



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB6192

by Rep. Kelly Burke

SYNOPSIS AS INTRODUCED:

See Index

Amends the Alienation of Affections Act, the Breach of Promise Act, and the Criminal Conversation Act to abolish actions for alienation of affections, breach of promise to marry, and criminal conversation, changes the short titles of those Acts, amends the Code of Civil Procedure to make a conforming change, and contains findings. Amends the Illinois Marriage and Dissolution of Marriage Act by making changes regarding: construction of the Act; venue; pleadings; solemnization of marriage; offenses involving issuance of licenses; grounds for dissolution of marriage; judgments for legal separation; mediation; costs of educational sessions; hearings on default; filing of a praecipe for summons; time for entering judgments; simplified dissolution procedure; temporary relief; dissolution action stays; agreements; disposition of property and debts; child support; attorney's fees; modification of provisions of judgments; educational expenses; support for disabled children who have attained majority; custody proceedings, hearings, and orders; allocation and restriction of parental responsibilities; parenting plans; interviews and evaluations of children; enforcement of allocated parenting time; parental relocation; applicability; repeal of various provisions; and other matters. Amends the Intergovernmental Missing Child Recovery Act of 1984, the Code of Criminal Procedure of 1963, the Illinois Domestic Violence Act of 1986, and the Probate Act of 1975 to make conforming changes.

LRB097 21718 KTG 70459 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning civil law.

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

4 ARTICLE 1. HEART BALM ACTIONS

5 Section 1-1. Findings. The majority of states have
6 abolished heart balm actions. In Illinois, heart balm actions
7 for alienation of affections, breach of promise to marry, and
8 criminal conversation were permitted under the common law
9 before the abolition of those causes of action by "An Act in
10 relation to certain causes of action conducive to extortion and
11 blackmail, and to declare illegal, contracts and Acts made and
12 done in pursuance thereof", filed May 4, 1935, Laws 1935, p.
13 716. The Illinois Supreme Court held, in Heck v. Schupp, 394
14 Ill. 296 (1946), that the 1935 Act was unconstitutional and
15 that the abolition of heart balm actions would infringe upon
16 the rights of parties to remedies under Section 19 of Article
17 II of the 1870 Constitution. (Section 12 of Article I of the
18 1970 Constitution is similar to the relevant portion of Section
19 19 of Article II of the 1870 Constitution.) Since 1947, heart
20 balm actions have been permitted with limited damages under the
21 Alienation of Affections Act, the Breach of Promise Act, and
22 the Criminal Conversation Act.

23 Society has since recognized that the amicable settlement

1 of domestic relations disputes is beneficial. In 1977, the
2 Illinois Marriage and Dissolution of Marriage Act became the
3 law of this State. As stated in Section 102 of that Act, among
4 its underlying purposes are: promoting the amicable settlement
5 of disputes that have arisen between parties to a marriage;
6 mitigating the potential harm to the spouses and their children
7 caused by the process of legal dissolution of marriage; and
8 eliminating the consideration of marital misconduct in the
9 adjudication of rights and duties incident to the legal
10 dissolution of marriage, legal separation and declaration of
11 invalidity of marriage. Heart balm actions are inconsistent
12 with these purposes.

13 Society has also realized that women and men should have
14 equal rights under the law. Heart balm actions are rooted in
15 the now-discredited notion that men and women are unequal.

16 Although the Alienation of Affections Act, the Breach of
17 Promise Act, and the Criminal Conversation Act represent
18 attempts to ameliorate some of the more odious consequences of
19 heart balm actions, the General Assembly finds that actions for
20 alienation of affections, breach of promise to marry, and
21 criminal conversation are contrary to the public policy of this
22 State and those causes of action should be abolished.

23 Section 1-5. The Code of Civil Procedure is amended by
24 changing Section 13-202 as follows:

1 (735 ILCS 5/13-202) (from Ch. 110, par. 13-202)

2 Sec. 13-202. Personal injury - Penalty. Actions for damages
3 for an injury to the person, or for false imprisonment, or
4 malicious prosecution, or for a statutory penalty, or for
5 abduction, or for seduction, or for criminal conversation that
6 may proceed pursuant to subsection (a) of Section 7.1 of the
7 Criminal Conversation Abolition Act, except damages resulting
8 from first degree murder or the commission of a Class X felony
9 and the perpetrator thereof is convicted of such crime, shall
10 be commenced within 2 years next after the cause of action
11 accrued but such an action against a defendant arising from a
12 crime committed by the defendant in whose name an escrow
13 account was established under the "Criminal Victims' Escrow
14 Account Act" shall be commenced within 2 years after the
15 establishment of such account. If the compelling of a
16 confession or information by imminent bodily harm or threat of
17 imminent bodily harm results in whole or in part in a criminal
18 prosecution of the plaintiff, the 2-year period set out in this
19 Section shall be tolled during the time in which the plaintiff
20 is incarcerated, or until criminal prosecution has been finally
21 adjudicated in favor of the above referred plaintiff, whichever
22 is later. However, this provision relating to the compelling of
23 a confession or information shall not apply to units of local
24 government subject to the Local Governmental and Governmental
25 Employees Tort Immunity Act.

26 (Source: P.A. 94-1113, eff. 1-1-08.)

1 Section 1-10. The Alienation of Affections Act is amended
2 by changing the title of the Act and Section 0.01 and by adding
3 Section 7.1 as follows:

4 (740 ILCS 5/Act title)

5 An Act relating to ~~the damages recoverable in~~ actions for
6 alienation of affections.

7 (740 ILCS 5/0.01) (from Ch. 40, par. 1900)

8 Sec. 0.01. Short title. This Act may be cited as the
9 Alienation of Affections Abolition Act.

10 (Source: P.A. 86-1324.)

11 (740 ILCS 5/7.1 new)

12 Sec. 7.1. Abolition; effect of repeal.

13 (a) This amendatory Act of the 97th General Assembly does
14 not apply to any cause of action that accrued under Sections 1
15 through 7 of this Act before their repeal, and a timely action
16 brought under those Sections shall be decided in accordance
17 with those Sections as they existed when the cause of action
18 accrued.

19 (b) An action may not be brought for alienation of
20 affections based on facts occurring on or after the effective
21 date of this amendatory Act of the 97th General Assembly.

1 (740 ILCS 5/1 rep.)

2 (740 ILCS 5/2 rep.)

3 (740 ILCS 5/3 rep.)

4 (740 ILCS 5/4 rep.)

5 (740 ILCS 5/5 rep.)

6 (740 ILCS 5/6 rep.)

7 (740 ILCS 5/7 rep.)

8 Section 1-15. The Alienation of Affections Act is amended
9 by repealing Sections 1, 2, 3, 4, 5, 6, and 7.

10 Section 1-20. The Breach of Promise Act is amended by
11 changing Section 0.01 and by adding Section 10.1 as follows:

12 (740 ILCS 15/0.01) (from Ch. 40, par. 1800)

13 Sec. 0.01. Short title. This Act may be cited as the Breach
14 of Promise Abolition Act.

15 (Source: P.A. 86-1324.)

16 (740 ILCS 15/10.1 new)

17 Sec. 10.1. Abolition; effect of repeal.

18 (a) This amendatory Act of the 97th General Assembly does
19 not apply to any cause of action that accrued under Sections 1
20 through 10 of this Act before their repeal, and a timely action
21 brought under those Sections shall be decided in accordance
22 with those Sections as they existed when the cause of action
23 accrued.

1 (b) An action may not be brought for breach of promise or
2 agreement to marry based on facts occurring on or after the
3 effective date of this amendatory Act of the 97th General
4 Assembly.

5 (740 ILCS 15/1 rep.)

6 (740 ILCS 15/2 rep.)

7 (740 ILCS 15/3 rep.)

8 (740 ILCS 15/4 rep.)

9 (740 ILCS 15/5 rep.)

10 (740 ILCS 15/6 rep.)

11 (740 ILCS 15/7 rep.)

12 (740 ILCS 15/8 rep.)

13 (740 ILCS 15/9 rep.)

14 (740 ILCS 15/10 rep.)

15 Section 1-25. The Breach of Promise Act is amended by
16 repealing Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10.

17 Section 1-30. The Criminal Conversation Act is amended by
18 changing the title of the Act and Section 0.01 and by adding
19 Section 7.1 as follows:

20 (740 ILCS 50/Act title)

21 An Act relating to ~~the damages recoverable in~~ actions for
22 criminal conversation.

1 (740 ILCS 50/0.01) (from Ch. 40, par. 1950)

2 Sec. 0.01. Short title. This Act may be cited as the
3 Criminal Conversation Abolition Act.

4 (Source: P.A. 86-1324.)

5 (740 ILCS 50/7.1 new)

6 Sec. 7.1. Abolition; effect of repeal.

7 (a) This amendatory Act of the 97th General Assembly does
8 not apply to any cause of action that accrued under Sections 1
9 through 7 of this Act before their repeal, and a timely action
10 brought under those Sections shall be decided in accordance
11 with those Sections as they existed when the cause of action
12 accrued.

13 (b) An action may not be brought for criminal conversation
14 based on facts occurring on or after the effective date of this
15 amendatory Act of the 97th General Assembly.

16 (740 ILCS 50/1 rep.)

17 (740 ILCS 50/2 rep.)

18 (740 ILCS 50/3 rep.)

19 (740 ILCS 50/4 rep.)

20 (740 ILCS 50/5 rep.)

21 (740 ILCS 50/6 rep.)

22 (740 ILCS 50/7 rep.)

23 Section 1-35. The Criminal Conversation Act is amended by
24 repealing Sections 1, 2, 3, 4, 5, 6, and 7.

1 ARTICLE 5. OTHER AMENDATORY PROVISIONS

2 Section 5-5. The Intergovernmental Missing Child Recovery
3 Act of 1984 is amended by changing Section 7.1 as follows:

4 (325 ILCS 40/7.1) (from Ch. 23, par. 2257.1)

5 Sec. 7.1. In addition to any requirement of Section 601.2
6 ~~601 or 611~~ of the Illinois Marriage and Dissolution of Marriage
7 Act or applicable provisions of the Uniform Child-Custody
8 Jurisdiction and Enforcement Act regarding a parental
9 allocation ~~custody~~ proceeding of an out-of-state party, every
10 court in this State, prior to granting or modifying a parental
11 allocation ~~custody~~ judgment, shall inquire with LEADS and the
12 National Crime Information Center to ascertain whether the
13 child or children in question have been reported missing or
14 have been involved in or are the victims of a parental or
15 noncustodial abduction. Such inquiry may be conducted with any
16 law enforcement agency in this State that maintains a LEADS
17 terminal or has immediate access to one on a 24-hour-per-day,
18 7-day-per-week basis through a written agreement with another
19 law enforcement agency.

20 (Source: P.A. 93-108, eff. 1-1-04.)

21 Section 5-10. The Code of Criminal Procedure of 1963 is
22 amended by changing Section 112A-23 as follows:

1 (725 ILCS 5/112A-23) (from Ch. 38, par. 112A-23)

2 Sec. 112A-23. Enforcement of orders of protection.

3 (a) When violation is crime. A violation of any order of
4 protection, whether issued in a civil, quasi-criminal
5 proceeding, shall be enforced by a criminal court when:

6 (1) The respondent commits the crime of violation of an
7 order of protection pursuant to Section 12-3.4 or 12-30 of
8 the Criminal Code of 1961, by having knowingly violated:

9 (i) remedies described in paragraphs (1), (2),
10 (3), (14), or (14.5) of subsection (b) of Section
11 112A-14,

12 (ii) a remedy, which is substantially similar to
13 the remedies authorized under paragraphs (1), (2),
14 (3), (14) or (14.5) of subsection (b) of Section 214 of
15 the Illinois Domestic Violence Act of 1986, in a valid
16 order of protection, which is authorized under the laws
17 of another state, tribe or United States territory,

18 (iii) or any other remedy when the act constitutes
19 a crime against the protected parties as defined by the
20 Criminal Code of 1961.

21 Prosecution for a violation of an order of protection shall
22 not bar concurrent prosecution for any other crime, including
23 any crime that may have been committed at the time of the
24 violation of the order of protection; or

25 (2) The respondent commits the crime of child abduction

1 pursuant to Section 10-5 of the Criminal Code of 1961, by
2 having knowingly violated:

3 (i) remedies described in paragraphs (5), (6) or
4 (8) of subsection (b) of Section 112A-14, or

5 (ii) a remedy, which is substantially similar to
6 the remedies authorized under paragraphs (1), (5),
7 (6), or (8) of subsection (b) of Section 214 of the
8 Illinois Domestic Violence Act of 1986, in a valid
9 order of protection, which is authorized under the laws
10 of another state, tribe or United States territory.

11 (b) When violation is contempt of court. A violation of any
12 valid order of protection, whether issued in a civil or
13 criminal proceeding, may be enforced through civil or criminal
14 contempt procedures, as appropriate, by any court with
15 jurisdiction, regardless where the act or acts which violated
16 the order of protection were committed, to the extent
17 consistent with the venue provisions of this Article. Nothing
18 in this Article shall preclude any Illinois court from
19 enforcing any valid order of protection issued in another
20 state. Illinois courts may enforce orders of protection through
21 both criminal prosecution and contempt proceedings, unless the
22 action which is second in time is barred by collateral estoppel
23 or the constitutional prohibition against double jeopardy.

24 (1) In a contempt proceeding where the petition for a
25 rule to show cause sets forth facts evidencing an immediate
26 danger that the respondent will flee the jurisdiction,

1 conceal a child, or inflict physical abuse on the
2 petitioner or minor children or on dependent adults in
3 petitioner's care, the court may order the attachment of
4 the respondent without prior service of the rule to show
5 cause or the petition for a rule to show cause. Bond shall
6 be set unless specifically denied in writing.

7 (2) A petition for a rule to show cause for violation
8 of an order of protection shall be treated as an expedited
9 proceeding.

10 (c) Violation of custody, allocation of parental
11 responsibility, or support orders. A violation of remedies
12 described in paragraphs (5), (6), (8), or (9) of subsection (b)
13 of Section 112A-14 may be enforced by any remedy provided by
14 Section 607.5 ~~611~~ of the Illinois Marriage and Dissolution of
15 Marriage Act. The court may enforce any order for support
16 issued under paragraph (12) of subsection (b) of Section
17 112A-14 in the manner provided for under Parts V and VII of the
18 Illinois Marriage and Dissolution of Marriage Act.

19 (d) Actual knowledge. An order of protection may be
20 enforced pursuant to this Section if the respondent violates
21 the order after respondent has actual knowledge of its contents
22 as shown through one of the following means:

23 (1) By service, delivery, or notice under Section
24 112A-10.

25 (2) By notice under Section 112A-11.

26 (3) By service of an order of protection under Section

1 112A-22.

2 (4) By other means demonstrating actual knowledge of
3 the contents of the order.

4 (e) The enforcement of an order of protection in civil or
5 criminal court shall not be affected by either of the
6 following:

7 (1) The existence of a separate, correlative order
8 entered under Section 112A-15.

9 (2) Any finding or order entered in a conjoined
10 criminal proceeding.

11 (f) Circumstances. The court, when determining whether or
12 not a violation of an order of protection has occurred, shall
13 not require physical manifestations of abuse on the person of
14 the victim.

15 (g) Penalties.

16 (1) Except as provided in paragraph (3) of this
17 subsection, where the court finds the commission of a crime
18 or contempt of court under subsections (a) or (b) of this
19 Section, the penalty shall be the penalty that generally
20 applies in such criminal or contempt proceedings, and may
21 include one or more of the following: incarceration,
22 payment of restitution, a fine, payment of attorneys' fees
23 and costs, or community service.

24 (2) The court shall hear and take into account evidence
25 of any factors in aggravation or mitigation before deciding
26 an appropriate penalty under paragraph (1) of this

1 subsection.

2 (3) To the extent permitted by law, the court is
3 encouraged to:

4 (i) increase the penalty for the knowing violation
5 of any order of protection over any penalty previously
6 imposed by any court for respondent's violation of any
7 order of protection or penal statute involving
8 petitioner as victim and respondent as defendant;

9 (ii) impose a minimum penalty of 24 hours
10 imprisonment for respondent's first violation of any
11 order of protection; and

12 (iii) impose a minimum penalty of 48 hours
13 imprisonment for respondent's second or subsequent
14 violation of an order of protection

15 unless the court explicitly finds that an increased penalty
16 or that period of imprisonment would be manifestly unjust.

17 (4) In addition to any other penalties imposed for a
18 violation of an order of protection, a criminal court may
19 consider evidence of any violations of an order of
20 protection:

21 (i) to increase, revoke or modify the bail bond on
22 an underlying criminal charge pursuant to Section
23 110-6;

24 (ii) to revoke or modify an order of probation,
25 conditional discharge or supervision, pursuant to
26 Section 5-6-4 of the Unified Code of Corrections;

1 (iii) to revoke or modify a sentence of periodic
2 imprisonment, pursuant to Section 5-7-2 of the Unified
3 Code of Corrections.

4 (Source: P.A. 95-331, eff. 8-21-07; 96-1551, eff. 7-1-11.)

5 Section 5-15. The Illinois Marriage and Dissolution of
6 Marriage Act is amended by changing Sections 102, 104, 105,
7 107, 209, 219, 401, 402, 403, 404, 404.1, 405, 409, 411, 413,
8 452, 453, 501, 501.1, 502, 503, 504, 505, 505.1, 508, 510, 512,
9 and 513 and the heading of Part VI and by adding Sections
10 513.5, 600, 601.2, 602.5, 602.7, 602.10, 603.5, 603.10, 604.10,
11 606.5, 606.10, 607.5, 609.2, 610.5, and 612 as follows:

12 (750 ILCS 5/102) (from Ch. 40, par. 102)

13 Sec. 102. Purposes; Rules of Construction. This Act shall
14 be liberally construed and applied to promote its underlying
15 purposes, which are to:

16 (1) provide adequate procedures for the solemnization and
17 registration of marriage;

18 (2) strengthen and preserve the integrity of marriage and
19 safeguard family relationships;

20 (3) promote the amicable settlement of disputes that have
21 arisen between parties to a marriage;

22 (4) mitigate the potential harm to ~~the~~ spouses and their
23 children caused by the process of an action brought under this
24 Act, and protect children from exposure to conflict and

1 violence legal dissolution of marriage;

2 (5) ensure predictable decision-making for the care of
3 children and for the allocation of parenting time and other
4 parental responsibilities, and avoid prolonged uncertainty by
5 expeditiously resolving issues involving children;

6 (6) recognize the right of children to a healthy
7 relationship with parents, and the responsibility of parents to
8 ensure such a relationship;

9 (7) acknowledge that the determination of children's best
10 interests, and the allocation of parenting time and significant
11 decision-making responsibilities, are among the paramount
12 responsibilities of our system of justice, and to that end:

13 (A) recognize children's right to a strong and healthy
14 relationship with parents, and parents' concomitant right
15 and responsibility to create and maintain such
16 relationships;

17 (B) recognize that, in the absence of domestic violence
18 or any other factor that the court expressly finds to be
19 relevant, proximity to, and frequent contact with, both
20 parents promotes healthy development of children;

21 (C) facilitate parental planning and agreement about
22 the children's upbringing and allocation of parenting time
23 and other parental responsibilities;

24 (D) continue existing parent-child relationships, and
25 secure the maximum involvement and cooperation of parents
26 regarding the physical, mental, moral, and emotional

1 well-being of the children during and after the litigation;

2 (E) recognize that the involvement of each parent for
3 not less than 35% residential parenting time is
4 presumptively in the children's best interest; and

5 (F) promote or order parents to participate in programs
6 designed to educate parents to:

7 (i) minimize or eliminate rancor and the
8 detrimental effect of litigation in any proceeding
9 involving children; and

10 (ii) facilitate the maximum cooperation of parents
11 in raising their children;

12 (8) ~~(5)~~ make reasonable provision for support spouses and
13 ~~minor children~~ during and after an underlying action for
14 dissolution of marriage litigation, including provision for
15 timely advances awards of interim fees and costs to all
16 attorneys, experts, and opinion witnesses including guardians
17 ad litem and children's representatives, to achieve
18 substantial parity in parties' access to funds for pre-judgment
19 litigation costs in an action for dissolution of marriage;

20 (9) ~~(6)~~ eliminate the consideration of marital misconduct
21 in the adjudication of rights and duties incident to ~~the legal~~
22 dissolution of marriage, legal separation and declaration of
23 invalidity of marriage; and

24 ~~(7) secure the maximum involvement and cooperation of both~~
25 ~~parents regarding the physical, mental, moral and emotional~~
26 ~~well being of the children during and after the litigation; and~~

1 (10) ~~(8)~~ make provision for the preservation and
2 conservation of marital assets during the litigation.

