 otherwise be applicable as to the time period within  
3 which the child may be added to that coverage.

4 (2) If the parent has health care coverage through  
5 the employer but fails to apply for coverage of the  
6 child, the employer shall include the child in the  
7 parent's coverage upon application by the child's other  
8 parent or the Illinois Department of Public Aid.

9 (3) The employer may not eliminate any child from  
10 the parent's health care coverage unless the employee is  
11 no longer employed by the employer and no longer covered  
12 under the employer's group health plan or unless the  
13 employer is provided with satisfactory written evidence  
14 of either of the following:

15 (A) The order for support is no longer in  
16 effect.

17 (B) The child is or will be included in a  
18 comparable health care plan obtained by the parent  
19 under such order that is currently in effect or will  
20 take effect no later than the date the prior  
21 coverage is terminated.

22 The employer may eliminate a child from a parent's  
23 health care plan obtained by the parent under such order  
24 if the employer has eliminated dependent health care  
25 coverage for all of its employees.

26 (Source: P.A. 92-16, eff. 6-28-01)

27 (750 ILCS 5/510) (from Ch. 40, par. 510)

28 Sec. 510. Modification and termination of provisions for  
29 maintenance, support, educational expenses, and property  
30 disposition.

31 (a) Except as otherwise provided in paragraph (f) of  
32 Section 502 and in subsection (b) (d), clause (3) of Section  
33 505.2, the provisions of any judgment respecting maintenance

1 or support may be modified only as to installments accruing  
2 subsequent to due notice by the moving party of the filing of  
3 the motion for modification and, with respect to maintenance,  
4 only upon a showing of a substantial change in circumstances.  
5 An order for child support may be modified as follows:

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

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

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

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

26 The provisions of subparagraph (a)(2)(A) shall apply only  
27 in cases in which a party is receiving child and spouse  
28 support services from the Illinois Department of Public Aid  
29 under Article X of the Illinois Public Aid Code, and only  
30 when at least 36 months have elapsed since the order for  
31 child support was entered or last modified.

32 (b) The provisions as to property disposition may not be  
33 revoked or modified, unless the court finds the existence of  
34 conditions that justify the reopening of a judgment under the

1 laws of this State.

2 (c) Unless otherwise agreed by the parties in a written  
3 agreement set forth in the judgment or otherwise approved by  
4 the court, the obligation to pay future maintenance is  
5 terminated upon the death of either party, or the remarriage  
6 of the party receiving maintenance, or if the party receiving  
7 maintenance cohabits with another person on a resident,  
8 continuing conjugal basis.

9 (d) Unless otherwise provided in this Act, or as agreed  
10 in writing or expressly provided in the judgment, provisions  
11 for the support of a child are terminated by emancipation of  
12 the child, or if the child has attained the age of 18 and is  
13 still attending high school, provisions for the support of  
14 the child are terminated upon the date that the child  
15 graduates from high school or the date the child attains the  
16 age of 19, whichever is earlier, but not by the death of a  
17 parent obligated to support or educate the child. Unless  
18 otherwise agreed in writing or expressly provided in a  
19 judgment, provisions for the support of a child are  
20 terminated by emancipation of the child, except as otherwise  
21 provided herein, but not by the death of a parent obligated  
22 to support or educate the child. An existing obligation to  
23 pay for support or educational expenses, or both, is not  
24 terminated by the death of a parent. When a parent obligated  
25 to pay support or educational expenses, or both, dies, the  
26 amount of support or educational expenses, or both, may be  
27 enforced, modified, revoked or commuted to a lump sum  
28 payment, as equity may require, and that determination may be  
29 provided for at the time of the dissolution of the marriage  
30 or thereafter.

31 (e) The right to petition for support or educational  
32 expenses, or both, under Sections 505 and 513 is not  
33 extinguished by the death of a parent. Upon a petition filed  
34 before or after a parent's death, the court may award sums of

1 money out of the decedent's estate for the child's support or  
 2 educational expenses, or both, as equity may require. The  
 3 time within which a claim may be filed against the estate of  
 4 a decedent under Sections 505 and 513 and subsection (d) and  
 5 this subsection shall be governed by the provisions of the  
 6 Probate Act of 1975, as a barrable, noncontingent claim.

