

AN ACT concerning child support.

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

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

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

Sec. 10-10. Court enforcement; applicability also to persons who are not applicants or recipients. Except where the Illinois Department, by agreement, acts for the local governmental unit, as provided in Section 10-3.1, local governmental units shall refer to the State's Attorney or to the proper legal representative of the governmental unit, for judicial enforcement as herein provided, instances of non-support or insufficient support when the dependents are applicants or recipients under Article VI. The Child and Spouse Support Unit established by Section 10-3.1 may institute in behalf of the Illinois Department any actions under this Section for judicial enforcement of the support liability when the dependents are (a) applicants or recipients under Articles III, IV, V or VII; (b) applicants or recipients in a local governmental unit when the Illinois Department, by agreement, acts for the unit; or (c) non-applicants or non-recipients who are receiving child support enforcement services under this

Article X, as provided in Section 10-1. Where the Child and Spouse Support Unit has exercised its option and discretion not to apply the provisions of Sections 10-3 through 10-8, the failure by the Unit to apply such provisions shall not be a bar to bringing an action under this Section.

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

The court may enter such orders for the payment of moneys for the support of the person as may be just and equitable and may direct payment thereof for such period or periods of time as the circumstances require, including support for a period before the date the order for support is entered. The order may be entered against any or all of the defendant responsible relatives and may be based upon the proportionate ability of each to contribute to the person's support.

The Court shall determine the amount of child support (including child support for a period before the date the order for child support is entered) by using the guidelines and

standards set forth in subsection (a) of Section 505 and in Section 505.2 of the Illinois Marriage and Dissolution of Marriage Act. For purposes of determining the amount of child support to be paid for a period before the date the order for child support is entered, there is a rebuttable presumption that the responsible relative's net income for that period was the same as his or her net income at the time the order is entered.

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

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

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

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

Any new or existing support order entered by the court under this Section shall be deemed to be a series of judgments against the person obligated to pay support thereunder, each such judgment to be in the amount of each payment or installment of support and each such judgment to be deemed entered as of the date the corresponding payment or installment becomes due under the terms of the support order. Each such judgment shall have the full force, effect and attributes of any other judgment of this State, including the ability to be enforced. Any such judgment is subject to modification or

termination only in accordance with Section 510 of the Illinois Marriage and Dissolution of Marriage Act. Notwithstanding any other State or local law to the contrary, a lien arises by operation of law against the real and personal property of the noncustodial parent for each installment of overdue support owed by the noncustodial parent.

When an order is entered for the support of a minor, the court may provide therein for reasonable visitation of the minor by the person or persons who provided support pursuant to the order. Whoever willfully refuses to comply with such visitation order or willfully interferes with its enforcement may be declared in contempt of court and punished therefor.

Except where the local governmental unit has entered into an agreement with the Illinois Department for the Child and Spouse Support Unit to act for it, as provided in Section 10-3.1, support orders entered by the court in cases involving applicants or recipients under Article VI shall provide that payments thereunder be made directly to the local governmental unit. Orders for the support of all other applicants or recipients shall provide that payments thereunder be made directly to the Illinois Department. In accordance with federal law and regulations, the Illinois Department may continue to collect current maintenance payments or child support payments, or both, after those persons cease to receive public assistance and until termination of services under Article X. The Illinois Department shall pay the net amount collected to

those persons after deducting any costs incurred in making the collection or any collection fee from the amount of any recovery made. In both cases the order shall permit the local governmental unit or the Illinois Department, as the case may be, to direct the responsible relative or relatives to make support payments directly to the needy person, or to some person or agency in his behalf, upon removal of the person from the public aid rolls or upon termination of services under Article X.

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

Actions may also be brought under this Section in behalf of any person who is in need of support from responsible relatives, as defined in Section 2-11 of Article II who is not an applicant for or recipient of financial aid under this Code. In such instances, the State's Attorney of the county in which such person resides shall bring action against the responsible relatives hereunder. If the Illinois Department, as authorized by Section 10-1, extends the child support enforcement services provided by this Article to spouses and dependent children who are not applicants or recipients under this Code, the Child and

Spouse Support Unit established by Section 10-3.1 shall bring action against the responsible relatives hereunder and any support orders entered by the court in such cases shall provide that payments thereunder be made directly to the Illinois Department.

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

Whenever it is determined that a person owes past-due support for a child receiving assistance under this Code, the court shall order at the request of the Illinois Department:

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

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

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

If a person who is found guilty of contempt for failure to comply with an order to pay support is a person who conducts a business or who is self-employed, the court in addition to other penalties provided by law may order that the person do one or more of the following: (i) provide to the court monthly financial statements showing income and expenses from the business or the self-employment; (ii) seek employment and report periodically to the court with a diary, listing, or other memorandum of his or her employment search efforts; or (iii) report to the Department of Employment Security for job search services to find employment that will be subject to withholding of child support.