3 (Source: P.A. 89-712, eff. 6-1-97.)

4 (750 ILCS 5/104) (from Ch. 40, par. 104)

5 Sec. 104. Venue.) The proceedings shall be had in the
6 county where the plaintiff or defendant resides, except as
7 otherwise provided herein, but process may be directed to any
8 county in the State. Objection to venue is barred if not made
9 within such time as the defendant's response is due. In no
10 event shall venue be deemed jurisdictional.

11 In any case brought pursuant to this Act where neither the
12 petitioner nor respondent resides in the county in which the
13 initial pleading is filed, the petitioner shall file with the
14 initial pleading a written motion, which shall be set for
15 hearing and ruled upon before any other issue is taken up,
16 advising that the forum selected is not one of proper venue and
17 seeking an appropriate order from the court allowing a waiver
18 of the venue requirements of this Section.

19 (Source: P.A. 82-716.)

20 (750 ILCS 5/105) (from Ch. 40, par. 105)

21 Sec. 105. Application of Civil Practice Law.) (a) The
22 provisions of the Civil Practice Law shall apply to all
23 proceedings under this Act, except as otherwise provided in
24 this Act.

1 (b) A proceeding for dissolution of marriage, legal
2 separation or declaration of invalidity of marriage shall be
3 entitled "In re the Marriage of ... and ...". A custody or
4 support proceeding shall be entitled "In re the (Custody)
5 (Support) of ...".

6 (c) The initial pleading in all proceedings under this Act
7 shall be denominated a petition. A responsive pleading shall be
8 denominated a response. If new matter by way of defense is
9 pleaded in the response, a reply may be filed by the
10 petitioner, but the failure to reply is not an admission of the
11 legal sufficiency of the new matter. All other pleadings under
12 this Act shall be denominated as provided in the Civil Practice
13 Law.

14 (Source: P.A. 82-783.)

15 (750 ILCS 5/107) (from Ch. 40, par. 107)

16 Sec. 107. Order of protection; status. Whenever relief is
17 sought under Part V, Part VI or Part VII of this Act, the
18 parties shall advise the court, before granting relief, shall
19 ~~determine~~ whether any order of protection has previously been
20 entered in the instant proceeding or any other proceeding in
21 which any party, or a child of any party, or both, if relevant,
22 has been designated as either a respondent or a protected
23 person.

24 (Source: P.A. 87-743.)

1 (750 ILCS 5/209) (from Ch. 40, par. 209)

2 Sec. 209. Solemnization and Registration.)

3 (a) A marriage may be solemnized by a judge of a court of
4 record, by a retired judge of a court of record, unless the
5 retired judge was removed from office by the Judicial Inquiry
6 Board, except that a retired judge shall not receive any
7 compensation from the State, a county or any unit of local
8 government in return for the solemnization of a marriage and
9 there shall be no effect upon any pension benefits conferred by
10 the Judges Retirement System of Illinois, by a judge of the
11 Court of Claims, by a county clerk in counties having 2,000,000
12 or more inhabitants, by a public official whose powers include
13 solemnization of marriages, or in accordance with the
14 prescriptions of any religious denomination, Indian Nation or
15 Tribe or Native Group, provided that when such prescriptions
16 require an officiant, the officiant be in good standing with
17 his religious denomination, Indian Nation or Tribe or Native
18 Group. Either the person solemnizing the marriage, or, if no
19 individual acting alone solemnized the marriage, both parties
20 to the marriage, shall complete the marriage certificate form
21 and forward it to the county clerk within 10 days after such
22 marriage is solemnized.

23 (b) The solemnization of the marriage is not invalidated:
24 (1) by the fact that the person solemnizing the marriage was
25 not legally qualified to solemnize it, if a reasonable person
26 would believe the person solemnizing the marriage to be so

1 ~~qualified; if either party to the marriage believed him to be~~
2 ~~so qualified~~ or (2) by the fact that the marriage was
3 inadvertently solemnized in a county in Illinois other than the
4 county where the license was issued and filed.

5 (c) Any marriage that meets the requirements of this
6 Section shall be presumed valid.

7 (Source: P.A. 95-775, eff. 1-1-09.)

8 (750 ILCS 5/219) (from Ch. 40, par. 219)

9 Sec. 219. Offenses.) Any official issuing a license with
10 knowledge that the parties are thus prohibited from marrying
11 ~~intermarrying~~ and any person authorized to celebrate marriage
12 who shall knowingly celebrate such a marriage shall be guilty
13 of a Class B misdemeanor ~~petty offense~~.

14 (Source: P.A. 80-923.)

15 (750 ILCS 5/401) (from Ch. 40, par. 401)

16 Sec. 401. Dissolution of marriage.

17 (a) The court shall enter a judgment of dissolution of
18 marriage when ~~if~~ at the time the action was commenced one of
19 the spouses was a resident of this State or was stationed in
20 this State while a member of the armed services, and the
21 residence or military presence had been maintained for 90 days
22 next preceding the commencement of the action or the making of
23 the finding and the following have been proven:

24 Irreconcilable differences have caused the irretrievable

1 breakdown of the marriage and the court determines that efforts
2 at reconciliation have failed or that future attempts at
3 reconciliation would be impracticable and not in the best
4 interests of the family.

5 (a-5) If the parties are separated for 6 consecutive
6 months, which period may commence prior to or after the filing
7 of an action for dissolution of marriage under this Act, there
8 will be an irrefutable presumption that the requirement of
9 irreconcilable differences exists.; ~~provided, however, that a~~
10 ~~finding of residence of a party in any judgment entered under~~
11 ~~this Act from January 1, 1982 through June 30, 1982 shall~~
12 ~~satisfy the former domicile requirements of this Act; and if~~
13 ~~one of the following grounds for dissolution has been proved:~~

14 ~~(1) That, without cause or provocation by the~~
15 ~~petitioner: the respondent was at the time of such~~
16 ~~marriage, and continues to be naturally impotent; the~~
17 ~~respondent had a wife or husband living at the time of the~~
18 ~~marriage; the respondent had committed adultery subsequent~~
19 ~~to the marriage; the respondent has wilfully deserted or~~
20 ~~absented himself or herself from the petitioner for the~~
21 ~~space of one year, including any period during which~~
22 ~~litigation may have pended between the spouses for~~
23 ~~dissolution of marriage or legal separation; the~~
24 ~~respondent has been guilty of habitual drunkenness for the~~
25 ~~space of 2 years; the respondent has been guilty of gross~~
26 ~~and confirmed habits caused by the excessive use of~~

1 ~~addictive drugs for the space of 2 years, or has attempted~~
2 ~~the life of the other by poison or other means showing~~
3 ~~malice, or has been guilty of extreme and repeated physical~~
4 ~~or mental cruelty, or has been convicted of a felony or~~
5 ~~other infamous crime; or the respondent has infected the~~
6 ~~other with a sexually transmitted disease. "Excessive use~~
7 ~~of addictive drugs", as used in this Section, refers to use~~
8 ~~of an addictive drug by a person when using the drug~~
9 ~~becomes a controlling or a dominant purpose of his life; or~~

10 ~~(2) That the spouses have lived separate and apart for~~
11 ~~a continuous period in excess of 2 years and irreconcilable~~
12 ~~differences have caused the irretrievable breakdown of the~~
13 ~~marriage and the court determines that efforts at~~
14 ~~reconciliation have failed or that future attempts at~~
15 ~~reconciliation would be impracticable and not in the best~~
16 ~~interests of the family. If the spouses have lived separate~~
17 ~~and apart for a continuous period of not less than 6 months~~
18 ~~next preceding the entry of the judgment dissolving the~~
19 ~~marriage, as evidenced by testimony or affidavits of the~~
20 ~~spouses, the requirement of living separate and apart for a~~
21 ~~continuous period in excess of 2 years may be waived upon~~
22 ~~written stipulation of both spouses filed with the court.~~
23 ~~At any time after the parties cease to cohabit, the~~
24 ~~following periods shall be included in the period of~~
25 ~~separation:~~

26 ~~(A) any period of cohabitation during which the~~

1 ~~parties attempted in good faith to reconcile and~~
2 ~~participated in marriage counseling under the guidance~~
3 ~~of any of the following: a psychiatrist, a clinical~~
4 ~~psychologist, a clinical social worker, a marriage and~~
5 ~~family therapist, a person authorized to provide~~
6 ~~counseling in accordance with the prescriptions of any~~
7 ~~religious denomination, or a person regularly engaged~~
8 ~~in providing family or marriage counseling; and~~

9 ~~(B) any period of cohabitation under written~~
10 ~~agreement of the parties to attempt to reconcile.~~

11 ~~In computing the period during which the spouses have lived~~
12 ~~separate and apart for purposes of this Section, periods during~~
13 ~~which the spouses were living separate and apart prior to July~~
14 ~~1, 1984 are included.~~

15 (b) Judgment shall not be entered unless, to the extent it
16 has jurisdiction to do so, the court has considered, approved,
17 reserved or made provision for child custody, the support of
18 any child of the marriage entitled to support, the maintenance
19 of either spouse and the disposition of property. The court
20 shall ~~may~~ enter a judgment for dissolution that reserves any of
21 these issues either upon (i) agreement of the parties, or (ii)
22 motion of either party and a finding by the court that
23 appropriate circumstances exist.

24 The death of a party subsequent to entry of a judgment for
25 dissolution but before judgment on reserved issues shall not
26 abate the proceedings.

1 If any provision of this Section or its application shall
2 be adjudged unconstitutional or invalid for any reason by any
3 court of competent jurisdiction, that judgment shall not
4 impair, affect or invalidate any other provision or application
5 of this Section, which shall remain in full force and effect.

6 (Source: P.A. 89-187, eff. 7-19-95.)

7 (750 ILCS 5/402) (from Ch. 40, par. 402)

8 Sec. 402. Legal Separation.) (a) Any person living separate
9 and apart from his or her spouse without fault may have a
10 remedy for reasonable support and maintenance while they so
11 live apart.

12 (b) Such action shall be brought in the circuit court of
13 the county in which the respondent resides or in which the
14 parties last resided together as husband and wife. In the event
15 the respondent cannot be found within the State, the action may
16 be brought in the circuit court of the county in which the
17 petitioner resides. Commencement of the action, temporary
18 relief and trials shall be the same as in actions for
19 dissolution of marriage, except that temporary relief in an
20 action for legal separation shall be limited to the relief set
21 forth in items (i), (ii), (iii), and (iv) of subdivision (a) (2)
22 of Section 501. If the court deems it appropriate to enter a
23 judgment for legal separation, the court shall consider the
24 factors in Section 504 in awarding maintenance. If the court
25 deems it appropriate to enter a judgment for legal separation,

1 the court may approve a property settlement agreement that the
2 parties have requested the court to incorporate into the
3 judgment, subject to the following provisions:

4 (1) the court may not value or allocate property in the
5 absence of such an agreement;

6 (2) the court may disapprove such an agreement only if
7 it finds that the agreement is unconscionable; and

8 (3) such an agreement is final and non-modifiable.

9 (c) A proceeding or judgment for legal separation shall not
10 bar either party from instituting an action for dissolution of
11 marriage, and if the party so moving has met the requirements
12 of Section 401, a judgment for dissolution shall be granted.
13 Absent an agreement set forth in a separation agreement that
14 provides for non-modifiable permanent maintenance, if a party
15 to a judgment for legal separation files an action for
16 dissolution of marriage, the issues of temporary and permanent
17 maintenance shall be decided de novo.

18 (Source: P.A. 82-716.)

19 (750 ILCS 5/403) (from Ch. 40, par. 403)

20 Sec. 403. Pleadings - Commencement - Abolition of Existing
21 Defenses - Procedure.)

22 (a) The complaint or petition for dissolution of marriage
23 or legal separation shall be verified and shall minimally set
24 forth:

25 (1) the age, occupation and residence of each party and

1 his length of residence in this State;

2 (2) the date of the marriage and the place at which it
3 was registered;

4 (2.5) whether a petition for dissolution of marriage is
5 pending in any other county or state;

6 (3) that the jurisdictional requirements of subsection
7 (a) of Section 401 have been met and that irreconcilable
8 differences have caused the irretrievable breakdown of the
9 marriage; and that there exist grounds for dissolution of
10 marriage or legal separation. The petitioner need only
11 allege the name of the particular grounds relied upon,
12 which shall constitute a legally sufficient allegation of
13 the grounds; and the respondent shall be entitled to demand
14 a bill of particulars prior to trial setting forth the
15 facts constituting the grounds, if he so chooses. The
16 petition must also contain:

17 (4) the names, ages and addresses of all living
18 children of the marriage, and whether the wife is pregnant,
19 and, if the wife is pregnant, the name of the man whom the
20 wife believes to be the father of the unborn child or
21 children;

22 (5) any arrangements as to support, custody and
23 visitation of the children and maintenance of a spouse; and

24 (6) the relief sought.

25 (b) Either or both parties to the marriage may initiate the
26 proceeding.

1 (c) (Blank). ~~The previously existing defense of~~
2 ~~recrimination is abolished. The defense of condonation is~~
3 ~~abolished only as to condonations occurring after a proceeding~~
4 ~~is filed under this Act and after the court has acquired~~
5 ~~jurisdiction over the respondent.~~

6 (d) The court may join additional parties necessary and
7 proper for the exercise of its authority under this Act.

8 (e) Contested trials shall be on a bifurcated basis with
9 the issue of whether irreconcilable differences have caused the
10 irretrievable breakdown of the marriage, as described in
11 Section 401, grounds being tried first, regardless of whether
12 that issue is contested or uncontested. Upon the court
13 determining that irreconcilable differences have caused the
14 irretrievable breakdown of the marriage ~~the grounds exist~~, the
15 court may allow additional time for the parties to settle
16 amicably the remaining issues before resuming the trial, or may
17 proceed immediately to trial on the remaining issues. In cases
18 where the requirements of Section 401 ~~the grounds~~ are
19 uncontested and proved as in cases of default, the trial on all
20 other remaining issues shall proceed immediately, if so ordered
21 by the court or if the parties so stipulate, ~~issue on the~~
22 ~~pleadings notwithstanding.~~ The court shall enter a judgment of
23 dissolution of marriage, including an order dissolving the
24 marriage, incorporation of a marital settlement agreement if
25 applicable, and any other appropriate findings or orders, only
26 at the conclusion of the case and not after hearing only the

1 testimony as to whether irreconcilable differences have caused
2 the irretrievable breakdown of the marriage.

3 (f) (Blank). ~~Even if no bill of particulars shall have been~~
4 ~~filed demanding the specification of the particular facts~~
5 ~~underlying the allegation of the grounds, the court shall~~
6 ~~nonetheless require proper and sufficient proof of the~~
7 ~~existence of the grounds.~~

8 (Source: P.A. 90-174, eff. 10-1-97.)

9 (750 ILCS 5/404) (from Ch. 40, par. 404)

10 Sec. 404. Conciliation; mediation.

11 (a) If the court concludes that there is a prospect of
12 reconciliation, the court, at the request of either party, or
13 on its own motion, may order a conciliation conference. The
14 conciliation conference and counseling shall take place at the
15 established court conciliation service of that judicial
16 district or at any similar service or facility where no court
17 conciliation service has been established.

18 (b) The facts adduced at any conciliation conference
19 resulting from a referral hereunder, shall not be considered in
20 the adjudication of a pending or subsequent action, nor shall
21 any report resulting from such conference become part of the
22 record of the case unless the parties have stipulated in
23 writing to the contrary.

24 The court, upon good cause shown, may prohibit
25 conciliation, mediation or other process that requires the

1 parties to meet and confer without counsel.

2 (c) The fees or costs of mediation under this Section shall
3 be borne by the parties and may be assessed by the court as it
4 deems equitable without prejudice and are subject to
5 reallocation at the conclusion of the case.

6 (Source: P.A. 87-1255.)

7 (750 ILCS 5/404.1) (from Ch. 40, par. 404.1)

8 Sec. 404.1. (a) In an action for dissolution of marriage
9 involving minor children, or in a post-judgment proceeding
10 involving minor children, the court may on its own motion order
11 the parties, excluding the minor children, to attend an
12 educational program concerning the effects of dissolution of
13 marriage on the children, if the court finds that it would be
14 in the best interests of the minor children. The program may be
15 divided into sessions, which in the aggregate shall not exceed
16 4 hours in duration. The program shall be educational in nature
17 and not designed for individual therapy.

18 (b) The facts adduced at any educational session resulting
19 from a referral under this Section shall not be considered in
20 the adjudication of a pending or subsequent action, nor shall
21 any report resulting from such educational session become part
22 of the record of the case unless the parties have stipulated in
23 writing to the contrary.

24 (c) The fees or costs of educational sessions under this
25 Section shall be borne by the parties and may be assessed by

1 the court as it deems equitable without prejudice and are
2 subject to reallocation at the conclusion of the case.

3 (Source: P.A. 86-288.)

4 (750 ILCS 5/405) (from Ch. 40, par. 405)

5 Sec. 405. Hearing on Default - Notice.) If the respondent
6 is in default, the court shall proceed to hear the cause upon
7 testimony of petitioner taken in open court, and in no case of
8 default shall the court grant a dissolution of marriage or
9 legal separation or declaration of invalidity of marriage,
10 unless the judge is satisfied that all proper means have been
11 taken to notify the respondent of the pendency of the suit.
12 Whenever the judge is satisfied that the interests of the
13 respondent require it, the court may order such additional
14 notice as may be required. All of the provisions of the Code of
15 Civil Procedure relating to default hearings are applicable to
16 hearings on default.

17 (Source: P.A. 80-923.)

18 (750 ILCS 5/409) (from Ch. 40, par. 409)

19 Sec. 409. Proof of Foreign Marriage.) A marriage which may
20 have been celebrated or had in any foreign state or country,
21 may be proved by the acknowledgment of the parties, their
22 cohabitation, and other evidence. Certified copies of records
23 of a marriage performed in any foreign state or country
24 obtained from an embassy or consulate may be admitted as an

1 exception to the hearsay rule ~~circumstantial testimony.~~

2 (Source: P.A. 80-923.)

3 (750 ILCS 5/411) (from Ch. 40, par. 411)

4 Sec. 411. Commencement of Action.) (a) Actions for
5 dissolution of marriage or legal separation shall be commenced
6 as in other civil cases or, at the option of petitioner, by
7 filing a praecipe for summons with the clerk of the court and
8 paying the regular filing fees, in which latter case, a
9 petition shall be filed within 6 months thereafter, or any
10 extension for good cause shown granted by the court.

11 (b) When a praecipe for summons is filed without the
12 petition, the summons shall recite that petitioner has
13 commenced suit for dissolution of marriage or legal separation
14 and shall require the respondent to file his or her appearance
15 not later than 30 days from the day the summons is served and
16 to plead to the petitioner's petition within 30 days from the
17 day the petition is filed.

18 Until a petition has been filed, the court, pursuant to
19 subsections (c) and (d) herein, may dismiss the suit, order the
20 filing of a petition, or grant leave to the respondent to file
21 a petition in the nature of a counter petition.