7 (f) A petition to modify or terminate child support,  
 8 custody, or visitation shall not delay any child support  
 9 enforcement litigation or supplementary proceeding on behalf  
 10 of the obligee, including, but not limited to, a petition for  
 11 a rule to show cause, for non-wage garnishment, or for a  
 12 restraining order.

13 (Source: P.A. 92-289, eff. 8-9-01; revised 12-07-01.)

14 (750 ILCS 5/513) (from Ch. 40, par. 513)

15 Sec. 513. Support for Non-minor Children and Educational  
 16 Expenses.

17 (a) The court may award sums of money out of the  
 18 property and income of either or both parties or the estate  
 19 of a deceased parent, as equity may require, for the support  
 20 of the child or children of the parties who have attained  
 21 majority in the following instances:

22 (1) When the child is mentally or physically  
 23 disabled and not otherwise emancipated, an application  
 24 for support may be made before or after the child has  
 25 attained majority.

26 (2) The court may also make provision for the  
 27 educational expenses of the child or children of the  
 28 parties, whether of minor or majority age, and an  
 29 application for educational expenses may be made before  
 30 or after the child has attained majority, or after the  
 31 death of either parent. The authority under this Section  
 32 to make provision for educational expenses extends not  
 33 only to periods of college education or professional or

1 other training after graduation from high school, but  
2 also to any period during which the child of the parties  
3 is still attending high school, even though he or she  
4 attained the age of 19 18. The educational expenses may  
5 include, but shall not be limited to, room, board, dues,  
6 tuition, transportation, books, fees, registration and  
7 application costs, medical expenses including medical  
8 insurance, dental expenses, and living expenses during  
9 the school year and periods of recess, which sums may be  
10 ordered payable to the child, to either parent, or to the  
11 educational institution, directly or through a special  
12 account or trust created for that purpose, as the court  
13 sees fit.

14 If educational expenses are ordered payable, each  
15 parent and the child shall sign any consents necessary  
16 for the educational institution to provide the supporting  
17 parent with access to the child's academic transcripts,  
18 records, and grade reports. The consents shall not apply  
19 to any non-academic records. Failure to execute the  
20 required consent may be a basis for a modification or  
21 termination of any order entered under this Section.

22 The authority under this Section to make provision  
23 for educational expenses, except where the child is  
24 mentally or physically disabled and not otherwise  
25 emancipated, terminates when the child receives a  
26 baccalaureate degree.

27 (b) In making awards under paragraph (1) or (2) of  
28 subsection (a), or pursuant to a petition or motion to  
29 decrease, modify, or terminate any such award, the court  
30 shall consider all relevant factors that appear reasonable  
31 and necessary, including:

32 (1) The financial resources of both parents.

33 (2) The standard of living the child would have  
34 enjoyed had the marriage not been dissolved.

1 (3) The financial resources of the child.

2 (4) The child's academic performance.

3 (Source: P.A. 91-204, eff. 1-1-00.)

4 Section 15. The Non-Support Punishment Act is amended by  
5 changing Sections 15 and 20 as follows:

6 (750 ILCS 16/15)

7 Sec. 15. Failure to support.

8 (a) A person commits the offense of failure to support  
9 when he or she:

10 (1) willfully, without any lawful excuse, refuses  
11 to provide for the support or maintenance of his or her  
12 spouse, with the knowledge that the spouse is in need of  
13 such support or maintenance, or, without lawful excuse,  
14 deserts or willfully refuses to provide for the support  
15 or maintenance of his or her child or children ~~under--the~~  
16 ~~age--of--18--years,~~ in need of support or maintenance and  
17 the person has the ability to provide the support; or

18 (2) willfully fails to pay a support obligation  
19 required under a court or administrative order for  
20 support, if the obligation has remained unpaid for a  
21 period longer than 6 months, or is in arrears in an  
22 amount greater than \$5,000, and the person has the  
23 ability to provide the support; or

24 (3) leaves the State with the intent to evade a  
25 support obligation required under a court or  
26 administrative order for support, if the obligation,  
27 regardless of when it accrued, has remained unpaid for a  
28 period longer than 6 months, or is in arrears in an  
29 amount greater than \$10,000; or

30 (4) willfully fails to pay a support obligation  
31 required under a court or administrative order for  
32 support, if the obligation has remained unpaid for a



1 period longer than one year, or is in arrears in an  
2 amount greater than \$20,000, and the person has the  
3 ability to provide the support.