A one-time charge of 20% is imposable upon the amount of past-due child support owed on July 1, 1988 which has accrued under a support order entered by the court. The charge shall be



imposed in accordance with the provisions of Section 10-21 of this Code and shall be enforced by the court upon petition.

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

An order for support shall include a date on which the current support obligation terminates. The termination date shall be no earlier than the date on which the child covered by the order will attain the age of 18. However, if the child will not graduate from high school until after attaining the age of

18, then the termination date shall be no earlier than the earlier of the date on which the child's high school graduation will occur or the date on which the child will attain the age of 19. The order for support shall state that the termination date does not apply to any arrearage that may remain unpaid on that date. Nothing in this paragraph shall be construed to prevent the court from modifying the order or terminating the order in the event the child is otherwise emancipated.

If there is an unpaid arrearage or delinquency (as those terms are defined in the Income Withholding for Support Act) equal to at least one month's support obligation on the termination date stated in the order for support or, if there is no termination date stated in the order, on the date the child attains the age of majority or is otherwise emancipated, then the periodic amount required to be paid for current support of that child immediately prior to that date shall automatically continue to be an obligation, not as current support but as periodic payment toward satisfaction of the unpaid arrearage or delinquency. That periodic payment shall be in addition to any periodic payment previously required for satisfaction of the arrearage or delinquency. The total periodic amount to be paid toward satisfaction of the arrearage or delinquency may be enforced and collected by any method provided by law for the enforcement and collection of child support, including but not limited to income withholding under the Income Withholding for Support Act. Each order for support

entered or modified on or after the effective date of this amendatory Act of the 93rd General Assembly must contain a statement notifying the parties of the requirements of this paragraph. Failure to include the statement in the order for support does not affect the validity of the order or the operation of the provisions of this paragraph with regard to the order. This paragraph shall not be construed to prevent or affect the establishment or modification of an order for the support of a minor child or the establishment or modification of an order for the support of a non-minor child or educational expenses under Section 513 of the Illinois Marriage and Dissolution of Marriage Act.

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

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

(Source: P.A. 97-186, eff. 7-22-11.)

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

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

Sec. 505. Child support; contempt; penalties.

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

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

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

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

- (a) the financial resources and needs of the child;
- (b) the financial resources and needs of the custodial parent;
- (c) the standard of living the child would have enjoyed had the marriage not been dissolved;
- (d) the physical and emotional condition of the child, and his educational needs; and
- (e) the financial resources and needs of the non-custodial parent.

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

from the guidelines.

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

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

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

(c) Social Security (FICA payments);

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

(e) Union dues;

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

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

(h) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income, medical expenditures necessary to preserve life or health, reasonable expenditures for the benefit of the child and the other parent,

exclusive of gifts. The court shall reduce net income in determining the minimum amount of support to be ordered only for the period that such payments are due and shall enter an order containing provisions for its self-executing modification upon termination of such payment period;

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

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

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

entered.

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

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



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

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

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

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

(A) work; or

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

The Court may further order any part or all of the earnings of a parent during a sentence of periodic imprisonment paid to the Clerk of the Circuit Court or to the parent having custody

or to the guardian having custody of the children of the sentenced parent for the support of said children until further order of the Court.

If a parent who is found guilty of contempt for failure to comply with an order to pay support is a person who conducts a business or who is self-employed, the court in addition to other penalties provided by law may order that the parent do one or more of the following: (i) provide to the court monthly financial statements showing income and expenses from the business or the self-employment; (ii) seek employment and report periodically to the court with a diary, listing, or other memorandum of his or her employment search efforts; or (iii) report to the Department of Employment Security for job search services to find employment that will be subject to withholding for child support.

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

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

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

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

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

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

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

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

A support obligation, or any portion of a support obligation, which becomes due and remains unpaid as of the end of each month, excluding the child support that was due for that month to the extent that it was not paid in that month,

shall accrue simple interest as set forth in Section 12-109 of the Code of Civil Procedure. An order for support entered or modified on or after January 1, 2006 shall contain a statement that a support obligation required under the order, or any portion of a support obligation required under the order, that becomes due and remains unpaid as of the end of each month, excluding the child support that was due for that month to the extent that it was not paid in that month, shall accrue simple interest as set forth in Section 12-109 of the Code of Civil Procedure. Failure to include the statement in the order for support does not affect the validity of the order or the accrual of interest as provided in this Section.

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

(d) Any new or existing support order entered by the court under this Section shall be deemed to be a series of judgments against the person obligated to pay support thereunder, each such judgment to be in the amount of each payment or installment of support and each such judgment to be deemed entered as of the date the corresponding payment or installment becomes due under the terms of the support order. Each such judgment shall have the full force, effect and attributes of

any other judgment of this State, including the ability to be enforced. Notwithstanding any other State or local law to the contrary, a lien arises by operation of law against the real and personal property of the noncustodial parent for each installment of overdue support owed by the noncustodial parent.