22 After the filing of the petition, the party filing the same
23 shall, within 2 days, serve a copy thereof upon the other
24 party, in the manner provided by rule of the Supreme Court for
25 service of notices in other civil cases.

1 (c) Unless a respondent voluntarily files an appearance, a
2 praecipe for summons filed without the petition shall be served
3 on the respondent not later than 30 days after its issuance,
4 and upon failure to obtain service upon the respondent within
5 the 30 day period, or any extension for good cause shown
6 granted by the court, the court shall dismiss the suit.

7 (d) An action for dissolution of marriage or legal
8 separation commenced by the filing a praecipe for summons
9 without the petition may ~~shall~~ be dismissed unless a petition
10 for dissolution of marriage or legal separation has been filed
11 within 6 months after the commencement of the action.

12 (e) The filing of a praecipe for summons under this Section
13 constitutes the commencement of an action that serves as
14 grounds for involuntary dismissal under subdivision (a)(3) of
15 Section 2-619 of the Code of Civil Procedure of a subsequently
16 filed petition for dissolution of marriage or legal separation
17 in another county.

18 (Source: P.A. 86-630.)

19 (750 ILCS 5/413) (from Ch. 40, par. 413)

20 Sec. 413. Judgment.)

21 (a) A judgment of dissolution of marriage or of legal
22 separation or of declaration of invalidity of marriage shall be
23 entered within 60 days of the closing of proofs; however, if
24 the court enters an order specifying good cause as to why the
25 court needs an addition 30 days, the judgment shall be entered

1 within 90 days of the closing of proofs. A judgment of
2 dissolution of marriage or of legal separation or of
3 declaration of invalidity of marriage is final when entered,
4 subject to the right of appeal. An appeal from the judgment of
5 dissolution of marriage that does not challenge the finding as
6 to grounds does not delay the finality of that provision of the
7 judgment which dissolves the marriage, beyond the time for
8 appealing from that provision, and either of the parties may
9 remarry pending appeal. An order requiring maintenance or
10 support of a spouse or a minor child or children entered under
11 this Act or any other law of this State shall not be suspended
12 or the enforcement thereof stayed pending the filing and
13 resolution of post-judgment motions or an appeal.

14 (b) The clerk of the court shall give notice of the entry
15 of a judgment of dissolution of marriage or legal separation or
16 a declaration of invalidity of marriage:

17 (1) if the marriage is registered in this State, to the
18 county clerk of the county where the marriage is
19 registered, who shall enter the fact of dissolution of
20 marriage or legal separation or declaration of invalidity
21 of marriage in the marriage registry; and within 45 days
22 after the close of the month in which the judgment is
23 entered, the clerk shall forward the certificate to the
24 Department of Public Health on a form furnished by the
25 Department; or

26 (2) if the marriage is registered in another

1 jurisdiction, to the appropriate official of that
2 jurisdiction, with the request that he enter the fact of
3 dissolution of marriage or legal separation or declaration
4 of invalidity of marriage in the appropriate record.

5 (c) Upon request by a wife whose marriage is dissolved or
6 declared invalid, the court shall order her maiden name or a
7 former name restored.

8 (d) A judgment of dissolution of marriage or legal
9 separation, if made, shall be awarded to both of the parties,
10 and shall provide that it affects the status previously
11 existing between the parties in the manner adjudged.

12 (Source: P.A. 96-1072, eff. 1-1-11.)

13 (750 ILCS 5/452)

14 Sec. 452. Petition. The parties to a dissolution proceeding
15 may file a joint petition for simplified dissolution if they
16 certify that all of the following conditions exist when the
17 proceeding is commenced:

18 (a) Neither party is dependent on the other party for
19 support or each party is willing to waive the right to
20 support; and the parties understand that consultation with
21 attorneys may help them determine eligibility for spousal
22 support.

23 (b) Either party has met the residency requirement of
24 Section 401 of this Act.

25 (c) The requirements of Section 401 regarding

1 residence or military presence and proof of irreconcilable
2 differences have been met. ~~Irreconcilable differences have~~
3 ~~caused the irretrievable breakdown of the marriage and the~~
4 ~~parties have been separated 6 months or more and efforts at~~
5 ~~reconciliation have failed or future attempts at~~
6 ~~reconciliation would be impracticable and not in the best~~
7 ~~interests of the family.~~

8 (d) No children were born of the relationship of the
9 parties or adopted by the parties during the marriage, and
10 the wife, to her knowledge, is not pregnant by the husband.

11 (e) The duration of the marriage does not exceed 8
12 years.

13 (f) Neither party has any interest in real property or
14 retirement benefits.

15 (g) The parties waive any rights to maintenance.

16 (h) The total fair market value of all marital
17 property, after deducting all encumbrances, is less than
18 \$50,000 ~~\$10,000~~, the combined gross annualized income from
19 all sources is less than \$60,000 ~~\$35,000~~, and neither party
20 has a gross annualized income from all sources in excess of
21 \$30,000 ~~\$20,000~~.

22 (i) The parties have disclosed to each other all assets
23 and liabilities and their tax returns for all years of the
24 marriage.

25 (j) The parties have executed a written agreement
26 dividing all assets in excess of \$100 in value and

1 allocating responsibility for debts and liabilities
2 between the parties.

3 (Source: P.A. 90-731, eff. 7-1-99.)

4 (750 ILCS 5/453)

5 Sec. 453. Procedure; Judgment. The parties shall use the
6 forms, including a form for the affidavit required under
7 Section 454, provided by the circuit court clerk, and the clerk
8 shall submit the petition to the court. The court shall
9 expeditiously consider the cause. Both parties shall appear in
10 person before the court and, if the court so directs, testify.
11 The court, after examination of the petition and the parties
12 and finding the agreement of the parties not unconscionable,
13 shall enter a judgment granting the dissolution if the
14 requirements of this Part IV-A have been met and the parties
15 have submitted the affidavit required under Section 454. No
16 transcript of proceedings shall be required.

17 (Source: P.A. 88-39.)

18 (750 ILCS 5/501) (from Ch. 40, par. 501)

19 Sec. 501. Temporary Relief.) In all proceedings under this
20 Act, temporary relief shall be as follows:

21 (a) Either party may petition or move for:

22 (1) temporary maintenance or temporary support of a
23 child of the marriage entitled to support, accompanied by
24 an affidavit as to the factual basis for the relief

1 requested. One form of financial affidavit shall be used
2 statewide. The financial affidavit shall be supported by
3 documentary evidence including, but not limited to, income
4 tax returns, pay stubs, and banking statements. The
5 financial affidavit shall include a space for a party to
6 declare whether he or she is receiving any federal or State
7 financial subsidies, and any such subsidies shall be
8 included in that party's income. Upon motion of a party, a
9 court may hold a hearing to determine whether and why there
10 is a disparity between a party's sworn affidavit and the
11 supporting documentation. If a party intentionally or
12 recklessly files an inaccurate or misleading financial
13 affidavit, the court shall impose significant penalties
14 and sanctions including, but not limited to, costs and
15 attorney's fees;

16 (2) a temporary restraining order or preliminary
17 injunction, accompanied by affidavit showing a factual
18 basis for any of the following relief:

19 (i) restraining any person from transferring,
20 encumbering, concealing or otherwise disposing of any
21 property except in the usual course of business or for
22 the necessities of life, and, if so restrained,
23 requiring him to notify the moving party and his
24 attorney of any proposed extraordinary expenditures
25 made after the order is issued; however, an order need
26 not include an exception for transferring,

1 encumbering, or otherwise disposing of property in the
2 usual course of business or for the necessities of life
3 if the court enters appropriate orders that enable the
4 parties to pay their necessary personal and business
5 expenses including, but not limited to, appropriate
6 professionals to assist the court pursuant to
7 subsection (1) of Section 503 to administer the payment
8 and accounting of such living and business expenses;

9 (ii) enjoining a party from removing a child from
10 the jurisdiction of the court;

11 (iii) enjoining a party from striking or
12 interfering with the personal liberty of the other
13 party or of any child; or

14 (iv) providing other injunctive relief proper in
15 the circumstances; or

16 (3) other appropriate temporary relief including, in
17 the discretion of the court, ordering the purchase or sale
18 of assets and requiring that a party or parties borrow
19 funds in the appropriate circumstances.

20 The relief available under this Section is available under
21 subsection (b) of Section 513. The relief available under this
22 Section is available under subsection (a) of Section 513 after
23 the court makes a prima facie finding that, based on the
24 affidavits before it, it appears that there would be a
25 likelihood of success on the merits. This relief should be done
26 on an expedited basis, but should not include temporary

1 maintenance or injunctive relief as to assets.

2 Issues concerning temporary maintenance or temporary
3 support of a child of the marriage entitled to support shall be
4 dealt with on a summary basis based on financial affidavits,
5 tax returns, pay stubs, banking statements, and other relevant
6 documentation. The recipient shall account for the use of his
7 or her funds in the same manner the recipient is required to
8 justify his or her use of marital funds. If a party
9 intentionally or recklessly files an inaccurate or misleading
10 financial affidavit, the court shall impose significant
11 penalties and sanctions including, but not limited to, costs
12 and attorney's fees resulting from the improper
13 representation.

14 (b) The court may issue a temporary restraining order
15 without requiring notice to the other party only if it finds,
16 on the basis of the moving affidavit or other evidence, that
17 irreparable injury will result to the moving party if no order
18 is issued until the time for responding has elapsed.

19 (c) A response hereunder may be filed within 21 days after
20 service of notice of motion or at the time specified in the
21 temporary restraining order.

22 (c-1) As used in this subsection (c-1), "interim attorney's
23 fees and costs" means attorney's fees and costs assessed from
24 time to time while a case is pending, in favor of the
25 petitioning party's current counsel, for reasonable fees and
26 costs either already incurred, but not paid, or to be incurred,

1 and "interim award" means an award of interim attorney's fees
2 and costs. "Interim award" includes an award on a final fee
3 petition filed by an attorney no longer involved in the matter.

4 Interim awards shall be governed by the following:

5 (1) Except for good cause shown, a proceeding for (or
6 relating to) interim attorney's fees and costs in a
7 pre-judgment dissolution proceeding shall be
8 nonevidentiary and summary in nature. All hearings for or
9 relating to interim attorney's fees and costs under this
10 subsection shall be scheduled expeditiously by the court.
11 When a party files a petition for interim attorney's fees
12 and costs supported by one or more affidavits that
13 delineate relevant factors, the court (or a hearing
14 officer) shall assess an interim award after affording the
15 opposing party a reasonable opportunity to file a
16 responsive pleading. A responsive pleading shall set out
17 the amount of each retainer or other payment or payments,
18 or both, previously paid to the responding party's counsel
19 by or on behalf of the responding party. Either party or a
20 party's attorney may seek interim fees from the marital
21 estate. In assessing an interim award, the court shall
22 consider all relevant factors, as presented, that appear
23 reasonable and necessary, including to the extent
24 applicable:

25 (A) the income and property of each party,
26 including alleged marital property within the sole

1 control of one party and alleged non-marital property
2 within access to a party;

3 (B) the needs of each party;

4 (C) the realistic earning capacity of each party;

5 (D) any impairment to present earning capacity of
6 either party, including age and physical and emotional
7 health;

8 (E) the standard of living established during the
9 marriage;

10 (F) the degree of complexity of the issues,
11 including custody, valuation or division (or both) of
12 closely held businesses, and tax planning, as well as
13 reasonable needs for expert investigations or expert
14 witnesses, or both;

15 (G) each party's access to relevant information;

16 (H) the amount of the payment or payments made or
17 reasonably expected to be made to the attorney for the
18 other party; and

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

21 (2) Any assessment of an interim award (including one
22 pursuant to an agreed order) shall be without prejudice to
23 any final allocation and without prejudice as to any claim
24 or right of either party or any counsel of record at the
25 time of the award. Any such claim or right may be presented
26 by the appropriate party or counsel at a hearing on

1 contribution under subsection (j) of Section 503 or a
2 hearing on counsel's fees under subsection (c) of Section
3 508. Unless otherwise ordered by the court at the final
4 hearing between the parties or in a hearing under
5 subsection (j) of Section 503 or subsection (c) of Section
6 508, interim awards, as well as the aggregate of all other
7 payments by each party to counsel and related payments to
8 third parties, shall be deemed to have been advances from
9 the parties' marital estate. Any portion of any interim
10 award constituting an overpayment shall be remitted back to
11 the appropriate party or parties, or, alternatively, to
12 successor counsel, as the court determines and directs,
13 after notice. An order for the award of interim attorney's
14 fees shall be form in nature.

15 (3) In any proceeding under this subsection (c-1), the
16 court (or hearing officer) shall assess an interim award
17 against an opposing party in an amount necessary to enable
18 the petitioning party to participate adequately in the
19 litigation, upon findings that the party from whom
20 attorney's fees and costs are sought has the financial
21 ability to pay reasonable amounts and that the party
22 seeking attorney's fees and costs lacks sufficient access
23 to assets or income to pay reasonable amounts. In
24 determining an award, the court shall consider whether
25 adequate participation in the litigation requires
26 expenditure of more fees and costs for a party that is not

1 in control of assets or relevant information. Except for
2 good cause shown, an interim award shall not be less than
3 payments made or reasonably expected to be made to the
4 counsel for the other party. If the court finds that both
5 parties lack financial ability or access to assets or
6 income for reasonable attorney's fees and costs, the court
7 (or hearing officer) shall enter an order that allocates
8 available funds for each party's counsel, including
9 retainers or interim payments, or both, previously paid, in
10 a manner that achieves substantial parity between the
11 parties.

12 (4) The changes to this Section 501 made by this
13 amendatory Act of 1996 apply to cases pending on or after
14 June 1, 1997, except as otherwise provided in Section 508.

15 (c-2) Allocation of use of marital residence. Use of the
16 marital residence shall be determined upon an objective
17 standard. Where there is on file a verified complaint or
18 verified petition seeking temporary eviction from the marital
19 residence, the court may, during the pendency of the
20 proceeding, only in cases where the physical or mental well
21 being of either spouse or their children is jeopardized by
22 occupancy of the marital residence by both spouses, and only
23 upon due notice and full hearing, unless waived by the court on
24 good cause shown, enter orders granting the exclusive
25 possession of the marital residence to either spouse, by
26 eviction from, or restoration of, the marital residence, until

1 the final determination of the cause. The order may also
2 provide for the nesting of children with the children having
3 exclusive possession of the residence and the spouses
4 alternating occupancy. No such order shall in any manner affect
5 any estate in homestead property of either party. In entering
6 orders under this subsection (c-2), the court shall balance
7 hardships to the parties.

8 (d) A temporary order entered under this Section:

9 (1) does not prejudice the rights of the parties or the
10 child which are to be adjudicated at subsequent hearings in
11 the proceeding;

12 (2) may be revoked or modified before final judgment,
13 on a showing by affidavit and upon hearing; and

14 (3) terminates when the final judgment is entered or
15 when the petition for dissolution of marriage or legal
16 separation or declaration of invalidity of marriage is
17 dismissed.

18 (Source: P.A. 96-583, eff. 1-1-10.)

19 (750 ILCS 5/501.1) (from Ch. 40, par. 501.1)

20 Sec. 501.1. Dissolution action stay.

21 (a) Upon service of a summons and petition or praecipe
22 filed under the Illinois Marriage and Dissolution of Marriage
23 Act or upon the filing of the respondent's appearance in the
24 proceeding, whichever first occurs, a dissolution action stay
25 shall be in effect against both parties ~~and their agents and~~

1 ~~employees,~~ without bond or further notice, until a final
2 judgement is entered, the proceeding is dismissed, or until
3 further order of the court, ~~÷~~

4 ~~(1) restraining both parties from transferring,~~
5 ~~encumbering, concealing, destroying, spending, damaging, or in~~
6 ~~any way disposing of any property, without the consent of the~~
7 ~~other party or an order of the court, except in the usual~~
8 ~~course of business, for the necessities of life, or for~~
9 ~~reasonable costs, expenses, and attorney's fees arising from~~
10 ~~the proceeding, as well as requiring each party to provide~~
11 ~~written notice to the other party and his or her attorney of~~
12 ~~any proposed extraordinary expenditure or transaction;~~

13 ~~(2) restraining both parties from physically abusing,~~
14 ~~harassing, intimidating, striking, or interfering with the~~
15 ~~personal liberty of the other party or the minor children of~~
16 ~~either party. ÷ and~~

17 ~~(3) restraining both parties from removing any minor~~
18 ~~child of either party from the State of Illinois or from~~
19 ~~concealing any such child from the other party, without the~~
20 ~~consent of the other party or an order of the court.~~

21 The restraint provided in this subsection (a) does not
22 operate to make unavailable any of the remedies provided in the
23 Illinois Domestic Violence Act of 1986.

24 ~~A restraint of the parties' actions under this Section does~~
25 ~~not affect the rights of a bona fide purchaser or mortgagee~~
26 ~~whose interest in real property or whose beneficial interest in~~

1 ~~real property under an Illinois land trust was acquired before~~
2 ~~the filing of a lis pendens notice under Section 2-1901 of the~~
3 ~~Code of Civil Procedure.~~

4 (b) (Blank). ~~Notice of any proposed extraordinary~~
5 ~~expenditure or transaction, as required by subsection (a),~~
6 ~~shall be given as soon as practicable, but not less than 7 days~~
7 ~~before the proposed date for the carrying out or commencement~~
8 ~~of the carrying out of the extraordinary expenditure or~~
9 ~~transaction, except in an emergency, in which event notice~~
10 ~~shall be given as soon as practicable under the circumstances.~~
11 ~~If proper notice is given and if the party receiving the notice~~
12 ~~does not object by filing a petition for injunctive relief~~
13 ~~under the Code of Civil Procedure within 7 days of receipt of~~
14 ~~the notice, the carrying out of the proposed extraordinary~~
15 ~~expenditure or transaction is not a violation of the~~
16 ~~dissolution action stay. The dissolution action stay shall~~
17 ~~remain in full force and effect against both parties for 14~~
18 ~~days after the date of filing of a petition for injunctive~~
19 ~~relief by the objecting party (or a shorter period if the court~~
20 ~~so orders); and no extension beyond that 14 day period shall be~~
21 ~~granted by the court. For good cause shown, a party may file a~~
22 ~~petition for a reduction in time with respect to any 7 day~~
23 ~~notice requirement under this subsection.~~

24 (c) (Blank). ~~A party making any extraordinary expenditure~~
25 ~~or carrying out any extraordinary transaction after a~~
26 ~~dissolution action stay is in effect shall account promptly to~~

1 ~~the court and to the other party for all of those expenditures~~
2 ~~and transactions. This obligation to account applies~~
3 ~~throughout the pendency of the proceeding, irrespective of (i)~~
4 ~~any notice given by any party as to any proposed extraordinary~~
5 ~~expenditure or transaction, (ii) any filing of an objection and~~
6 ~~petition under this Section or the absence of any such filing,~~
7 ~~or (iii) any court ruling as to an issue presented to it by~~
8 ~~either party.~~

9 (d) (Blank). ~~If the party making an extraordinary~~
10 ~~expenditure or transaction fails to provide proper notice or if~~
11 ~~despite proper notice the other party filed a petition and~~
12 ~~prevailed on that petition, and the extraordinary expenditure~~
13 ~~or transaction results in a loss of income or reduction in the~~
14 ~~amount or in the value of property, there is a presumption of~~
15 ~~dissipation of property, equal to the amount of the loss or~~
16 ~~reduction, charged against the party for purposes of property~~
17 ~~distribution under Section 503.~~

18 (e) In a proceeding filed under this Act, the summons shall
19 provide notice of the entry of the automatic dissolution action
20 stay in a form as required by applicable rules.

21 (Source: P.A. 87-881; 88-24.)