4 (a-5) Presumption of ability to pay support. The  
5 existence of a court or administrative order of support that  
6 was not based on a default judgment and was in effect for the  
7 time period charged in the indictment or information creates  
8 a rebuttable presumption that the obligor has the ability to  
9 pay the support obligation for that time period.

10 (b) Sentence. A person convicted of a first offense  
11 under subdivision (a)(1) or (a)(2) is guilty of a Class A  
12 misdemeanor. A person convicted of an offense under  
13 subdivision (a)(3) or (a)(4) or a second or subsequent  
14 offense under subdivision (a)(1) or (a)(2) is guilty of a  
15 Class 4 felony.

16 (c) Expungement. A person convicted of a first offense  
17 under subdivision (a)(1) or (a)(2) who is eligible for the  
18 Earnfare program, shall, in lieu of the sentence prescribed  
19 in subsection (b), be referred to the Earnfare program. Upon  
20 certification of completion of the Earnfare program, the  
21 conviction shall be expunged. If the person fails to  
22 successfully complete the Earnfare program, he or she shall  
23 be sentenced in accordance with subsection (b).

24 (d) Fine. Sentences of imprisonment and fines for  
25 offenses committed under this Act shall be as provided under  
26 Articles 8 and 9 of Chapter V of the Unified Code of  
27 Corrections, except that the court shall order restitution of  
28 all unpaid support payments and may impose the following  
29 fines, alone, or in addition to a sentence of imprisonment  
30 under the following circumstances:

31 (1) from \$1,000 to \$5,000 if the support obligation  
32 has remained unpaid for a period longer than 2 years, or  
33 is in arrears in an amount greater than \$1,000 and not  
34 exceeding \$10,000;

1           (2) from \$5,000 to \$10,000 if the support obligation  
2           has remained unpaid for a period longer than 5 years, or  
3           is in arrears in an amount greater than \$10,000 and not  
4           exceeding \$20,000; or

5           (3) from \$10,000 to \$25,000 if the support  
6           obligation has remained unpaid for a period longer than 8  
7           years, or is in arrears in an amount greater than  
8           \$20,000.

9           (e) Restitution shall be ordered in an amount equal to  
10          the total unpaid support obligation as it existed at the time  
11          of sentencing. Any amounts paid by the obligor shall be  
12          allocated first to current support and then to restitution  
13          ordered and then to fines imposed under this Section.

14          (f) For purposes of this Act, the term "child" shall  
15          have the meaning ascribed to it in Section 505 of the  
16          Illinois Marriage and Dissolution of Marriage Act.

17          (Source: P.A. 91-613, eff. 10-1-99.)

18          (750 ILCS 16/20)

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

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

22                 (1) at any time before the trial, upon motion of  
23                 the State's Attorney, or of the Attorney General if the  
24                 action has been instituted by his office, and upon notice  
25                 to the defendant, or at the time of arraignment or as a  
26                 condition of postponement of arraignment, the court may  
27                 enter such temporary order for support as may seem just,  
28                 providing for the support or maintenance of the spouse or  
29                 child or children of the defendant, or both, pendente  
30                 lite; or

31                 (2) before trial with the consent of the defendant,  
32                 or at the trial on entry of a plea of guilty, or after  
33                 conviction, instead of imposing the penalty provided in

1           this Act, or in addition thereto, the court may enter an  
2           order for support, subject to modification by the court  
3           from time to time as circumstances may require, directing  
4           the defendant to pay a certain sum for maintenance of the  
5           spouse, or for support of the child or children, or both.

6           (b) The court shall determine the amount of child  
7           support by using the guidelines and standards set forth in  
8           subsection (a) of Section 505 and in Section 505.2 of the  
9           Illinois Marriage and Dissolution of Marriage Act.