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

(f) All orders for support, when entered or modified, shall include a provision requiring the obligor to notify the court and, in cases in which a party is receiving child and spouse services under Article X of the Illinois Public Aid Code, the Department of Healthcare and Family Services, within 7 days, (i) of the name and address of any new employer of the obligor, (ii) whether the obligor has access to health insurance coverage through the employer or other group coverage and, if so, the policy name and number and the names of persons covered under the policy, and (iii) of any new residential or mailing address or telephone number of the non-custodial parent. In any subsequent action to enforce a support order, upon a sufficient

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

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

(g-5) If there is an unpaid arrearage or delinquency (as those terms are defined in the Income Withholding for Support Act) equal to at least one month's support obligation on the termination date stated in the order for support or, if there is no termination date stated in the order, on the date the child attains the age of majority or is otherwise emancipated, the periodic amount required to be paid for current support of

that child immediately prior to that date shall automatically continue to be an obligation, not as current support but as periodic payment toward satisfaction of the unpaid arrearage or delinquency. That periodic payment shall be in addition to any periodic payment previously required for satisfaction of the arrearage or delinquency. The total periodic amount to be paid toward satisfaction of the arrearage or delinquency may be enforced and collected by any method provided by law for enforcement and collection of child support, including but not limited to income withholding under the Income Withholding for Support Act. Each order for support entered or modified on or after the effective date of this amendatory Act of the 93rd General Assembly must contain a statement notifying the parties of the requirements of this subsection. Failure to include the statement in the order for support does not affect the validity of the order or the operation of the provisions of this subsection with regard to the order. This subsection shall not be construed to prevent or affect the establishment or modification of an order for support of a minor child or the establishment or modification of an order for support of a non-minor child or educational expenses under Section 513 of this Act.

(h) An order entered under this Section shall include a provision requiring the obligor to report to the obligee and to the clerk of court within 10 days each time the obligor obtains new employment, and each time the obligor's employment is



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

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

(Source: P.A. 96-1134, eff. 7-21-10; 97-186, eff. 7-22-11; 97-608, eff. 1-1-12; revised 10-4-11.)

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

(750 ILCS 16/20)

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

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

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

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

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

If (i) the non-custodial parent was properly served with a request for discovery of financial information relating to the

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

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

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

(d-5) If a person who is found guilty of contempt for failure to comply with an order to pay support is a person who conducts a business or who is self-employed, the court may order in addition to other penalties provided by law that the person do one or more of the following: (i) provide to the court monthly financial statements showing income and expenses from the business or the self-employment; (ii) seek employment and report periodically to the court with a diary, listing, or

other memorandum of his or her employment search efforts; or (iii) report to the Department of Employment Security for job search services to find employment that will be subject to withholding of child support.

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

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

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

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

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

(h) In any subsequent action to enforce an order for support entered under this Act, upon sufficient showing that diligent effort has been made to ascertain the location of the

noncustodial parent, service of process or provision of notice necessary in that action may be made at the last known address of the noncustodial parent, in any manner expressly provided by the Code of Civil Procedure or in this Act, which service shall be sufficient for purposes of due process.

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

(i-5) If there is an unpaid arrearage or delinquency (as those terms are defined in the Income Withholding for Support Act) equal to at least one month's support obligation on the termination date stated in the order for support or, if there is no termination date stated in the order, on the date the child attains the age of majority or is otherwise emancipated, the periodic amount required to be paid for current support of that child immediately prior to that date shall automatically

continue to be an obligation, not as current support but as periodic payment toward satisfaction of the unpaid arrearage or delinquency. That periodic payment shall be in addition to any periodic payment previously required for satisfaction of the arrearage or delinquency. The total periodic amount to be paid toward satisfaction of the arrearage or delinquency may be enforced and collected by any method provided by law for enforcement and collection of child support, including but not limited to income withholding under the Income Withholding for Support Act. Each order for support entered or modified on or after the effective date of this amendatory Act of the 93rd General Assembly must contain a statement notifying the parties of the requirements of this subsection. Failure to include the statement in the order for support does not affect the validity of the order or the operation of the provisions of this subsection with regard to the order. This subsection shall not be construed to prevent or affect the establishment or modification of an order for support of a minor child or the establishment or modification of an order for support of a non-minor child or educational expenses under Section 513 of the Illinois Marriage and Dissolution of Marriage Act.