22 (750 ILCS 5/502) (from Ch. 40, par. 502)

23 Sec. 502. Agreement. (a) To promote amicable settlement of
24 disputes between parties to a marriage attendant upon the
25 dissolution of their marriage, the parties may enter into an a

1 ~~written or oral~~ agreement containing provisions for
2 disposition of any property owned by either of them,
3 maintenance of either of them, ~~and~~ support, custody and
4 visitation of their children, and support of their children as
5 provided in Section 513 after the children attain majority. Any
6 agreement made pursuant to this Section must be in writing.

7 (b) The terms of the agreement, except those providing for
8 the support, custody and visitation of children, are binding
9 upon the court unless it finds, after considering the economic
10 circumstances of the parties and any other relevant evidence
11 produced by the parties, on their own motion or on request of
12 the court, that the agreement is unconscionable. The terms of
13 the agreement incorporated into the judgment are binding if
14 there is any conflict between any prove-up testimony and the
15 terms of the agreement.

16 (c) If the court finds the agreement unconscionable, it may
17 request the parties to submit a revised agreement or upon
18 hearing, may make orders for the disposition of property,
19 maintenance, child support and other matters.

20 (d) Unless the agreement provides to the contrary, its
21 terms shall be set forth in the judgment, and the parties shall
22 be ordered to perform under such terms, or if the agreement
23 provides that its terms shall not be set forth in the judgment,
24 the judgment shall identify the agreement and state that the
25 court has approved its terms.

26 (e) Terms of the agreement set forth in the judgment are

1 enforceable by all remedies available for enforcement of a
2 judgment, including contempt, and are enforceable as contract
3 terms.

4 (f) Child ~~Except for terms concerning the support, support~~
5 of children as provided in Section 513 after the children
6 attain majority, and custody and ~~or~~ visitation of children may
7 be modified upon a showing of a substantial change in
8 circumstances. The parties may provide that maintenance is
9 non-modifiable in amount, duration, or both. If the parties do
10 not provide that maintenance is non-modifiable in amount,
11 duration, or both, then those terms are modifiable upon a
12 substantial change of circumstances. Property provisions of an
13 agreement are never modifiable. ~~The, the~~ judgment may expressly
14 preclude or limit modification of other terms set forth in the
15 judgment if the agreement so provides. Otherwise, terms of an
16 agreement set forth in the judgment are automatically modified
17 by modification of the judgment.

18 (g) An agreement made pursuant to this Section is not valid
19 unless the agreement is in writing and signed by the parties to
20 the agreement.

21 (Source: P.A. 83-216.)

22 (750 ILCS 5/503) (from Ch. 40, par. 503)

23 Sec. 503. Disposition of property and debts.

24 (a) For purposes of this Act, "marital property" means all
25 property, including debts and other obligations, acquired by

1 either spouse subsequent to the marriage, except the following,
2 which is known as "non-marital property":

3 (1) property acquired by gift, legacy or descent or
4 property acquired in exchange for such property;

5 (2) property acquired in exchange for property
6 acquired before the marriage ~~or in exchange for property~~
7 ~~acquired by gift, legacy or descent;~~

8 (3) property acquired by a spouse after a judgment of
9 legal separation;

10 (4) property excluded by valid agreement of the
11 parties, including a premarital agreement or a postnuptial
12 agreement;

13 (5) any judgment or property obtained by judgment
14 awarded to a spouse from the other spouse except, however,
15 when a spouse is required to sue the other spouse in order
16 to obtain insurance coverage or otherwise recover from a
17 third party and the recovery is directly related to amounts
18 advanced by the marital estate, the judgment shall be
19 considered marital property;

20 (6) property acquired, in whole or in part, before the
21 marriage. The equitable portion acquired prior to the
22 marriage shall be considered non-marital;

23 (6.5) all property acquired by a spouse by the sole use
24 of non-marital property as collateral for a loan that then
25 is used to acquire property during the marriage, provided
26 the spouse proves by clear and convincing evidence that

1 only non-marital funds were used to pay back the loan;

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

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

12 Property acquired prior to a marriage that would otherwise
13 be non-marital property shall not be deemed to be marital
14 property solely because the property was acquired in
15 contemplation of marriage.

16 (b) (1) For purposes of distribution of property ~~pursuant to~~
17 ~~this Section~~, all property acquired by either spouse after the
18 marriage and before a judgment of dissolution of marriage or
19 declaration of invalidity of marriage, is presumed marital
20 property. This presumption includes including non-marital
21 property transferred into some form of co-ownership between the
22 spouses, ~~is presumed to be marital property~~, regardless of
23 whether title is held individually or by the spouses in some
24 form of co-ownership such as joint tenancy, tenancy in common,
25 tenancy by the entirety, or community property. A spouse may
26 overcome the ~~The~~ presumption of marital property ~~is overcome~~ by

1 showing through clear and convincing evidence ~~a showing~~ that
2 the property was acquired by a method listed in subsection (a)
3 of this Section.

4 (2) For purposes of distribution of property pursuant to
5 this Section, all pension benefits (including pension benefits
6 under the Illinois Pension Code, defined benefit plans, defined
7 contribution plans and accounts, individual retirement
8 accounts, and non-qualified plans) acquired by or participated
9 in by either spouse after the marriage and before a judgment of
10 dissolution of marriage or declaration of invalidity of the
11 marriage are presumed to be marital property, ~~regardless of~~
12 ~~which spouse participates in the pension plan.~~ A spouse may
13 overcome the ~~The~~ presumption that these pension benefits are
14 marital property ~~is overcome~~ by a showing through clear and
15 convincing evidence that the pension benefits were acquired by
16 a method listed in subsection (a) of this Section. The right to
17 a division of pension benefits in just proportions under this
18 Section is enforceable under Section 1-119 of the Illinois
19 Pension Code.

20 The value of pension benefits in a retirement system
21 subject to the Illinois Pension Code shall be determined in
22 accordance with the valuation procedures established by the
23 retirement system.

24 The recognition of pension benefits as marital property and
25 the division of those benefits pursuant to a Qualified Illinois
26 Domestic Relations Order shall not be deemed to be a

1 diminishment, alienation, or impairment of those benefits. The
2 division of pension benefits is an allocation of property in
3 which each spouse has a species of common ownership.

4 (3) For purposes of distribution of property under this
5 Section, all stock options and restricted stock granted to
6 either spouse after the marriage and before a judgment of
7 dissolution of marriage or declaration of invalidity of
8 marriage, ~~whether~~ vested or non-vested or whether their value
9 is ascertainable, are presumed to be marital property. This
10 presumption of marital property is overcome by a showing that
11 the stock options were acquired by a method listed in
12 subsection (a) of this Section. The court shall allocate stock
13 options between the parties at the time of the judgment of
14 dissolution of marriage or declaration of invalidity of
15 marriage recognizing that the value of the stock options may
16 not be then determinable and that the actual division of the
17 options may not occur until a future date. In making the
18 allocation between the parties, the court shall consider, in
19 addition to the factors set forth in subsection (d) of this
20 Section, the following:

21 (i) All circumstances underlying the grant of the stock
22 option including but not limited to the vesting schedule,
23 whether the grant was for past, present, or future efforts,
24 whether the grant is designed to promote future
25 performance, or any combination thereof.

26 (ii) The length of time from the grant of the option to

1 the time the option is exercisable.

2 (b-5) As to any policy of life insurance insuring the life
3 of either spouse, or any interest in such policy, that
4 constitutes marital property, whether whole life, term life,
5 group term life, universal life, or other form of life
6 insurance policy, and whether or not the value is
7 ascertainable, the court shall allocate ownership, death
8 benefits or the right to assign death benefits, and the
9 obligation for premium payments, if any, equitably between the
10 parties at the time of the judgment for dissolution or
11 declaration of invalidity of marriage.

12 (c) Commingled marital and non-marital property shall be
13 treated in the following manner, unless otherwise agreed by the
14 spouses:

15 (1) (A) If marital and non-marital property are
16 commingled by one estate being contributed into the other
17 the following shall apply:

18 (i) If the contributed property loses its
19 identity, the contributed property transmutes to the
20 estate receiving the property, subject to the
21 provisions of paragraph (2) of this subsection (c).

22 (ii) If the contributed property retains its
23 identity, it does not transmute and remains property of
24 the contributing estate.

25 (B) If marital and non-marital property are commingled
26 into newly acquired property resulting in a loss of

1 identity of the contributing estates, the commingled
2 property shall be deemed transmuted to marital property,
3 subject to the provisions of paragraph (2) of this
4 subsection (c).

5 (2) (A) When one estate of property makes a contribution
6 to another estate of property, the contributing estate
7 shall be reimbursed from the estate receiving the
8 contribution notwithstanding any transmutation. No such
9 reimbursement shall be made with respect to a contribution
10 that is not retraceable by clear and convincing evidence or
11 was a gift. The court may provide for reimbursement out of
12 the marital property to be divided or by imposing a lien
13 against the non-marital property that received the
14 contribution.

15 (B) When a spouse contributes personal effort to
16 non-marital property, it shall be deemed a contribution by
17 the marital estate, which shall receive a reimbursements
18 for said efforts if the efforts are significant and result
19 in substantial appreciation to the non-marital property.
20 The court may provide for reimbursement out of the marital
21 property to be divided or by imposing a lien against the
22 non-marital property which received the contribution.

23 ~~(1) When marital and non marital property are~~
24 ~~commingled by contributing one estate of property into~~
25 ~~another resulting in a loss of identity of the contributed~~
26 ~~property, the classification of the contributed property~~

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

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

25 (d) In a proceeding for dissolution of marriage or
26 declaration of invalidity of marriage, or in a proceeding for

1 disposition of property following dissolution of marriage by a
2 court that ~~which~~ lacked personal jurisdiction over the absent
3 spouse or lacked jurisdiction to dispose of the property, the
4 court shall assign each spouse's non-marital property to that
5 spouse. It also shall divide the marital property without
6 regard to marital misconduct in just proportions considering
7 all relevant factors, including:

8 (1) each party's ~~the~~ contribution ~~of each party~~ to the
9 acquisition, preservation, or increase or decrease in
10 value of the marital or non-marital property, including (i)
11 any ~~such~~ decrease attributable to a ~~payment deemed to have~~
12 ~~been~~ an advance from the parties' marital estate under
13 subsection (c-1)(2) of Section 501; ~~and~~ (ii) the
14 contribution of a spouse as a homemaker or to the family
15 unit; and (iii) whether the contribution is after the
16 commencement of a dissolution of marriage or declaration of
17 invalidity proceeding;

18 (2) the dissipation by each party of the marital or
19 non-marital property. "Dissipation" means either party's
20 use of assets or income for a purpose unrelated to the
21 marriage, during a period that the marriage is undergoing
22 an irretrievable breakdown, not to exceed 3 years prior to
23 the date of the commencement of a dissolution proceeding or
24 declaration of invalidity unless a party fraudulently
25 conceals or affirmatively misleads his or her spouse about
26 any material fact relating to when the marriage was

1 irretrievably broken down, then to the extent such evidence
2 was fraudulently concealed or affirmatively misrepresented
3 by the dissipating spouse;

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

5 (4) the duration of the marriage;

6 (5) the relevant economic circumstances of each spouse
7 when the division of property is to become effective,
8 including the desirability of awarding the family home, or
9 the right to live therein for reasonable periods, to the
10 spouse having the primary residence ~~custody~~ of the
11 children;

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

14 (7) any prenuptial or postnuptial ~~antenuptial~~
15 agreement of the parties;

16 (8) the age, health, station, occupation, amount and
17 sources of income, vocational skills, employability,
18 estate, liabilities, and needs of each of the parties;

19 (9) the custodial provisions for any children;

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

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

24 (12) the tax consequences of the property division upon
25 the respective economic circumstances of the parties.

26 When the court does not divide the property on a 50% basis,

1 the court shall make specific findings of fact as to the basis
2 for deviating therefrom.

3 (e) Each spouse has a species of common ownership in the
4 marital property which vests at the time dissolution
5 proceedings are commenced and continues only during the
6 pendency of the action. Any such interest in marital property
7 shall not encumber that property so as to restrict its
8 transfer, assignment or conveyance by the title holder unless
9 such title holder is specifically enjoined from making such
10 transfer, assignment or conveyance.

11 (f) In a proceeding for dissolution of marriage or
12 declaration of invalidity of marriage or in a proceeding for
13 disposition of property following dissolution of marriage by a
14 court that lacked personal jurisdiction over the absent spouse
15 or lacked jurisdiction to dispose of the property, the court,
16 in determining the value of the marital and non-marital
17 property for purposes of dividing the property, shall value the
18 property as of the date of trial or some other date as close to
19 the date of trial as is practicable.

20 (g) The court if necessary to protect and promote the best
21 interests of the children may set aside a portion of the
22 jointly or separately held estates of the parties in a separate
23 fund or trust for the support, maintenance, education, physical
24 and mental health, and general welfare of any minor, dependent,
25 or incompetent child of the parties. In making a determination
26 under this subsection, the court may consider, among other

1 things, the conviction of a party of any of the offenses set
2 forth in Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60,
3 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-13, 12-14, 12-14.1,
4 12-15, or 12-16, or Section 12-3.05 except for subdivision
5 (a) (4) or (g) (1), of the Criminal Code of 1961 if the victim is
6 a child of one or both of the parties, and there is a need for,
7 and cost of, care, healing and counseling for the child who is
8 the victim of the crime.

9 (h) Unless specifically directed by a reviewing court, or
10 upon good cause shown, the court shall not on remand consider
11 any increase or decrease in the value of any "marital" or
12 "non-marital" property occurring since the assessment of such
13 property at the original trial or hearing, but shall use only
14 that assessment made at the original trial or hearing.

15 (i) The court may make such judgments affecting the marital
16 property as may be just and may enforce such judgments by
17 ordering a sale of marital property, with proceeds therefrom to
18 be applied as determined by the court.

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

25 (1) A petition for contribution, if not filed before
26 the final hearing on other issues between the parties,

1 shall be filed no later than 30 days after the closing of
2 proofs in the final hearing or within such other period as
3 the court orders.

4 (2) Any award of contribution to one party from the
5 other party shall be based on the criteria for division of
6 marital property under this Section 503 and, if maintenance
7 has been awarded, on the criteria for an award of
8 maintenance under Section 504.

9 (3) The filing of a petition for contribution shall not
10 be deemed to constitute a waiver of the attorney-client
11 privilege between the petitioning party and current or
12 former counsel; and such a waiver shall not constitute a
13 prerequisite to a hearing for contribution. If either
14 party's presentation on contribution, however, includes
15 evidence within the scope of the attorney-client
16 privilege, the disclosure or disclosures shall be narrowly
17 construed and shall not be deemed by the court to
18 constitute a general waiver of the privilege as to matters
19 beyond the scope of the presentation.

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

24 (5) A contribution award (payable to either the
25 petitioning party or the party's counsel, or jointly, as
26 the court determines) may be in the form of either a set

1 dollar amount or a percentage of fees and costs (or a
2 portion of fees and costs) to be subsequently agreed upon
3 by the petitioning party and counsel or, alternatively,
4 thereafter determined in a hearing pursuant to subsection
5 (c) of Section 508 or previously or thereafter determined
6 in an independent proceeding under subsection (e) of
7 Section 508.

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

11 (k) In determining the value of assets or property under
12 this Section, the court shall employ a fair market value
13 standard. The date of valuation for the purposes of division of
14 assets shall be the date of trial or such other date as agreed
15 by the parties or ordered by the court, within its discretion.

16 (l) The court may seek the advice of financial experts or
17 other professionals, whether or not employed by the court on a
18 regular basis. The advice given shall be in writing and made
19 available by the court to counsel. Counsel may examine as a
20 witness any professional consulted by the court designated as
21 the court's witness. Costs of a professional shall be allocated
22 by the court between the parties.

23 (Source: P.A. 95-374, eff. 1-1-08; 96-583, eff. 1-1-10;
24 96-1551, Article 1, Section 985, eff. 7-1-11; 96-1551, Article
25 2, Section 1100, eff. 7-1-11; 97-608, eff. 1-1-12; revised
26 9-26-11.)

1 (750 ILCS 5/504) (from Ch. 40, par. 504)

2 Sec. 504. Maintenance.

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

14 (1) the income and property of each party, including
15 marital property apportioned and non-marital property
16 assigned to the party seeking maintenance as well as all
17 financial obligations imposed on the parties as a result of
18 the dissolution of marriage;

19 (2) the needs of each party;

20 (3) the realistic present and the realistic future
21 earning capacity of each party;

22 (4) any impairment of the present and future earning
23 capacity of the party seeking maintenance due to that party
24 devoting time to domestic duties or having forgone or
25 delayed education, training, employment, or career

1 opportunities due to the marriage; the court shall consider
2 any impairment of the realistic present or the realistic
3 future earning capacity of the party against whom
4 maintenance is sought as a result of the marriage and the
5 ultimate provisions of the judgment;

6 (5) the time necessary to enable the party seeking
7 maintenance to acquire appropriate education, training,
8 and employment, and whether that party is able to support
9 himself or herself through appropriate employment or is the
10 custodian of a child making it appropriate that the
11 custodian not seek employment;

12 (6) the standard of living established during the
13 marriage;

14 (7) the duration of the marriage;

15 (8) the age, health, station, occupation, amount and
16 sources of income, vocational skills, employability,
17 estate, liabilities, and needs of each of the parties; ~~the~~
18 ~~age and the physical and emotional condition of both~~
19 ~~parties;~~

20 (8.5) any custodial arrangements;

21 (9) the tax consequences of the property division upon
22 the respective economic circumstances of the parties;

23 (9.5) whether maintenance is in lieu of or in addition
24 to the property allocation;

25 (10) contributions and services by the party seeking
26 maintenance to the education, training, career or career

1 potential, or license of the other spouse;

2 (10.5) contributions made to the marriage, including,
3 without limitation, domestic duties, homemaker
4 contributions, and other financial and non-financial
5 contribution to the marriage;

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

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

9 (b) (Blank).

10 (b-1) The court may order that maintenance be paid in the
11 following manner:

12 (1) temporary maintenance under Section 501;

13 (2) rehabilitative maintenance for a period of time,
14 subject to a review;

15 (3) maintenance in gross;

16 (4) permanent maintenance for an indefinite period.

17 (b-2) An order for unallocated maintenance and child
18 support may not be entered on or after the effective date of
19 this amendatory Act of the 97th General Assembly. This
20 subsection (b-2) does not affect an order for unallocated
21 maintenance and child support that was entered before the
22 effective date of this amendatory Act of the 97th General
23 Assembly.

24 (b-5) Any maintenance obligation including any unallocated
25 maintenance and child support obligation, or any portion of any
26 support obligation, that becomes due and remains unpaid shall

1 accrue simple interest as set forth in Section 505 of this Act.

2 (b-6) The trial court may secure any maintenance award with
3 an order requiring the spouse paying maintenance to provide an
4 appropriate amount of life insurance, naming the recipient
5 spouse as the beneficiary.

6 (b-7) Any ~~new or existing~~ maintenance order including any
7 unallocated maintenance and child 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 be
12 deemed entered as of the date the corresponding payment or
13 installment becomes due under the terms of the support order,
14 except no judgment shall arise as to any installment coming due
15 after the termination of maintenance as provided by Section 510
16 of the Illinois Marriage and Dissolution of Marriage Act or the
17 provisions of any order for maintenance. Each such judgment
18 shall have the full force, effect and attributes of any other
19 judgment of this State, including the ability to be enforced.
20 Notwithstanding any other State or local law to the contrary, a
21 lien arises by operation of law against the real and personal
22 property of the obligor for each installment of overdue support
23 owed by the obligor.

24 (c) The court may grant and enforce the payment of
25 maintenance during the pendency of an appeal as the court shall
26 deem reasonable and proper.