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

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

25          (d) The court may, for violation of any order under this  
26          Section, punish the offender as for a contempt of court, but  
27          no pendente lite order shall remain in effect longer than 4  
28          months, or after the discharge of any panel of jurors  
29          summoned for service thereafter in such court, whichever is  
30          sooner.

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

1 payment or installment of support and each judgment to be  
2 deemed entered as of the date the corresponding payment or  
3 installment becomes due under the terms of the support order.  
4 Each judgment shall have the full force, effect, and  
5 attributes of any other judgment of this State, including the  
6 ability to be enforced. Each judgment is subject to  
7 modification or termination only in accordance with Section  
8 510 of the Illinois Marriage and Dissolution of Marriage Act.  
9 A lien arises by operation of law against the real and  
10 personal property of the noncustodial parent for each  
11 installment of overdue support owed by the noncustodial  
12 parent.

13 (f) An order for support entered under this Section  
14 shall include a provision requiring the obligor to report to  
15 the obligee and to the clerk of the court within 10 days each  
16 time the obligor obtains new employment, and each time the  
17 obligor's employment is terminated for any reason. The  
18 report shall be in writing and shall, in the case of new  
19 employment, include the name and address of the new employer.

20 Failure to report new employment or the termination of  
21 current employment, if coupled with nonpayment of support for  
22 a period in excess of 60 days, is indirect criminal contempt.  
23 For any obligor arrested for failure to report new  
24 employment, bond shall be set in the amount of the child  
25 support that should have been paid during the period of  
26 unreported employment.

27 An order for support entered under this Section shall  
28 also include a provision requiring the obligor and obligee  
29 parents to advise each other of a change in residence within  
30 5 days of the change except when the court finds that the  
31 physical, mental, or emotional health of a party or of a  
32 minor child, or both, would be seriously endangered by  
33 disclosure of the party's address.

34 (g) An order for support entered or modified in a case

1 in which a party is receiving child and spouse support  
2 services under Article X of the Illinois Public Aid Code  
3 shall include a provision requiring the noncustodial parent  
4 to notify the Illinois Department of Public Aid, within 7  
5 days, of the name and address of any new employer of the  
6 noncustodial parent, whether the noncustodial parent has  
7 access to health insurance coverage through the employer or  
8 other group coverage and, if so, the policy name and number  
9 and the names of persons covered under the policy.

10 (h) In any subsequent action to enforce an order for  
11 support entered under this Act, upon sufficient showing that  
12 diligent effort has been made to ascertain the location of  
13 the noncustodial parent, service of process or provision of  
14 notice necessary in that action may be made at the last known  
15 address of the noncustodial parent, in any manner expressly  
16 provided by the Code of Civil Procedure or in this Act, which  
17 service shall be sufficient for purposes of due process.

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

33 (j) A support obligation, or any portion of a support  
34 obligation, which becomes due and remains unpaid for 30 days

1 or more shall accrue simple interest at the rate of 9% per  
2 annum. An order for support entered or modified on or after  
3 January 1, 2002 shall contain a statement that a support  
4 obligation required under the order, or any portion of a  
5 support obligation required under the order, that becomes due  
6 and remains unpaid for 30 days or more shall accrue simple  
7 interest at the rate of 9% per annum. Failure to include the  
8 statement in the order for support does not affect the  
9 validity of the order or the accrual of interest as provided  
10 in this Section.

11 (Source: P.A. 91-613, eff. 10-1-99; 91-767, eff. 6-9-00;  
12 92-374, eff. 8-15-01.)

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

15 (750 ILCS 45/14) (from Ch. 40, par. 2514)

16 Sec. 14. Judgment.

17 (a) (1) The judgment shall contain or explicitly reserve  
18 provisions concerning any duty and amount of child support  
19 and may contain provisions concerning the custody and  
20 guardianship of the child, visitation privileges with the  
21 child, the furnishing of bond or other security for the  
22 payment of the judgment, which the court shall determine in  
23 accordance with the relevant factors set forth in the  
24 Illinois Marriage and Dissolution of Marriage Act and any  
25 other applicable law of Illinois, to guide the court in a  
26 finding in the best interests of the child. In determining  
27 custody, joint custody, or visitation, the court shall apply  
28 the relevant standards of the Illinois Marriage and  
29 Dissolution of Marriage Act. Specifically, in determining the  
30 amount of any child support award, the court shall use the  
31 guidelines and standards set forth in subsection (a) of  
32 Section 505 and in Section 505.2 of the Illinois Marriage and