(j) A support obligation, or any portion of a support obligation, which becomes due and remains unpaid as of the end of each month, excluding the child support that was due for that month to the extent that it was not paid in that month, shall accrue simple interest as set forth in Section 12-109 of

the Code of Civil Procedure. An order for support entered or modified on or after January 1, 2006 shall contain a statement that a support obligation required under the order, or any portion of a support obligation required under the order, that becomes due and remains unpaid as of the end of each month, excluding the child support that was due for that month to the extent that it was not paid in that month, shall accrue simple interest as set forth in Section 12-109 of the Code of Civil Procedure. Failure to include the statement in the order for support does not affect the validity of the order or the accrual of interest as provided in this Section.

(Source: P.A. 97-186, eff. 7-22-11.)

Section 20. The Illinois Parentage Act of 1984 is amended by changing Section 15 as follows:

(750 ILCS 45/15) (from Ch. 40, par. 2515)

Sec. 15. Enforcement of Judgment or Order.

(a) If existence of the parent and child relationship is declared, or paternity or duty of support has been established under this Act or under prior law or under the law of any other jurisdiction, the judgment rendered thereunder may be enforced in the same or other proceedings by any party or any person or agency that has furnished or may furnish financial assistance or services to the child. The Income Withholding for Support Act and Sections 14 and 16 of this Act shall also be applicable



with respect to entry, modification and enforcement of any support judgment entered under provisions of the "Paternity Act", approved July 5, 1957, as amended, repealed July 1, 1985.

(b) Failure to comply with any order of the court shall be punishable as contempt as in other cases of failure to comply under the "Illinois Marriage and Dissolution of Marriage Act", as now or hereafter amended. In addition to other penalties provided by law, the court may, after finding the party guilty of contempt, order that the party be:

(1) Placed on probation with such conditions of probation as the court deems advisable;

(2) Sentenced to periodic imprisonment for a period not to exceed 6 months. However, the court may permit the party to be released for periods of time during the day or night to work or conduct business or other self-employed occupation. The court may further order any part of all the earnings of a party during a sentence of periodic imprisonment to be paid to the Clerk of the Circuit Court or to the person or parent having custody of the minor child for the support of said child until further order of the court.

(2.5) The court may also pierce the ownership veil of a person, persons, or business entity to discover assets of a non-custodial parent held in the name of that person, those persons, or that business entity if there is a unity of interest and ownership sufficient to render no financial

separation between the non-custodial parent and that person, those persons, or the business entity. The following circumstances are sufficient for a court to order discovery of the assets of a person, persons, or business entity and to compel the application of any discovered assets toward payment on the judgment for support:

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

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

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

With respect to assets which are real property, no order entered under this subdivision (2.5) shall affect the rights of bona fide purchasers, mortgagees, judgment creditors, or other lien holders who acquire their interests in the property prior to the time a notice of lis pendens pursuant to the Code of Civil Procedure or a copy of the order is placed of record in the office of the recorder of deeds for the county in which the real property is located.

(3) The court may also order that in cases where the party is 90 days or more delinquent in payment of support

or has been adjudicated in arrears in an amount equal to 90 days obligation or more, that the party's Illinois driving privileges be suspended until the court determines that the party is in compliance with the judgement or duty of support. The court may also order that the parent be issued a family financial responsibility driving permit that would allow limited driving privileges for employment and medical purposes in accordance with Section 7-702.1 of the Illinois Vehicle Code. The clerk of the circuit court shall certify the order suspending the driving privileges of the parent or granting the issuance of a family financial responsibility driving permit to the Secretary of State on forms prescribed by the Secretary. Upon receipt of the authenticated documents, the Secretary of State shall suspend the party's driving privileges until further order of the court and shall, if ordered by the court, subject to the provisions of Section 7-702.1 of the Illinois Vehicle Code, issue a family financial responsibility driving permit to the parent.

In addition to the penalties or punishment that may be imposed under this Section, any person whose conduct constitutes a violation of Section 15 of the Non-Support Punishment Act may be prosecuted under that Act, and a person convicted under that Act may be sentenced in accordance with that Act. The sentence may include but need not be limited to a requirement that the person perform community service under

Section 50 of that Act or participate in a work alternative program under Section 50 of that Act. A person may not be required to participate in a work alternative program under Section 50 of that Act if the person is currently participating in a work program pursuant to Section 15.1 of this Act.

(b-5) If a party who is found guilty of contempt for a failure to comply with an order to pay support is a person who conducts a business or who is self-employed, the court may in addition to other penalties provided by law order that the party do one or more of the following: (i) provide to the court monthly financial statements showing income and expenses from the business or the self-employment; (ii) seek employment and report periodically to the court with a diary, listing, or other memorandum of his or her employment search efforts; or (iii) report to the Department of Employment Security for job search services to find employment that will be subject to withholding of child support.

(c) In any post-judgment proceeding to enforce or modify the judgment the parties shall continue to be designated as in the original proceeding.

(Source: P.A. 91-357, eff. 7-29-99; 92-16, eff. 6-28-01.)

Section 99. Effective date. This Act takes effect January 1, 2013.