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

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

13 (f) An award ordered by a court upon entry of a dissolution
14 judgment or upon entry of an award of maintenance following a
15 reservation of maintenance in a dissolution judgment may be
16 reasonably secured, in whole or in part, by life insurance on
17 the payor's life on terms as to which the parties agree, or, if
18 they do not agree, on such terms determined by the court,
19 subject to the following:

20 (1) With respect to existing life insurance, provided
21 the court is apprised through evidence, stipulation, or
22 otherwise as to level of death benefits, premium, and other
23 relevant data and makes findings relative thereto, the
24 court may allocate death benefits, the right to assign
25 death benefits, or the obligation for future premium
26 payments between the parties as it deems just.

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

4 (i) that the payor cooperate on all appropriate
5 steps for the payee to obtain such new life insurance;
6 and

7 (ii) that the payee, at his or her sole option and
8 expense, may obtain such new life insurance on the
9 payor's life up to a maximum level of death benefit
10 coverage, or descending death benefit coverage, as is
11 set by the court, such level not to exceed a reasonable
12 amount in light of the court's award, with the payee or
13 the payee's designee being the beneficiary of such life
14 insurance.

15 In determining the maximum level of death benefit coverage,
16 the court shall take into account all relevant facts and
17 circumstances, including the impact on access to life
18 insurance by the maintenance payor. If in resolving any
19 issues under paragraph (2) of this subsection (f) a court
20 reviews any submitted or proposed application for new
21 insurance on the life of a maintenance payor, the review
22 shall be in camera.

23 (3) A judgment shall expressly set forth that all death
24 benefits paid under life insurance on a payor's life
25 maintained or obtained pursuant to this subsection to
26 secure maintenance are designated as excludable from the

1 gross income of the maintenance payee under Section
2 71(b)(1)(B) of the Internal Revenue Code, unless an
3 agreement or stipulation of the parties otherwise
4 provides.

5 (4) Life insurance may be awarded only at the time of
6 the initial judgment.

7 (5) The payor shall have the sole obligation to pay the
8 premiums.

9 (6) All applications shall be made at the time of the
10 initial judgment and the court shall be limited to an in
11 camera review of the application in determining whether the
12 application was made in good faith as to avoid discovery
13 abuse.

14 (7) The court must consider the ability of the insured
15 spouse to obtain additional insurance.

16 (Source: P.A. 97-186, eff. 7-22-11; 97-608, eff. 1-1-12;
17 revised 9-29-11.)

18 (750 ILCS 5/505) (from Ch. 40, par. 505)

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

20 (a) In a proceeding for dissolution of marriage, legal
21 separation, declaration of invalidity of marriage, a
22 proceeding for child support following dissolution of the
23 marriage by a court which lacked personal jurisdiction over the
24 absent spouse, a proceeding for modification of a previous
25 order for child support under Section 510 of this Act, or any

1 proceeding authorized under Section 501 or 601 of this Act, the
 2 court may order either or both parents owing a duty of support
 3 to a child of the marriage to pay an amount reasonable and
 4 necessary for his support, without regard to marital
 5 misconduct. The duty of support owed to a child includes the
 6 obligation to provide for the reasonable and necessary
 7 physical, mental and emotional health needs of the child. For
 8 purposes of this Section, the term "child" shall include any
 9 child under age 18 and any child under age 19 who is still
 10 attending high school. For purposes of this Section, the term
 11 "supporting parent" means the parent obligated to pay support
 12 to the other parent.

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

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

23 (2) The above guidelines shall be applied in each case
 24 unless the court makes a finding that application of the
 25 guidelines would be inappropriate, after considering the
 26 best interests of the child in light of evidence including

1 but not limited to one or more of the following relevant
2 factors:

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

4 (b) the financial resources and needs of the
5 custodial parent;

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

8 (d) the physical and emotional condition of the
9 child, and his educational needs; and

10 (e) the financial resources and needs of the
11 non-custodial parent.

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

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

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

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

23 (c) Social Security (FICA payments);

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

26 (e) Union dues;

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

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

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

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

25 (4) In cases where the court order provides for
26 health/hospitalization insurance coverage pursuant to

1 Section 505.2 of this Act, the premiums for that insurance,
2 or that portion of the premiums for which the supporting
3 party is responsible in the case of insurance provided
4 through an employer's health insurance plan where the
5 employer pays a portion of the premiums, shall be
6 subtracted from net income in determining the minimum
7 amount of support to be ordered.

8 (4.5) In a proceeding for child support following
9 dissolution of the marriage by a court that lacked personal
10 jurisdiction over the absent spouse, and in which the court
11 is requiring payment of support for the period before the
12 date an order for current support is entered, there is a
13 rebuttable presumption that the supporting party's net
14 income for the prior period was the same as his or her net
15 income at the time the order for current support is
16 entered.

17 (5) If the net income cannot be determined because of
18 default or any other reason, the court shall order support
19 in an amount considered reasonable in the particular case.
20 The final order in all cases shall state the support level
21 in dollar amounts. However, if the court finds that the
22 child support amount cannot be expressed exclusively as a
23 dollar amount because all or a portion of the payor's net
24 income is uncertain as to source, time of payment, or
25 amount, the court may order a percentage amount of support
26 in addition to a specific dollar amount and enter such

1 other orders as may be necessary to determine and enforce,
2 on a timely basis, the applicable support ordered.

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

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

26 (b) Failure of either parent to comply with an order to pay

1 support shall be punishable as in other cases of contempt. In
2 addition to other penalties provided by law the Court may,
3 after finding the parent guilty of contempt, order that the
4 parent be:

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

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

11 (A) work; or

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

14 The Court may further order any part or all of the earnings
15 of a parent during a sentence of periodic imprisonment paid to
16 the Clerk of the Circuit Court or to the parent having the
17 majority of residential responsibility ~~custody~~ or to the
18 guardian having the majority of residential responsibility for
19 ~~custody of~~ the children of the sentenced parent for the support
20 of said children until further order of the Court.

21 If there is a unity of interest and ownership sufficient to
22 render no financial separation between a supporting
23 ~~non-custodial~~ parent and another person or persons or business
24 entity, the court may pierce the ownership veil of the person,
25 persons, or business entity to discover assets of the
26 supporting ~~non-custodial~~ parent held in the name of that

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

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

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

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

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

25 The court may also order in cases where the parent is 90
26 days or more delinquent in payment of support or has been

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

19 In addition to the penalties or punishment that may be
20 imposed under this Section, any person whose conduct
21 constitutes a violation of Section 15 of the Non-Support
22 Punishment Act may be prosecuted under that Act, and a person
23 convicted under that Act may be sentenced in accordance with
24 that Act. The sentence may include but need not be limited to a
25 requirement that the person perform community service under
26 Section 50 of that Act or participate in a work alternative

1 program under Section 50 of that Act. A person may not be
2 required to participate in a work alternative program under
3 Section 50 of that Act if the person is currently participating
4 in a work program pursuant to Section 505.1 of this Act.

5 A support obligation, or any portion of a support
6 obligation, which becomes due and remains unpaid as of the end
7 of each month, excluding the child support that was due for
8 that month to the extent that it was not paid in that month,
9 shall accrue simple interest as set forth in Section 12-109 of
10 the Code of Civil Procedure. An order for support entered or
11 modified on or after January 1, 2006 shall contain a statement
12 that a support obligation required under the order, or any
13 portion of a support obligation required under the order, that
14 becomes due and remains unpaid as of the end of each month,
15 excluding the child support that was due for that month to the
16 extent that it was not paid in that month, shall accrue simple
17 interest as set forth in Section 12-109 of the Code of Civil
18 Procedure. Failure to include the statement in the order for
19 support does not affect the validity of the order or the
20 accrual of interest as provided in this Section.

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

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

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

24 (f) All orders for support, when entered or modified, shall
25 include a provision requiring the obligor to notify the court
26 and, in cases in which a party is receiving child and spouse

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

17 (g) An order for support shall include a date on which the
18 current support obligation terminates. The termination date
19 shall be no earlier than the date on which the child covered by
20 the order will attain the age of 18. However, if the child will
21 not graduate from high school until after attaining the age of
22 18, then the termination date shall be no earlier than the
23 earlier of the date on which the child's high school graduation
24 will occur or the date on which the child will attain the age
25 of 19. The order for support shall state that the termination
26 date does not apply to any arrearage that may remain unpaid on

1 that date. Nothing in this subsection shall be construed to
2 prevent the court from modifying the order or terminating the
3 order in the event the child is otherwise emancipated.

4 (g-5) If there is an unpaid arrearage or delinquency (as
5 those terms are defined in the Income Withholding for Support
6 Act) equal to at least one month's support obligation on the
7 termination date stated in the order for support or, if there
8 is no termination date stated in the order, on the date the
9 child attains the age of majority or is otherwise emancipated,
10 the periodic amount required to be paid for current support of
11 that child immediately prior to that date shall automatically
12 continue to be an obligation, not as current support but as
13 periodic payment toward satisfaction of the unpaid arrearage or
14 delinquency. That periodic payment shall be in addition to any
15 periodic payment previously required for satisfaction of the
16 arrearage or delinquency. The total periodic amount to be paid
17 toward satisfaction of the arrearage or delinquency may be
18 enforced and collected by any method provided by law for
19 enforcement and collection of child support, including but not
20 limited to income withholding under the Income Withholding for
21 Support Act. Each order for support entered or modified on or
22 after the effective date of this amendatory Act of the 93rd
23 General Assembly must contain a statement notifying the parties
24 of the requirements of this subsection. Failure to include the
25 statement in the order for support does not affect the validity
26 of the order or the operation of the provisions of this

1 subsection with regard to the order. This subsection shall not
2 be construed to prevent or affect the establishment or
3 modification of an order for support of a minor child or the
4 establishment or modification of an order for support of a
5 non-minor child or educational expenses under Section 513 of
6 this Act.

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

26 (i) The court does not lose the powers of contempt,

1 driver's license suspension, or other child support
2 enforcement mechanisms, including, but not limited to,
3 criminal prosecution as set forth in this Act, upon the
4 emancipation of the minor child or children.

5 (Source: P.A. 96-1134, eff. 7-21-10; 97-186, eff. 7-22-11;
6 97-608, eff. 1-1-12; revised 10-4-11.)

7 (750 ILCS 5/505.1) (from Ch. 40, par. 505.1)

8 Sec. 505.1. (a) Whenever it is determined in a proceeding
9 to establish or enforce a child support or maintenance
10 obligation that the person owing a duty of support is
11 unemployed, the court may order the person to seek employment
12 and report periodically to the court with a diary, listing or
13 other memorandum of his or her efforts in accordance with such
14 order. Additionally, the court may order the unemployed person
15 to report to the Department of Employment Security for job
16 search services or to make application with the local Job
17 Training Partnership Act provider for participation in job
18 search, training or work programs and where the duty of support
19 is owed to a child receiving child support enforcement services
20 under Article X of the Illinois Public Aid Code, as amended,
21 the court may order the unemployed person to report to the
22 Department of Healthcare and Family Services for participation
23 in job search, training or work programs established under
24 Section 9-6 and Article IXA of that Code.

25 (b) Whenever it is determined that a person owes past-due

1 support for a child or for a child and the parent with whom the
2 child is living, and the child is receiving assistance under
3 the Illinois Public Aid Code, the court shall order at the
4 request of the Department of Healthcare and Family Services:

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

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

13 (c) The court may construe the overall facts and
14 circumstances of the case at hand.

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

16 (750 ILCS 5/508) (from Ch. 40, par. 508)

17 Sec. 508. Attorney's Fees; Client's Rights and
18 Responsibilities Respecting Fees and Costs.

19 (a) The court from time to time, after due notice and
20 hearing, and after considering the financial resources of the
21 parties, may order any party to pay a reasonable amount for his
22 own or the other party's costs and attorney's fees. Interim
23 attorney's fees and costs may be awarded from the opposing
24 party, in a pre-judgment dissolution proceeding in accordance
25 with subsection (c-1) of Section 501 and in any other

1 proceeding under this subsection. At the conclusion of any
2 pre-judgment dissolution proceeding under this subsection,
3 contribution to attorney's fees and costs may be awarded from
4 the opposing party in accordance with subsection (j) of Section
5 503 and in any other proceeding under this subsection. Fees and
6 costs may be awarded in any proceeding to counsel from a former
7 client in accordance with subsection (c) of this Section.
8 Awards may be made in connection with the following:

9 (1) The maintenance or defense of any proceeding under
10 this Act.

11 (2) The enforcement or modification of any order or
12 judgment under this Act.

13 (3) The defense of an appeal of any order or judgment
14 under this Act, including the defense of appeals of
15 post-judgment orders.

16 (3.1) The prosecution of any claim on appeal (if the
17 prosecuting party has substantially prevailed).

18 (4) The maintenance or defense of a petition brought
19 under Section 2-1401 of the Code of Civil Procedure seeking
20 relief from a final order or judgment under this Act. Fees
21 incurred with respect to motions under Section 2-1401 of
22 the Code of Civil Procedure maybe granted only if the
23 underlying motion is granted.

24 (5) The costs and legal services of an attorney
25 rendered in preparation of the commencement of the
26 proceeding brought under this Act.

1 (6) Ancillary litigation incident to, or reasonably
2 connected with, a proceeding under this Act.

3 (7) Costs and attorney's fees incurred in an action
4 under the Hague Convention on the Civil Aspects of
5 International Child Abduction.

6 All petitions for or relating to interim fees and costs
7 under this subsection shall be accompanied by an affidavit as
8 to the factual basis for the relief requested and all hearings
9 relative to any such petition shall be scheduled expeditiously
10 by the court. All provisions for contribution under this
11 subsection shall also be subject to paragraphs (3), (4), and
12 (5) of subsection (j) of Section 503.

13 The court may order that the award of attorney's fees and
14 costs (including an interim or contribution award) shall be
15 paid directly to the attorney, who may enforce the order in his
16 or her name, or that it shall be paid to the appropriate party.
17 Judgment may be entered and enforcement had accordingly. Except
18 as otherwise provided in subdivision (e)(1) of this Section,
19 subsection (c) of this Section is exclusive as to the right of
20 any counsel (or former counsel) of record to petition a court
21 for an award and judgment for final fees and costs during the
22 pendency of a proceeding under this Act.

23 A petition for temporary attorney's fees in a post-judgment
24 case shall be heard on a non-evidentiary, summary basis.

25 (b) In every proceeding for the enforcement of an order or
26 judgment when the court finds that the failure to comply with

1 the order or judgment was without compelling cause or
2 justification, the court shall order the party against whom the
3 proceeding is brought to pay promptly the costs and reasonable
4 attorney's fees of the prevailing party. If non-compliance is
5 with respect to a discovery order, the non-compliance is
6 presumptively without compelling cause or justification, and
7 the presumption may only be rebutted by clear and convincing
8 evidence. If at any time a court finds that a hearing under
9 this Act was precipitated or conducted for any improper
10 purpose, the court shall allocate fees and costs of all parties
11 for the hearing to the party or counsel found to have acted
12 improperly. Improper purposes include, but are not limited to,
13 harassment, unnecessary delay, or other acts needlessly
14 increasing the cost of litigation.

15 (c) Final hearings for attorney's fees and costs against an
16 attorney's own client, pursuant to a Petition for Setting Final
17 Fees and Costs of either a counsel or a client, shall be
18 governed by the following:

19 (1) No petition of a counsel of record may be filed
20 against a client unless the filing counsel previously has
21 been granted leave to withdraw as counsel of record or has
22 filed a motion for leave to withdraw as counsel. On receipt
23 of a petition of a client under this subsection (c), the
24 counsel of record shall promptly file a motion for leave to
25 withdraw as counsel. If the client and the counsel of
26 record agree, however, a hearing on the motion for leave to

1 withdraw as counsel filed pursuant to this subdivision
2 (c)(1) may be deferred until completion of any alternative
3 dispute resolution procedure under subdivision (c)(4). As
4 to any Petition for Setting Final Fees and Costs against a
5 client or counsel over whom the court has not obtained
6 jurisdiction, a separate summons shall issue. Whenever a
7 separate summons is not required, original notice as to a
8 Petition for Setting Final Fees and Costs may be given, and
9 documents served, in accordance with Illinois Supreme
10 Court Rules 11 and 12.

11 (2) No final hearing under this subsection (c) is
12 permitted unless: (i) the counsel and the client had
13 entered into a written engagement agreement at the time the
14 client retained the counsel (or reasonably soon
15 thereafter) and the agreement meets the requirements of
16 subsection (f); (ii) the written engagement agreement is
17 attached to an affidavit of counsel that is filed with the
18 petition or with the counsel's response to a client's
19 petition; (iii) judgment in any contribution hearing on
20 behalf of the client has been entered or the right to a
21 contribution hearing under subsection (j) of Section 503
22 has been waived; (iv) the counsel has withdrawn as counsel
23 of record; and (v) the petition seeks adjudication of all
24 unresolved claims for fees and costs between the counsel
25 and the client. Irrespective of a Petition for Setting
26 Final Fees and Costs being heard in conjunction with an

1 original proceeding under this Act, the relief requested
2 under a Petition for Setting Final Fees and Costs
3 constitutes a distinct cause of action. A pending but
4 undetermined Petition for Setting Final Fees and Costs
5 shall not affect appealability of any judgment or other
6 adjudication in the original proceeding.

7 (3) The determination of reasonable attorney's fees
8 and costs either under this subsection (c), whether
9 initiated by a counsel or a client, or in an independent
10 proceeding for services within the scope of subdivisions
11 (1) through (5) of subsection (a), is within the sound
12 discretion of the trial court. The court shall first
13 consider the written engagement agreement and, if the court
14 finds that the former client and the filing counsel,
15 pursuant to their written engagement agreement, entered
16 into a contract which meets applicable requirements of
17 court rules and addresses all material terms, then the
18 contract shall be enforceable in accordance with its terms,
19 subject to the further requirements of this subdivision
20 (c)(3). Before ordering enforcement, however, the court
21 shall consider the performance pursuant to the contract.
22 Any amount awarded by the court must be found to be fair
23 compensation for the services, pursuant to the contract,
24 that the court finds were reasonable and necessary. Quantum
25 meruit principles shall govern any award for legal services
26 performed that is not based on the terms of the written

1 engagement agreement (except that, if a court expressly
2 finds in a particular case that aggregate billings to a
3 client were unconscionably excessive, the court in its
4 discretion may reduce the award otherwise determined
5 appropriate or deny fees altogether).

6 (4) No final hearing under this subsection (c) is
7 permitted unless any controversy over fees and costs (that
8 is not otherwise subject to some form of alternative
9 dispute resolution) has first been submitted to mediation,
10 arbitration, or any other court approved alternative
11 dispute resolution procedure, except as follows:

12 (A) In any circuit court for a single county with a
13 population in excess of 1,000,000, the requirement of
14 the controversy being submitted to an alternative
15 dispute resolution procedure is mandatory unless the
16 client and the counsel both affirmatively opt out of
17 such procedures; or

18 (B) In any other circuit court, the requirement of
19 the controversy being submitted to an alternative
20 dispute resolution procedure is mandatory only if
21 neither the client nor the counsel affirmatively opts
22 out of such procedures.

23 After completion of any such procedure (or after one or
24 both sides has opted out of such procedures), if the
25 dispute is unresolved, any pending motion for leave to
26 withdraw as counsel shall be promptly granted and a final

1 hearing under this subsection (c) shall be expeditiously
2 set and completed.

3 (5) A petition (or a praecipe for fee hearing without
4 the petition) shall be filed no later than the end of the
5 period in which it is permissible to file a motion pursuant
6 to Section 2-1203 of the Code of Civil Procedure. A
7 praecipe for fee hearing shall be dismissed if a Petition
8 for Setting Final Fees and Costs is not filed within 60
9 days after the filing of the praecipe. A counsel who
10 becomes a party by filing a Petition for Setting Final Fees
11 and Costs, or as a result of the client filing a Petition
12 for Setting Final Fees and Costs, shall not be entitled to
13 exercise the right to a substitution of a judge without
14 cause under subdivision (a)(2) of Section 2-1001 of the
15 Code of Civil Procedure. Each of the foregoing deadlines
16 for the filing of a praecipe or a petition shall be:

17 (A) tolled if a motion is filed under Section 2-1203 of
18 the Code of Civil Procedure, in which instance a petition
19 (or a praecipe) shall be filed no later than 30 days
20 following disposition of all Section 2-1203 motions; or

21 (B) tolled if a notice of appeal is filed, in which
22 instance a petition (or praecipe) shall be filed no later
23 than 30 days following the date jurisdiction on the issue
24 appealed is returned to the trial court.