1 Dissolution of Marriage Act. For purposes of Section 505 of  
2 the Illinois Marriage and Dissolution of Marriage Act, "net  
3 income" of the non-custodial parent shall include any  
4 benefits available to that person under the Illinois Public  
5 Aid Code or from other federal, State or local  
6 government-funded programs. The court shall, in any event  
7 and regardless of the amount of the non-custodial parent's  
8 net income, in its judgment order the non-custodial parent to  
9 pay child support to the custodial parent in a minimum amount  
10 of not less than \$10 per month. In an action brought within 2  
11 years after a child's birth, the judgment or order may direct  
12 either parent to pay the reasonable expenses incurred by  
13 either parent related to the mother's pregnancy and the  
14 delivery of the child. The judgment or order shall contain  
15 the father's social security number, which the father shall  
16 disclose to the court; however, failure to include the  
17 father's social security number on the judgment or order does  
18 not invalidate the judgment or order.

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

28 (b) The court shall order all child support payments,  
29 determined in accordance with such guidelines, to commence  
30 with the date summons is served. The level of current  
31 periodic support payments shall not be reduced because of  
32 payments set for the period prior to the date of entry of the  
33 support order. The Court may order any child support  
34 payments to be made for a period prior to the commencement of

1 the action. In determining whether and the extent to which  
2 the payments shall be made for any prior period, the court  
3 shall consider all relevant facts, including the factors for  
4 determining the amount of support specified in the Illinois  
5 Marriage and Dissolution of Marriage Act and other equitable  
6 factors including but not limited to:

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

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

11 (3) The extent to which the mother or the public  
12 agency bringing the action previously informed the father  
13 of the child's needs or attempted to seek or require his  
14 help in raising or supporting the child.

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

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

19 For purposes of determining the amount of child support  
20 to be paid for any period before the date the order for  
21 current child support is entered, there is a rebuttable  
22 presumption that the father's net income for the prior period  
23 was the same as his net income at the time the order for  
24 current child support is entered.

25 If (i) the non-custodial parent was properly served with  
26 a request for discovery of financial information relating to  
27 the non-custodial parent's ability to provide child support,  
28 (ii) the non-custodial parent failed to comply with the  
29 request, despite having been ordered to do so by the court,  
30 and (iii) the non-custodial parent is not present at the  
31 hearing to determine support despite having received proper  
32 notice, then any relevant financial information concerning  
33 the non-custodial parent's ability to provide child support  
34 that was obtained pursuant to subpoena and proper notice



1 shall be admitted into evidence without the need to establish  
2 any further foundation for its admission.

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

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

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

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

31 (g) A one-time charge of 20% is imposable upon the  
32 amount of past-due child support owed on July 1, 1988 which  
33 has accrued under a support order entered by the court. The  
34 charge shall be imposed in accordance with the provisions of

1 Section 10-21 of the Illinois Public Aid Code and shall be  
2 enforced by the court upon petition.

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

23 (i) An order for support shall include a date on which  
24 the current support obligation terminates. The termination  
25 date shall be no earlier than the date on which the child  
26 covered by the order will attain the age of 18. However, if  
27 the child will not graduate from high school until after  
28 attaining the age of 18, then the termination date shall be  
29 no earlier than the earlier of the date on which the child's  
30 high school graduation will occur or the date on which the  
31 child will attain the age of 19 majority-or-is-otherwise  
32 emancipated. The order for support shall state that the  
33 termination date does not apply to any arrearage that may  
34 remain unpaid on that date. Nothing in this subsection shall

1 be construed to prevent the court from modifying the order or  
2 terminating the order in the event the child is otherwise  
3 emancipated.

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

24 (Source: P.A. 90-18, eff. 7-1-97; 90-539, eff. 6-1-98;  
25 90-655, eff. 7-30-98; 91-767, eff. 6-9-00.)