25 If a praecipe has been timely filed, then by timely filed
26 written stipulation between counsel and client (or former

1 client), the deadline for the filing of a petition may be
2 extended for a period of up to one year.

3 (c-5) Counsel that has either withdrawn or been discharged
4 may file and have heard a petition to be paid from the marital
5 estate during the pendency of the case. The court shall review
6 the records and any hearing shall be conducted between the
7 petitioning counsel and the former client with the
8 determination of reasonableness of the claim based upon the
9 terms of the attorney-client relationship. Any award shall be
10 paid from the marital estate and be considered an advance
11 against the client's share of the marital estate.

12 (d) A consent judgment, in favor of a current counsel of
13 record against his or her own client for a specific amount in a
14 marital settlement agreement, dissolution judgment, or any
15 other instrument involving the other litigant, is prohibited. A
16 consent judgment between client and counsel, however, is
17 permissible if it is entered pursuant to a verified petition
18 for entry of consent judgment, supported by an affidavit of the
19 counsel of record that includes the counsel's representation
20 that the client has been provided an itemization of the billing
21 or billings to the client, detailing hourly costs, time spent,
22 and tasks performed, and by an affidavit of the client
23 acknowledging receipt of that documentation, awareness of the
24 right to a hearing, the right to be represented by counsel
25 (other than counsel to whom the consent judgment is in favor),
26 and the right to be present at the time of presentation of the

1 petition, and agreement to the terms of the judgment. The
2 petition may be filed at any time during which it is
3 permissible for counsel of record to file a petition (or a
4 praecipe) for a final fee hearing, except that no such petition
5 for entry of consent judgment may be filed before adjudication
6 (or waiver) of the client's right to contribution under
7 subsection (j) of Section 503 or filed after the filing of a
8 petition (or a praecipe) by counsel of record for a fee hearing
9 under subsection (c) if the petition (or praecipe) remains
10 pending. No consent security arrangement between a client and a
11 counsel of record, pursuant to which assets of a client are
12 collateralized to secure payment of legal fees or costs, is
13 permissible unless approved in advance by the court as being
14 reasonable under the circumstances.

15 (e) Counsel may pursue an award and judgment against a
16 former client for legal fees and costs in an independent
17 proceeding in the following circumstances:

18 (1) While a case under this Act is still pending, a
19 former counsel may pursue such an award and judgment at any
20 time subsequent to 90 days after the entry of an order
21 granting counsel leave to withdraw; and

22 (2) After the close of the period during which a
23 petition (or praecipe) may be filed under subdivision
24 (c) (5), if no such petition (or praecipe) for the counsel
25 remains pending, any counsel or former counsel may pursue
26 such an award and judgment in an independent proceeding.

1 In an independent proceeding, the prior applicability of this
2 Section shall in no way be deemed to have diminished any other
3 right of any counsel (or former counsel) to pursue an award and
4 judgment for legal fees and costs on the basis of remedies that
5 may otherwise exist under applicable law; and the limitations
6 period for breach of contract shall apply. In an independent
7 proceeding under subdivision (e)(1) in which the former counsel
8 had represented a former client in a dissolution case that is
9 still pending, the former client may bring in his or her spouse
10 as a third-party defendant, provided on or before the final
11 date for filing a petition (or praecipe) under subsection (c),
12 the party files an appropriate third-party complaint under
13 Section 2-406 of the Code of Civil Procedure. In any such case,
14 any judgment later obtained by the former counsel shall be
15 against both spouses or ex-spouses, jointly and severally
16 (except that, if a hearing under subsection (j) of Section 503
17 has already been concluded and the court hearing the
18 contribution issue has imposed a percentage allocation between
19 the parties as to fees and costs otherwise being adjudicated in
20 the independent proceeding, the allocation shall be applied
21 without deviation by the court in the independent proceeding
22 and a separate judgment shall be entered against each spouse
23 for the appropriate amount). After the period for the
24 commencement of a proceeding under subsection (c), the
25 provisions of this Section (other than the standard set forth
26 in subdivision (c)(3) and the terms respecting consent security

1 arrangements in subsection (d) of this Section 508) shall be
2 inapplicable.

3 The changes made by this amendatory Act of the 94th General
4 Assembly are declarative of existing law.

5 (f) Unless the Supreme Court by rule addresses the matters
6 set out in this subsection (f), a written engagement agreement
7 within the scope of subdivision (c)(2) shall have appended to
8 it verbatim the following Statement:

9 "STATEMENT OF CLIENT'S RIGHTS AND RESPONSIBILITIES

10 (1) WRITTEN ENGAGEMENT AGREEMENT. The written engagement
11 agreement, prepared by the counsel, shall clearly address the
12 objectives of representation and detail the fee arrangement,
13 including all material terms. If fees are to be based on
14 criteria apart from, or in addition to, hourly rates, such
15 criteria (e.g., unique time demands and/or utilization of
16 unique expertise) shall be delineated. The client shall receive
17 a copy of the written engagement agreement and any additional
18 clarification requested and is advised not to sign any such
19 agreement which the client finds to be unsatisfactory or does
20 not understand.

21 (2) REPRESENTATION. Representation will commence upon the
22 signing of the written engagement agreement. The counsel will
23 provide competent representation, which requires legal
24 knowledge, skill, thoroughness and preparation to handle those
25 matters set forth in the written engagement agreement. Once

1 employed, the counsel will act with reasonable diligence and
2 promptness, as well as use his best efforts on behalf of the
3 client, but he cannot guarantee results. The counsel will abide
4 by the client's decision concerning the objectives of
5 representation, including whether or not to accept an offer of
6 settlement, and will endeavor to explain any matter to the
7 extent reasonably necessary to permit the client to make
8 informed decisions regarding representation. During the course
9 of representation and afterwards, the counsel may not use or
10 reveal a client's confidence or secrets, except as required or
11 permitted by law.

12 (3) COMMUNICATION. The counsel will keep the client
13 reasonably informed about the status of representation and will
14 promptly respond to reasonable requests for information,
15 including any reasonable request for an estimate respecting
16 future costs of the representation or an appropriate portion of
17 it. The client shall be truthful in all discussions with the
18 counsel and provide all information or documentation required
19 to enable the counsel to provide competent representation.
20 During representation, the client is entitled to receive all
21 pleadings and substantive documents prepared on behalf of the
22 client and every document received from any other counsel of
23 record. At the end of the representation and on written request
24 from the client, the counsel will return to the client all
25 original documents and exhibits. In the event that the counsel
26 withdraws from representation, or is discharged by the client,

1 the counsel will turn over to the substituting counsel (or, if
2 no substitutions, to the client) all original documents and
3 exhibits together with complete copies of all pleadings and
4 discovery within thirty (30) days of the counsel's withdrawal
5 or discharge.

6 (4) ETHICAL CONDUCT. The counsel cannot be required to
7 engage in conduct which is illegal, unethical, or fraudulent.
8 In matters involving minor children, the counsel may refuse to
9 engage in conduct which, in the counsel's professional
10 judgment, would be contrary to the best interest of the
11 client's minor child or children. A counsel who cannot
12 ethically abide by his client's directions shall be allowed to
13 withdraw from representation.

14 (5) FEES. The counsel's fee for services may not be
15 contingent upon the securing of a dissolution of marriage, upon
16 obtaining custody, or be based upon the amount of maintenance,
17 child support, or property settlement received, except as
18 specifically permitted under Supreme Court rules. The counsel
19 may not require a non-refundable retainer fee, but must remit
20 back any overpayment at the end of the representation. The
21 counsel may enter into a consensual security arrangement with
22 the client whereby assets of the client are pledged to secure
23 payment of legal fees or costs, but only if the counsel first
24 obtains approval of the Court. The counsel will prepare and
25 provide the client with an itemized billing statement detailing
26 hourly rates (and/or other criteria), time spent, tasks

1 performed, and costs incurred on a regular basis, at least
2 quarterly. The client should review each billing statement
3 promptly and address any objection or error in a timely manner.
4 The client will not be billed for time spent to explain or
5 correct a billing statement. If an appropriately detailed
6 written estimate is submitted to a client as to future costs
7 for a counsel's representation or a portion of the contemplated
8 services (i.e., relative to specific steps recommended by the
9 counsel in the estimate) and, without objection from the
10 client, the counsel then performs the contemplated services,
11 all such services are presumptively reasonable and necessary,
12 as well as to be deemed pursuant to the client's direction. In
13 an appropriate case, the client may pursue contribution to his
14 or her fees and costs from the other party.

15 (6) DISPUTES. The counsel-client relationship is regulated
16 by the Illinois Rules of Professional Conduct (Article VIII of
17 the Illinois Supreme Court Rules), and any dispute shall be
18 reviewed under the terms of such Rules."

19 (g) The changes to this Section 508 made by this amendatory
20 Act of 1996 apply to cases pending on or after June 1, 1997,
21 except as follows:

22 (1) Subdivisions (c) (1) and (c) (2) of this Section 508,
23 as well as provisions of subdivision (c) (3) of this Section
24 508 pertaining to written engagement agreements, apply
25 only to cases filed on or after June 1, 1997.

26 (2) The following do not apply in the case of a hearing

1 under this Section that began before June 1, 1997:

2 (A) Subsection (c-1) of Section 501.

3 (B) Subsection (j) of Section 503.

4 (C) The changes to this Section 508 made by this
5 amendatory Act of 1996 pertaining to the final setting
6 of fees.

7 (Source: P.A. 96-583, eff. 1-1-10.)

8 (750 ILCS 5/510) (from Ch. 40, par. 510)

9 Sec. 510. Modification and termination of provisions for
10 maintenance, support, educational expenses, and property
11 disposition.

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

19 (1) upon a showing of a substantial change in
20 circumstances; and

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

23 (A) upon a showing of an inconsistency of at least
24 20%, but no less than \$10 per month, between the amount
25 of the existing order and the amount of child support

1 that results from application of the guidelines
2 specified in Section 505 of this Act unless the
3 inconsistency is due to the fact that the amount of the
4 existing order resulted from a deviation from the
5 guideline amount and there has not been a change in the
6 circumstances that resulted in that deviation; or

7 (B) upon a showing of a need to provide for the
8 health care needs of the child under the order through
9 health insurance or other means. In no event shall the
10 eligibility for or receipt of medical assistance be
11 considered to meet the need to provide for the child's
12 health care needs.

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

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

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

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

4 (3) any impairment of the present and future earning
5 capacity of either party;

6 (4) the tax consequences of the maintenance payments
7 upon the respective economic circumstances of the parties;

8 (5) the duration of the maintenance payments
9 previously paid (and remaining to be paid) relative to the
10 length of the marriage;

11 (6) the property, including retirement benefits,
12 awarded to each party under the judgment of dissolution of
13 marriage, judgment of legal separation, or judgment of
14 declaration of invalidity of marriage and the present
15 status of the property;

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

19 (8) the property acquired and currently owned by each
20 party after the entry of the judgment of dissolution of
21 marriage, judgment of legal separation, or judgment of
22 declaration of invalidity of marriage; and

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

25 (b) The provisions as to property disposition may not be
26 revoked or modified, unless the court finds the existence of

1 conditions that justify the reopening of a judgment under the
2 laws of this State.

3 (c) Unless otherwise agreed by the parties in a written
4 agreement set forth in the judgment or otherwise approved by
5 the court, the obligation to pay future maintenance is
6 terminated upon the death of either party, ~~or~~ the remarriage of
7 the party receiving maintenance, entry by the party receiving
8 maintenance into a civil union, or if the party receiving
9 maintenance cohabits with another person on a resident,
10 continuing conjugal basis. Any obligation of a payor party for
11 premium payments respecting insurance on such party's life
12 imposed under subsection (f) of Section 504 is also terminated
13 on the occurrence of any of the foregoing events, unless
14 otherwise agreed by the parties. Any termination of an
15 obligation for maintenance as a result of the death of the
16 payor party, however, shall be inapplicable to any right of the
17 other party or such other party's designee to receive a death
18 benefit under such insurance on the payor party's life. A party
19 receiving maintenance must advise the payor of his or her
20 intention to marry or enter into a civil union at least 30 days
21 before the remarriage or entry into the civil union, unless the
22 decision is made within said time period. In that event, he or
23 she must notify the other party within 72 hours of getting
24 married or entering into a civil union.

25 (d) Unless otherwise provided in this Act, or as agreed in
26 writing or expressly provided in the judgment, provisions for

1 the support of a child are terminated by emancipation of the
2 child, or if the child has attained the age of 18 and is still
3 attending high school, provisions for the support of the child
4 are terminated upon the date that the child graduates from high
5 school or the date the child attains the age of 19, whichever
6 is earlier, but not by the death of a parent obligated to
7 support or educate the child. An existing obligation to pay for
8 support or educational expenses, or both, is not terminated by
9 the death of a parent. When a parent obligated to pay support
10 or educational expenses, or both, dies, the amount of support
11 or educational expenses, or both, may be enforced, modified,
12 revoked or commuted to a lump sum payment, as equity may
13 require, and that determination may be provided for at the time
14 of the dissolution of the marriage or thereafter.

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

25 (f) A petition to modify or terminate child support,
26 custody, or visitation shall not delay any child support

1 enforcement litigation or supplementary proceeding on behalf
2 of the obligee, including, but not limited to, a petition for a
3 rule to show cause, for non-wage garnishment, or for a
4 restraining order.

5 (g) Whenever there is a change in an order of maintenance,
6 the court shall make and enter upon the record the specific
7 factual findings that support the change in the maintenance
8 award.

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

10 (750 ILCS 5/512) (from Ch. 40, par. 512)

11 Sec. 512. Post-Judgment Venue.) After 30 days from the
12 entry of a judgment of dissolution of marriage or the last
13 modification thereof, any further proceedings to enforce or
14 modify the judgment shall be as follows:

15 (a) If the respondent does not then reside within this
16 State, further proceedings shall be had either in the judicial
17 circuit wherein the moving party resides or where the judgment
18 was entered or last modified.

19 (b) If one or both of the parties then resides in the
20 judicial circuit wherein the judgment was entered or last
21 modified, further proceedings shall be had in the judicial
22 circuit that last exercised jurisdiction in the matter;
23 provided, however, that the court may in its discretion,
24 transfer matters involving a change in child custody to the
25 judicial circuit where the minor or dependent child resides.

1 (c) If neither party then resides in the judicial circuit
2 wherein the judgment was entered or last modified, further
3 proceedings shall be had in that circuit or in the judicial
4 circuit wherein either party resides ~~or where the respondent is~~
5 ~~actively employed~~; provided, however, that the court may, in
6 its discretion, transfer matters involving a change in child
7 custody to the judicial circuit where the minor or dependent
8 child resides.

9 (d) Objection to venue is waived if not made within such
10 time as the respondent's answer is due. Counter relief shall be
11 heard and determined by the court hearing any matter already
12 pending.

13 (Source: P.A. 80-923.)

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

15 Sec. 513. Educational expenses ~~Support~~ for a Non-minor
16 Child Children and Educational Expenses.

17 (a) The court may award sums of money out of the property
18 and income of either or both parties or the estate of a
19 deceased parent, as equity may require, for the educational
20 expenses support of any ~~the~~ child ~~or children~~ of the parties.
21 Unless otherwise agreed to by the parties, all educational
22 expenses which are the subject of a petition brought pursuant
23 to this Section shall be incurred no later than the student's
24 23rd birthday.

25 (b) Regardless of whether an award has been made under

1 subsection (a), the court may require both parties and the
2 child to complete the Free Application for Federal Student Aid
3 (FAFSA) and other financial aid forms and to submit any form of
4 that type prior to the designated submission deadline for the
5 form. The court may require either or both parties to provide
6 funds for the child so as to pay for the cost of up to 5 college
7 applications, the cost of 2 standardized college entrance
8 examinations, and the cost of one standardized college entrance
9 examination preparatory course.

10 (c) The authority under this Section to make provision for
11 educational expenses extends not only to periods of college
12 education or vocational or professional or other training after
13 graduation from high school, but also to any period during
14 which the child of the parties is still attending high school,
15 even though he or she attained the age of 19.

16 (d) Educational expenses may include, but shall not be
17 limited to, the following:

18 (1) the actual cost of the child's post-secondary
19 expenses, including tuition and fees, provided that the
20 cost for tuition and fees does not exceed the amount of
21 tuition and fees paid by a student at the University of
22 Illinois at Urbana-Champaign for the same academic year;

23 (2) the actual costs of the child's housing expenses,
24 whether on-campus and off-campus, provided that the
25 housing expenses do not exceed the cost for the same
26 academic year of a double-occupancy student room, with a

1 standard meal plan, in a residence hall operated by the
2 University of Illinois at Urbana-Champaign;

3 (3) the actual costs of the child's medical expenses,
4 including medical insurance, and dental expenses; and

5 (4) the reasonable living expenses of the child during
6 the academic year and periods of recess:

7 (A) if the child is a resident student attending a
8 post-secondary educational program; or

9 (B) if the child is living with one party at that
10 party's home and attending a post-secondary
11 educational program as a non-resident student, in
12 which case the living expenses include an amount that
13 pays for the reasonable cost of the child's food,
14 utilities, and transportation.

15 (e) Sums may be ordered payable to the child, to either
16 party, or to the educational institution, directly or through a
17 special account or trust created for that purpose, as the court
18 sees fit.

19 (f) If educational expenses are ordered payable, each party
20 and the child shall sign any consents necessary for the
21 educational institution to provide a supporting party with
22 access to the child's academic transcripts, records, and grade
23 reports. The consents shall not apply to any non-academic
24 records. Failure to execute the required consent may be a basis
25 for a modification or termination of any order entered under
26 this Section. Unless the court specifically finds that the

1 child's safety would be jeopardized, each party is entitled to
2 know the name of the educational institution the child attends.

3 (g) The authority under this Section to make provision for
4 educational expenses terminates when the child: fails to
5 maintain a "C" grade point average, except in the event of
6 illness or another extenuating circumstance; attains the age of
7 23; receives a baccalaureate degree; or marries or becomes a
8 party to a civil union. A child's enlisting in the armed
9 forces, being incarcerated, or becoming pregnant do not
10 terminate the court's authority to make provisions for the
11 educational expenses for the child.

12 (h) An account established prior to the dissolution that is
13 to be used for the child's post-secondary education, that is an
14 account in a state tuition program under Section 529 of the
15 Internal Revenue Code, or that is some other college savings
16 plan is to be considered by the court to be a resource of the
17 child, provided that any post-judgment contribution made by a
18 party to such an account is to be considered a contribution
19 from that party.

20 (i) If the parties have a marital settlement agreement or a
21 civil union settlement agreement that does not include language
22 specifically describing an agreement as to how the child's
23 educational expenses will be paid, the child is not a third
24 party beneficiary to the parties' agreement and is not entitled
25 to file a petition for contribution. If the parties' settlement
26 agreement describes the manner in which a child's educational

1 expenses will be paid, or if the court makes an award pursuant
2 to this Section, then the parties are responsible pursuant to
3 that agreement or award for the child's educational expenses,
4 but in no event shall the court consider the child a third
5 party beneficiary of that provision.

6 ~~who have attained majority in the following instances:~~

7 ~~(1) When the child is mentally or physically disabled~~
8 ~~and not otherwise emancipated, an application for support~~
9 ~~may be made before or after the child has attained~~
10 ~~majority.~~

11 ~~(2) The court may also make provision for the~~
12 ~~educational expenses of the child or children of the~~
13 ~~parties, whether of minor or majority age, and an~~
14 ~~application for educational expenses may be made before or~~
15 ~~after the child has attained majority, or after the death~~
16 ~~of either parent. The authority under this Section to make~~
17 ~~provision for educational expenses extends not only to~~
18 ~~periods of college education or professional or other~~
19 ~~training after graduation from high school, but also to any~~
20 ~~period during which the child of the parties is still~~
21 ~~attending high school, even though he or she attained the~~
22 ~~age of 19. The educational expenses may include, but shall~~
23 ~~not be limited to, room, board, dues, tuition,~~
24 ~~transportation, books, fees, registration and application~~
25 ~~costs, medical expenses including medical insurance,~~
26 ~~dental expenses, and living expenses during the school year~~

1 ~~and periods of recess, which sums may be ordered payable to~~
2 ~~the child, to either parent, or to the educational~~
3 ~~institution, directly or through a special account or trust~~
4 ~~created for that purpose, as the court sees fit.~~

5 ~~If educational expenses are ordered payable, each~~
6 ~~parent and the child shall sign any consents necessary for~~
7 ~~the educational institution to provide the supporting~~
8 ~~parent with access to the child's academic transcripts,~~
9 ~~records, and grade reports. The consents shall not apply to~~
10 ~~any non academic records. Failure to execute the required~~
11 ~~consent may be a basis for a modification or termination of~~
12 ~~any order entered under this Section. Unless the court~~
13 ~~specifically finds that the child's safety would be~~
14 ~~jeopardized, each parent is entitled to know the name of~~
15 ~~the educational institution the child attends. This~~
16 ~~amendatory Act of the 95th General Assembly applies to all~~
17 ~~orders entered under this paragraph (2) on or after the~~
18 ~~effective date of this amendatory Act of the 95th General~~
19 ~~Assembly.~~

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

24 ~~(j) (b) In making awards under this Section paragraph (1)~~
25 ~~or (2) of subsection (a), or pursuant to a petition or motion~~
26 ~~to decrease, modify, or terminate any such award, the court~~

1 shall consider all relevant factors that appear reasonable and
2 necessary, including:

3 (1) The present and future financial resources of both
4 parties to meet their needs, including, but not limited to,
5 savings for retirement ~~The financial resources of both~~
6 ~~parents.~~

7 (2) The standard of living the child would have enjoyed
8 had the marriage or civil union not been dissolved. The
9 court may consider factors beyond the pure financial
10 circumstances of the parties.

11 (3) The financial resources of the child.

12 (4) The child's academic performance.

13 (k) Relief under this Section is retroactive only to the
14 date of filing of a petition.

15 (Source: P.A. 95-954, eff. 8-29-08.)

16 (750 ILCS 5/513.5 new)

17 Sec. 513.5. Support for a non-minor disabled child.

18 (a) The court may award sums of money out of the property
19 and income of either or both parties or the estate of a
20 deceased parent, as equity may require, for the support of a
21 child of the parties who has attained majority when the child
22 is mentally or physically disabled and not otherwise
23 emancipated. An application for support for a non-minor
24 disabled child may be made before or after the child has
25 attained majority. Unless an application for educational

1 expenses is made for a mentally or physically disabled child
2 under Section 513, the disability that is the basis for the
3 application for support must have arisen before the child
4 attained majority.

5 (b) In making awards under this Section, or pursuant to a
6 petition or motion to decrease, modify, or terminate any such
7 award, the court shall consider all relevant factors that
8 appear reasonable and necessary, including:

9 (1) The present and future financial resources of both
10 parties to meet their needs, including, but not limited to,
11 savings for retirement.

12 (2) The standard of living the child would have enjoyed
13 had the marriage or civil union not been dissolved. The
14 court may consider factors beyond the pure financial
15 circumstances of the parties.

16 (3) The financial resources of the child.

17 (4) Any financial or other resource provided to or for
18 the child including, but not limited to, any Supplemental
19 Security Income, any home-based support provided pursuant
20 to the Home-Based Support Services Law for Mentally
21 Disabled Adults, and any other State, federal, or local
22 benefit available to the non-minor disabled child.

23 (c) As used in this Section:

24 A "disabled" individual means an individual who has a
25 physical or mental impairment that substantially limits a major
26 life activity, has a record of such an impairment, or is

1 regarded as having such an impairment.

2 "Disability" means a mental or physical impairment that
3 substantially limits a major life activity.

4 (750 ILCS 5/Pt. VI heading)

5 PART VI

6 ALLOCATION OF PARENTAL RESPONSIBILITIES CUSTODY

7 (750 ILCS 5/600 new)

8 Sec. 600. Definitions. For purposes of this Part VI:

9 "Abuse" has the meaning ascribed to that term in Section
10 103 of the Illinois Domestic Violence Act of 1986.

11 "Allocation judgment" means a judgment allocating parental
12 responsibilities.

13 "Caretaking functions" means tasks that involve
14 interaction with a child or that direct, arrange, and supervise
15 the interaction with and care of a child provided by others, or
16 for obtaining the resources allowing for the provision of these
17 functions. The term includes, but is not limited to, the
18 following:

19 (1) Satisfying a child's nutritional needs; managing a
20 child's bedtime and wake-up routines; caring for a child
21 when the child is sick or injured; being attentive to a
22 child's personal hygiene needs, including washing,
23 grooming, and dressing; playing with a child and arranging
24 for recreation; protecting a child's physical safety; and

1 providing transportation for a child.

2 (2) Directing a child's various developmental needs,
3 including the acquisition of motor and language skills,
4 toilet training, self-confidence, and maturation.

5 (3) Providing discipline, giving instruction in
6 manners, assigning and supervising chores, and performing
7 other tasks that attend to a child's needs for behavioral
8 control and self-restraint.

9 (4) Arranging for a child's education, including
10 arranging for remedial or special services appropriate to
11 the child's needs and interests, communicating with
12 teachers and counselors, and supervising homework.

13 (5) Helping a child develop and maintain appropriate
14 interpersonal relationships with peers, siblings, and
15 other family members.

16 (6) Arranging for health-care providers, medical
17 follow-up, and home health care for a child.

18 (7) Providing moral and ethical guidance for a child.

19 (8) Arranging alternative care for a child by a family
20 member, babysitter, or other child-care provider or
21 facility, including investigating such alternatives,
22 communicating with providers, and supervising such care.

23 "Equitable parent" means a person who, though not a legal
24 parent of a child:

25 (1) is obligated by a court order to pay child support
26 for the child; or

1 (2) is the child's stepparent; or

2 (3) lived with the child for at least 2 years and:

3 (A) during that time (i) had a reasonable,
4 good-faith belief that he or she was the child's
5 biological parent, based on marriage to the child's
6 legal parent or on the actions or representations of
7 the legal parent, and (ii) performed or contributed to
8 the performance of caretaking functions consistent
9 with that belief; and

10 (B) continued to make reasonable, good-faith
11 efforts to accept parental responsibilities with
12 respect to the child if thereafter that belief no
13 longer existed; or

14 (4) lived with the child since the child's birth or for
15 at least 2 years, and held himself out as the child's
16 parent while accepting parental responsibilities, under an
17 agreement with the child's legal parent (or, if there are 2
18 legal parents, both parents) to rear the child together,
19 each with allocated parental rights and responsibilities,
20 provided that a court finds that recognition of the person
21 as a parent is in the child's best interests.

22 "Legal parent" means a biological or adoptive parent of a
23 child.

24 "Parent" means a legal parent or an equitable parent.

25 "Parental responsibilities" means both parenting time and
26 significant decision-making responsibilities with respect to a

1 child.

2 "Parenting time" means the time during which a parent is
3 physically with a child and exercises caretaking functions and
4 non-significant decision-making responsibilities with respect
5 to the child.

6 "Parenting plan" means a written agreement that allocates
7 significant decision-making responsibilities, parenting time,
8 or both.

9 "Relocation" means a change of residence of more than 25
10 miles for more than 90 days that significantly impairs a
11 parent's ability to exercise the parental responsibilities
12 that the parent has been exercising or is entitled to exercise
13 under a parenting plan or allocation judgment.

14 "Religious upbringing" means the choice of religion or
15 denomination of a religion, religious schooling, religious
16 training, or participation in religious customs or practices.

17 "Residential responsibility" means the amount of time a
18 child spends in a parent's care.

19 "Restriction of parenting time" means any limitation or
20 condition placed on parenting time, including supervision.

21 "Significant decision-making" means deciding issues of
22 long-term importance in the life of a child.

23 "Stepparent" means a person, other than a biological or
24 adoptive parent, who is or was married to a legal parent.

25 "Supervision" means the presence of a third party during a
26 parent's exercise of parenting time.

1 (750 ILCS 5/601.2 new)

2 Sec. 601.2. Jurisdiction; commencement of proceeding.

3 (a) A court of this State that is competent to allocate
4 parental responsibilities has jurisdiction to make such an
5 allocation in original or modification proceedings as provided
6 in Section 201 of the Uniform Child-Custody Jurisdiction and
7 Enforcement Act as adopted by this State.

8 (b) A proceeding for allocation of parental
9 responsibilities with respect to a child is commenced in the
10 court:

11 (1) By a legal parent, by filing a petition for:

12 (A) dissolution of marriage or legal separation or
13 declaration of invalidity of marriage; or

14 (B) allocation of parental responsibilities with
15 respect to the child in the county in which the child
16 resides.

17 (2) By an equitable parent, as defined in Section 600,
18 by filing a petition for allocation of parental
19 responsibilities, if all of the following circumstances
20 are met:

21 (A) a legal parent is deceased or disabled and
22 cannot perform caretaking functions with respect to
23 the child; and

24 (B) it is alleged to be in the child's best
25 interests for the equitable parent to assume or

1 continue exercising parental responsibilities, as
2 provided in Sections 602.5 and 602.7.

3 (3) By an equitable parent, as defined in Section 600,
4 seeking only an allocation of parenting time:

5 (A) if the legal parent and the equitable parent
6 have terminated their relationship; or

7 (B) if the legal parent and the equitable parent
8 are opposing parties in a pending action for
9 dissolution of marriage, legal separation, declaration
10 of invalidity of marriage, or parentage.

11 For purposes of subdivision (b) (3) (A), the
12 relationship between a legal parent and an equitable parent
13 is presumed to have terminated if those parents are
14 residing in separate residences.

15 (c) When a proceeding for allocation of parental
16 responsibilities is commenced, the parent commencing the
17 action must, at least 30 days before any hearing on the
18 petition, serve a written notice and a copy of the petition on
19 the child's parent and on any party previously appearing in any
20 prior proceeding for allocation of parental responsibilities
21 with respect to the child. Nothing in this Section shall
22 preclude a party in a proceeding for allocation of parental
23 responsibilities from moving for a temporary order under
24 Section 602.5.

1 Sec. 602.5. Allocation of parental responsibilities:
2 decision-making.

3 (a) Generally. The court shall allocate decision-making
4 responsibilities according to the child's best interests.
5 Nothing in this Act requires that every parent be allocated
6 decision-making responsibilities.

7 (b) Allocation of significant decision-making
8 responsibilities. If a legal parent is exercising parental
9 responsibilities with respect to the child, the court shall not
10 allocate significant decision-making responsibilities to an
11 equitable parent as defined in Section 600. Unless the parents
12 otherwise agree in writing on an allocation of significant
13 decision-making responsibilities, the court shall make the
14 determination. The court shall allocate to one or more of the
15 parents the significant decision-making responsibility for
16 each significant issue affecting the child. Those significant
17 issues shall include, without limitation, the following:

18 (1) Education, including the choice of schools and
19 tutors.

20 (2) Health, including all decisions relating to the
21 medical, dental, and psychological needs of the child and
22 to the treatments arising or resulting from those needs.

23 (3) Religion, subject to the following provisions:

24 (A) The court shall allocate parental
25 responsibility for the child's religious upbringing in
26 accordance with any express or implied agreement

1 between the parents.

2 (B) The court shall consider evidence of the
3 parents' past conduct as to the child's religious
4 upbringing in allocating parental responsibilities
5 consistent with demonstrated past conduct in the
6 absence of an express or implied agreement between the
7 parents.

8 (C) The court shall not allocate any aspect of the
9 child's religious upbringing if it determines that the
10 parents do not or did not have an express or implied
11 agreement for such religious upbringing or that there
12 is insufficient evidence to demonstrate a course of
13 conduct regarding the child's religious upbringing
14 that could serve as a basis for any such order.

15 (4) Extracurricular activities.

16 (c) Determination of child's best interests. In
17 determining the child's best interests for purposes of
18 allocating significant decision-making responsibilities, the
19 court shall consider all relevant factors, including, without
20 limitation, the following:

21 (1) The wishes of a child who is sufficiently mature to
22 express reasoned and independent preferences as to
23 significant decisions.

24 (2) The child's adjustment to his or her home, school,
25 and community.

26 (3) The mental and physical health of all individuals

1 involved.

2 (4) The ability of the parents to cooperate to make
3 decisions, or the level of conflict between the parties
4 that may affect their ability to share decision-making.

5 (5) The level of each parent's participation in past
6 significant decision-making with respect to the child.

7 (6) Any prior agreement or course of conduct between
8 the parents relating to decision-making with respect to the
9 child.

10 (7) The wishes of the parents.

11 (8) The child's needs in light of economic, physical,
12 or other circumstances.

13 (9) The distance between the parents' residences, the
14 cost and difficulty of transporting the child, each
15 parent's and the child's daily schedules, and the ability
16 of the parents to cooperate in the arrangement.

17 (10) Whether a restriction on decision-making is
18 appropriate under Section 603.10.

19 (11) The willingness and ability of each parent to
20 facilitate and encourage a close and continuing
21 relationship between the other parent and the child.

22 (12) Any other factor that the court expressly finds to
23 be relevant.

24 (d) If, over the prior 24 months preceding the filing of
25 the petition, or, if the child is under age 2, since the
26 child's birth, each parent has been exercising significant

1 decision-making responsibilities with respect to the child,
2 the court shall presume that it is in the child's best
3 interests to allocate significant decision-making
4 responsibilities to each parent. The presumption shall be
5 overcome if there has been a history of domestic violence or
6 abuse, or if it is shown that an allocation of any significant
7 decision-making responsibilities to one of the parents is not
8 in the child's best interests.

9 (e) A parent shall have sole responsibility for making
10 routine decisions with respect to the child and for emergency
11 decisions affecting the child's health and safety during that
12 parent's parenting time.

13 (f) In allocating significant decision-making
14 responsibilities, the court shall not consider conduct of a
15 parent that does not affect that parent's relationship to the
16 child.

17 (g) An equitable parent who is allocated significant
18 decision-making responsibilities is not entitled to access to
19 the child's school or health care records unless a court finds
20 that it is in the child's best interests to provide those
21 records to the parent.

22 (750 ILCS 5/602.7 new)

23 Sec. 602.7. Allocation of parental responsibilities:
24 parenting time.

25 (a) Best interests. The court shall allocate parenting time

1 according to the child's best interests.

2 (b) Allocation of parenting time. Unless the parents
3 present a mutually agreed written and notarized parenting plan
4 and that plan is approved by the court, the court shall
5 allocate parenting time. It is presumed both parents are fit
6 and the court shall not place any restrictions on parenting
7 time as defined in Section 600 and described in Section 603.10
8 unless it finds by a preponderance of the evidence that a
9 parent's exercise of parenting time would seriously endanger
10 the child's physical, mental, moral, or emotional health.

11 In determining the child's best interests for purposes of
12 allocating parenting time, the court shall consider all
13 relevant factors, including, without limitation, the
14 following:

15 (1) The wishes of each parent seeking parenting time.

16 (2) The wishes of a child who is sufficiently mature to
17 express reasoned and independent preferences as to
18 parenting time.

19 (3) The amount of time each parent spent performing
20 caretaking functions with respect to the child in the 24
21 months preceding the filing of any petition for allocation
22 of parental responsibilities or, if the child is under 2
23 years of age, since the child's birth.

24 (4) Any prior agreement or course of conduct between
25 the parents relating to caretaking functions with respect
26 to the child.

1 (5) The interaction and interrelationship of the child
2 with his or her parents and siblings and with any other
3 person who may significantly affect the child's best
4 interests.

5 (6) The child's adjustment to his or her home, school,
6 and community.

7 (7) The mental and physical health of all individuals
8 involved.

9 (8) The child's needs in light of economic, physical,
10 or other circumstances.

11 (9) The distance between the parents' residences, the
12 cost and difficulty of transporting the child, each
13 parent's and the child's daily schedules, and the ability
14 of the parents to cooperate in the arrangement.

15 (10) The occurrence of abuse, whether directed against
16 the child or directed against another person.

17 (11) Whether a restriction on parenting time is
18 appropriate.

19 (12) The physical violence or threat of physical
20 violence by a parent, whether directed against the child or
21 directed against another person.

22 (13) The willingness and ability of each parent to
23 place the needs of the child ahead of his or her own needs.

24 (14) The willingness and ability of each parent to
25 facilitate and encourage a close and continuing
26 relationship between the other parent and the child.

1 (15) Any other factor that the court expressly finds to
2 be relevant.

3 (c) In allocating parenting time, the court shall not
4 consider conduct of a parent that does not affect that parent's
5 relationship to the child.

6 (d) A parent, other than a legal parent, who is allocated
7 parenting time is not entitled to access to the child's school
8 or health care records unless a court finds that it is in the
9 child's best interests to provide those records to the parent.

10 (750 ILCS 5/602.10 new)

11 Sec. 602.10. Parenting plan.

12 (a) Filing of parenting plan. All parents, within 90 days
13 after service or filing of any petition for allocation of
14 parental responsibilities, must file with the court, either
15 jointly or separately, a proposed parenting plan supported by
16 an affidavit or affidavits that comply with subsection (g).

17 (b) No parenting plan filed. In the absence of filing of
18 one or more parenting plans with supporting affidavits, the
19 court must conduct an evidentiary hearing to allocate parental
20 responsibilities.

21 (c) Mediation. The court may order mediation to assist the
22 parents in formulating or modifying a parenting plan or in
23 implementing a parenting plan. The court may allocate the cost
24 of such mediation between the parties.

25 (d) Parents' agreement on parenting plan. The parents may

1 agree on a parenting plan at any time. The parenting plan must
2 be in writing and signed by all parents. The parents must
3 submit the parenting plan to the court for approval within 90
4 days after service of a petition for allocation of parental
5 responsibilities or the filing of an appearance. The parenting
6 plan must be accompanied by a joint affidavit that complies
7 with subsection (g), unless the filing of such an affidavit is
8 excused by the court. If the court does not approve the
9 parenting plan, the court shall make express findings of the
10 reason or reasons for its refusal to approve the plan. The
11 court, on its own motion, may conduct an evidentiary hearing to
12 determine whether the parenting plan is in the child's best
13 interests.

14 (e) Parents cannot agree on parenting plan. When parents
15 fail to submit an agreed parenting plan, there shall be a
16 rebuttable presumption that the child's best interests are
17 served by awarding a time sharing arrangement consisting of an
18 allocation of not less than 35% residential time for each
19 parent. Each parent must file and submit a written, signed
20 parenting plan to the court within 90 days after service of a
21 petition for allocation of parental responsibilities or the
22 filing of an appearance. The plan must be accompanied by a
23 separate affidavit that complies with subsection (g). The
24 filing of the plan and affidavit may be excused by the court
25 if:

26 (1) the parties have commenced mediation for the

1 purpose of formulating a parenting plan; or

2 (2) the parents have agreed in writing to extend the
3 time for filing a proposed plan and supporting affidavit
4 and the court has approved such an extension; or

5 (3) the court orders otherwise for good cause shown.

6 (f) Parenting plan contents. At a minimum, a parenting plan
7 must set forth the following:

8 (1) An allocation of significant decision-making
9 responsibilities.

10 (2) Provisions for the child's living arrangements and
11 for each parent's parenting time, including either:

12 (A) a schedule that designates in which parent's
13 home the minor child will reside on given days; or

14 (B) a formula or method for determining such a
15 schedule in sufficient detail to be enforced in a
16 subsequent proceeding.

17 (3) A mediation provision addressing any proposed
18 revisions or disputes, except that this provision is not
19 required if one parent is allocated all significant
20 decision-making responsibilities.

21 (4) Each parent's right of access to medical, dental,
22 and psychological records (subject to the Mental Health and
23 Developmental Disabilities Confidentiality Act), child
24 care records, and school and extracurricular records,
25 reports, and schedules, unless expressly denied by a court
26 order or denied under subsection (g) of Section 602.5.

1 (5) A designation of the parent who will be denominated
2 as the parent with the majority of the residential
3 responsibility for purposes of Section 606.10.

4 (6) The child's residential address for school
5 enrollment purposes only.

6 (7) Each parent's residence address and phone number,
7 and each parent's place of employment and employment
8 address and phone number.

9 (8) A requirement that a parent changing his or her
10 residence provide at least 60 days prior written notice of
11 the change to any other parent under the parenting plan or
12 allocation judgment, unless such notice is impracticable
13 or unless otherwise ordered by the court. If such notice is
14 impracticable, written notice shall be given at the
15 earliest date practicable. At a minimum, the notice shall
16 set forth the following:

17 (A) The intended date of the change of residence.

18 (B) The address of the new residence.

19 (9) Provisions requiring each parent to notify the
20 other of emergencies, health care, travel plans, or other
21 significant child-related issues.

22 (10) Transportation arrangements between the parents.

23 (11) Provisions for communications with the child
24 during the other parent's parenting time.

25 (12) Provisions for resolving issues arising from a
26 parent's future relocation.

1 (13) Provisions for future modifications of the
2 parenting plan, if specified events occur.

3 (14) Any other provision that addresses the child's
4 best interests or that will otherwise facilitate
5 cooperation between the parents.

6 (g) Affidavit. The affidavit supporting a proposed
7 parenting plan must contain, to the best of the affiant's
8 knowledge, all of the following:

9 (1) The name and address of the child, every parent,
10 and any other person previously appearing in any prior
11 allocation proceeding.

12 (2) The name and address of every person with whom the
13 child has lived for one year or more, and the period of
14 time during which the child and each such person lived
15 together. If the child is less than one year old, the
16 affidavit must contain the name and address of any person
17 with whom the child lived for more than 60 days.

18 (3) A summary of the caretaking functions performed by
19 each person identified under paragraph (2), including such
20 functions performed during at least the 24 months preceding
21 the filing of the action for allocation of parental
22 responsibilities.

23 (4) A schedule of each parent's current hours of
24 employment, availability to perform caretaking functions
25 with respect to the child, existing child care
26 arrangements, and any anticipated changes.

1 (5) A summary schedule of the child's school and
2 extracurricular activities.

3 (6) A summary of any relevant existing risk factors,
4 including orders arising from allegations of abuse and the
5 case number and issuing court.

6 (7) A summary of the known areas of agreement and
7 disagreement between the parents concerning a proposed
8 parenting plan.

9 (h) The court shall select the plan which maximizes the
10 child's relationship and access to both parents. The court
11 retains discretion to determine exceptions to this directive
12 where the individual facts and circumstances warrant. The court
13 shall provide written findings of fact and conclusions of law
14 when making such exceptions.

15 (750 ILCS 5/603.5 new)

16 Sec. 603.5. Temporary orders.

17 (a) A court may order a temporary allocation of parental
18 responsibilities in the child's best interests before the entry
19 of a final allocation judgment. Any such temporary allocation
20 shall be made in accordance with the standards set forth in
21 Sections 602.5 and 602.7 (i) after a hearing or (ii) if there
22 is no objection, on the basis of affidavits that, at a minimum,
23 comply with subsection (e) of Section 602.10.

24 (b) A temporary order allocating parental responsibilities
25 shall be deemed vacated when the action in which it was granted

1 is dismissed, unless a parent moves to continue the action for
2 allocation of parental responsibilities filed under Section
3 601.5.

4 (c) A temporary order allocating parental responsibilities
5 does not preclude access to the child by a parent who has been
6 exercising a reasonable share of caretaking functions with
7 respect to the child, unless a denial of such access is in the
8 child's best interests as determined in accordance with Section
9 602.5.

10 (750 ILCS 5/603.10 new)

11 Sec. 603.10. Restriction of parental responsibilities.

12 (a) After hearing, if the court finds by a preponderance of
13 the evidence that a parent engaged in any conduct that
14 seriously endangered the child's mental, moral, or physical
15 health or that significantly impaired the child's emotional
16 development, the court shall enter orders as necessary to
17 protect the child. Such orders may include, but are not limited
18 to, orders for one or more of the following:

19 (1) A reduction, elimination, or other adjustment of
20 the parent's decision-making responsibilities or parenting
21 time, or both decision-making responsibilities and
22 parenting time.

23 (2) Supervision, including ordering the Department of
24 Children and Family Services to exercise continuing
25 supervision under Section 5 of the Children and Family

1 Services Act to ensure compliance with the allocation
2 judgment.

3 (3) Requiring the exchange of the child between the
4 parents through an intermediary or in a protected setting.

5 (4) Restraining a parent's communication with or
6 proximity to the other parent or the child.

7 (5) Requiring a parent to abstain from possessing or
8 consuming alcohol or non-prescribed drugs while exercising
9 parenting time with the child and within a specified period
10 immediately preceding the exercise of parenting time.

11 (6) Restricting the presence of specific persons while
12 a parent is exercising parenting time with the child.

13 (7) Requiring a parent to post a bond to secure the
14 return of the child following the parent's exercise of
15 parenting time or to secure other performance required by
16 the court.

17 (8) Requiring a parent to complete a treatment program
18 for perpetrators of abuse, for drug or alcohol abuse, or
19 for other behavior that is the basis for restricting
20 parental responsibilities under this Section.

21 (9) Any other constraints or conditions that the court
22 deems necessary to provide for the child's safety or
23 welfare.

24 (b) The court may modify an order restricting parental
25 responsibilities if the court finds, after hearing, by a
26 preponderance of the evidence that a modification is in the

1 child's best interests based on (i) a change of circumstances
2 that occurred after the entry of an order restricting parental
3 responsibilities or (ii) conduct of which the court was
4 previously unaware that seriously endangers the child. In
5 determining whether to modify an order under this subsection,
6 the court must consider factors that include, but need not be
7 limited to, the following:

8 (1) Abuse, neglect, or abandonment of the child.

9 (2) Abusing or allowing abuse of another person that
10 had an impact upon the child.

11 (3) Use of drugs, alcohol, or any other substance in a
12 way that interferes with the parent's ability to perform
13 caretaking functions with respect to the child.

14 (4) Persistent continuing interference with the other
15 parent's access to the child, except for actions taken with
16 a reasonable, good-faith belief that they are necessary to
17 protect the child's safety pending adjudication of the
18 facts underlying that belief, provided that the
19 interfering parent initiates a proceeding to determine
20 those facts as soon as practicable.

21 (c) An order granting parenting time to a parent may be
22 revoked by the court if that parent is found to have knowingly
23 used his or her parenting time to facilitate contact between
24 the child and a parent who has been barred from contact with
25 the child or to have knowingly used his or her parenting time
26 to facilitate contact with the child that violates any

1 restrictions imposed on the parent's parenting time by a court
2 of competent jurisdiction. Nothing in this subsection limits a
3 court's authority to enforce its orders in any other manner
4 authorized by law.

5 (d) An order granting parenting time with a child whose
6 parent is prohibited from contact with the child, or whose
7 parenting time is restricted, shall contain the following
8 provision:

9 "If a parent granted parenting time under this Order
10 uses that time to facilitate contact between the child and
11 a parent whose parenting time is restricted, or if such a
12 parent violates any restrictions placed on his or her
13 parenting time by the court, the parenting time granted
14 under this Order shall be revoked until further order of
15 court."

16 (e) A parent who has been convicted of any offense
17 involving an illegal sex act perpetrated upon a victim less
18 than 18 years of age, including but not limited to an offense
19 under Article 12 of the Criminal Code of 1961, is not entitled
20 to parenting time while incarcerated or while on parole,
21 probation, conditional discharge, periodic imprisonment, or
22 mandatory supervised release for a felony offense, until the
23 parent complies with such terms and conditions as the court
24 determines are in the child's best interests.

25 (f) A parent may not, while the child is present, visit any
26 other parent of the child who has been convicted of first

1 degree murder unless the court finds, after considering all
2 relevant factors, including those set forth in subsection (c)
3 of Section 602.5, that it would be in the child's best
4 interests to allow the child to be present during such a visit.

5 (750 ILCS 5/604.10 new)

6 Sec. 604.10. Interviews; evaluations; investigation.

7 (a) Court's interview of child. The court may interview the
8 child in chambers to ascertain the child's wishes as to the
9 allocation of parental responsibilities. Counsel shall be
10 present at the interview unless otherwise agreed upon by the
11 parties. The entire interview shall be recorded by a court
12 reporter. The transcript of the interview shall be filed under
13 seal and released only upon order of the court. The cost of the
14 court reporter and transcript shall be paid by the court.

15 (b) Court's professional. The court may seek the advice of
16 any professional, whether or not regularly employed by the
17 court, to assist the court in determining the child's best
18 interests. The advice to the court shall be in writing and sent
19 by the professional to counsel for the parties and to the
20 court, under seal. The writing may be admitted into evidence
21 without testimony from its author, unless a party objects. A
22 professional consulted by the court shall testify as the
23 court's witness. The court shall order all costs and fees of
24 the professional to be paid by one or more of the parties,
25 subject to reallocation in accordance with subsection (a) of

1 Section 508.

2 (c) Evaluation by a party's retained professional. In a
3 proceeding to allocate parental responsibilities or to
4 relocate a child from Illinois, upon notice and motion made by
5 a parent or any party to the litigation within a reasonable
6 time before trial, the court shall order an evaluation to
7 assist the court in determining the child's best interests. The
8 evaluation may be in place of or in addition to any advice
9 given to the court by a professional under subsection (b). A
10 motion for an evaluation under this subsection must, at a
11 minimum, identify the proposed evaluator and the evaluator's
12 specialty or discipline. An order for an evaluation under this
13 subsection must set forth the evaluator's name, address, and
14 telephone number and the time, place, conditions, and scope of
15 the evaluation. No person shall be required to travel an
16 unreasonable distance for the evaluation. The party requesting
17 the evaluation shall pay the evaluator's fees and costs unless
18 otherwise ordered by the court.

19 The evaluator's report must, at a minimum, set forth the
20 following:

21 (1) A description of the procedures employed during the
22 evaluation.

23 (2) A report of the data collected.

24 (3) All test results.

25 (4) Any conclusions of the evaluator relating to the
26 allocation of parental responsibilities under Sections

1 602.5 and 602.7.

2 (5) Any recommendations of the evaluator concerning
3 the allocation of parental responsibilities or the child's
4 relocation from Illinois.

5 (6) An explanation of any limitations in the evaluation
6 or any reservations of the evaluator regarding the
7 resulting recommendations.

8 A party who retains a professional to conduct an evaluation
9 under this subsection shall cause the evaluator's written
10 report to be sent to the attorneys of record no less than 60
11 days before the hearing on the allocation of parental
12 responsibilities, unless otherwise ordered by the court; if a
13 party fails to comply with this provision, the court may not
14 admit the evaluator's report into evidence and may not allow
15 the evaluator to testify.

16 The party calling an evaluator to testify at trial shall
17 disclose the evaluator as a controlled expert witness in
18 accordance with the Supreme Court rules.

19 Any party to the litigation may call the evaluator as a
20 witness. That party shall pay the evaluator's fees and costs
21 for testifying, unless otherwise ordered by the court.

22 (d) Investigation. Upon notice and a motion by a parent or
23 any party to the litigation, or upon the court's own motion,
24 the court may order an investigation and report to assist the
25 court in allocating parental responsibilities. The
26 investigation may be made by any child welfare agency approved

1 by the Department of Children and Family Services, but shall
2 not be made by that Department unless the court determines
3 either that there is no child welfare agency available or that
4 no party is financially able to pay for the investigation. The
5 court shall specify the purpose and scope of the investigation.

6 The investigator shall send his or her report to all
7 attorneys of record, and to any party not represented, at least
8 60 days before the hearing on the allocation of parental
9 responsibilities. The court shall examine and consider the
10 investigator's report only after it has been admitted into
11 evidence or after the parties have waived their right to
12 cross-examine the investigator.

13 The investigator shall make available to all attorneys of
14 record, and to any party not represented, the investigator's
15 file, and the names and addresses of all persons whom the
16 investigator has consulted. Any party to the proceeding may
17 call the investigator, or any person consulted by the
18 investigator as a court's witness, for cross-examination. No
19 fees shall be paid for any investigation by a governmental
20 agency. The fees incurred by any other investigator shall be
21 allocated in accordance with Section 508.

22 (e) The Supreme Court of Illinois, through its
23 Administrative Office of the Illinois Courts, shall approve not
24 less than 3 hours of training for all of the following:

25 (1) Any professional whose advice the court seeks under
26 subsection (b) of this Section.

1 (2) Any professional who conducts an evaluation under
2 subsection (c) of this Section.

3 (3) Any individual who conducts an investigation under
4 subsection (d) of this Section.

5 (4) Any guardian ad litem or other individual appointed
6 by the court to represent a child in a proceeding
7 concerning the allocation of parental responsibilities
8 with respect to the child.

9 The training shall include a component on the dynamics of
10 domestic violence and its effect on parents and children.

11 (750 ILCS 5/606.5 new)

12 Sec. 606.5. Hearings.

13 (a) Proceedings to allocate parental responsibilities
14 shall receive priority in being set for hearing.

15 (b) The court, without a jury, shall determine questions of
16 law and fact.

17 (c) Previous statements made by the child relating to any
18 allegations that the child is an abused or neglected child
19 within the meaning of the Abused and Neglected Child Reporting
20 Act, or an abused or neglected minor within the meaning of the
21 Juvenile Court Act of 1987, shall be admissible in evidence in
22 a hearing concerning allocation of parental responsibilities.
23 No such statement, however, if uncorroborated and not subject
24 to cross examination, shall be sufficient in itself to support
25 a finding of abuse or neglect.

1 (d) If the court finds that a public hearing may be
2 detrimental to the child's best interests, the court shall
3 exclude the public from the hearing, but the court may admit
4 any person having:

5 (1) a direct and legitimate interest in the case; or

6 (2) a legitimate educational or research interest in
7 the work of the court, but only with the permission of both
8 parties and subject to court approval.

9 (e) The court may make an appropriate order sealing the
10 records of any interview, report, investigation, or testimony.

11 (750 ILCS 5/606.10 new)

12 Sec. 606.10. Designation of custodian for purposes of other
13 statutes. Solely for the purposes of all State and federal
14 statutes that require a designation or determination of custody
15 or a custodian, a parenting plan shall designate the parent who
16 is allocated the majority of residential responsibility. This
17 designation shall not affect parents' rights and
18 responsibilities under the parenting plan.

19 (750 ILCS 5/607.5 new)

20 Sec. 607.5. Abuse of allocated parenting time.

21 (a) The court shall provide an expedited procedure for the
22 enforcement of allocated parenting time.

23 (b) An action for the enforcement of allocated parenting
24 time may be commenced by a parent or a person appointed under

1 Section 506 by filing a petition setting forth: (i) the
2 petitioner's name and residence address or mailing address,
3 except that if the petition states that disclosure of
4 petitioner's address would risk abuse of petitioner or any
5 member of petitioner's family or household or reveal the
6 confidential address of a shelter for domestic violence
7 victims, that address may be omitted from the petition; (ii)
8 the respondent's name and place of residence, place of
9 employment, or mailing address; (iii) the terms of the
10 parenting plan or allocation judgment then in effect; (iv) the
11 nature of the violation of the allocation of parenting time,
12 giving dates and other relevant information; and (v) that a
13 reasonable attempt was made to resolve the dispute.

14 (c) If the court finds by a preponderance of the evidence
15 that a parent has not complied with allocated parenting time
16 according to an approved parenting plan or a court order, the
17 court, in the child's best interests, shall issue an order that
18 may include one or more of the following:

19 (1) An imposition of additional terms and conditions
20 consistent with the court's previous allocation of
21 parenting time or other order.

22 (2) A requirement that either or both of the parties
23 attend a parental education program at the expense of the
24 non-complying parent.

25 (3) A requirement that the parties participate in
26 family counseling at the expense of the non-complying

1 parent.

2 (4) A requirement that the non-complying parent post a
3 cash bond or other security to ensure future compliance,
4 including a provision that the bond or other security may
5 be forfeited to the other parent for payment of expenses on
6 behalf of the child as the court shall direct.

7 (5) A requirement that makeup parenting time be
8 provided for the aggrieved parent or child under the
9 following conditions:

10 (A) That such parenting time is of the same type
11 and duration as the parenting time that was denied,
12 including but not limited to parenting time during
13 weekends, on holidays, and on weekdays and during times
14 when the child is not in school.

15 (B) That such parenting time is made up within 6
16 months after the noncompliance occurs, unless the
17 period of time or holiday cannot be made up within 6
18 months, in which case the parenting time shall be made
19 up within one year after the noncompliance occurs.

20 (6) A finding that the non-complying parent is in
21 contempt of court.

22 (7) Imposing on the non-complying parent an
23 appropriate civil fine per incident of denied parenting
24 time.

25 (8) A requirement that the non-complying parent
26 reimburse the other parent for all reasonable expenses

1 incurred as a result of the violation of the parenting plan
2 or court order.

3 (9) Any other provision that may promote the child's
4 best interests.

5 (d) In addition to any other order entered under subsection
6 (c), the court shall order a parent who has failed to provide
7 allocated parenting time or to exercise allocated parenting
8 time to pay the aggrieved party his or her reasonable
9 attorney's fees, court costs, and expenses associated with an
10 action brought under this Section. If the court finds that the
11 respondent in an action brought under this Section has not
12 violated the allocated parenting time, the court may order the
13 petitioner to pay the respondent's reasonable attorney's fees,
14 court costs, and expenses incurred in the action.

15 (e) Nothing in this Section precludes a party from
16 maintaining any other action as provided by law.

17 (750 ILCS 5/609.2 new)

18 Sec. 609.2. Parent's relocation.

19 (a) A parent's relocation constitutes a substantial change
20 in circumstances for purposes of Section 610.5.

21 (b) Only a parent who has been allocated a majority of
22 parenting time may seek to relocate with a child, except that
23 when parents have equal parenting time, either parent may seek
24 to relocate with a child.

25 (c) Any parent intending to relocate must provide at least

1 60 days prior written notice to any other parent under the
2 parenting plan or allocation judgment unless such notice is
3 impracticable (in which case written notice shall be given at
4 the earliest date practicable) or unless otherwise ordered by
5 the court. At a minimum, the notice must set forth the
6 following:

7 (1) The intended date of the parent's relocation.

8 (2) The address of the parent's intended new residence,
9 if known.

10 (3) The specific reasons for the parent's intended
11 relocation.

12 (4) A proposal modifying the parents' parental
13 responsibilities, if necessary, in light of the
14 relocation.

15 (5) If the parent's intended relocation requires a
16 change in the child's school, a statement of how the
17 relocating parent intends to meet the child's educational
18 needs.

19 The court may consider a parent's failure to comply with
20 the notice requirements of this Section without good cause (i)
21 as a factor in determining whether the parent's relocation is
22 in good faith and (ii) as a basis for awarding reasonable
23 attorney's fees and costs resulting from the parent's failure
24 to comply with these provisions.

25 (d) If a parent receives a written notice of the other
26 parent's intent to relocate and objects to the relocation, then

1 no later than 30 days after receiving the notice, the objecting
2 parent must file a petition setting forth objections to the
3 proposed relocation. A petition filed under this subsection
4 shall be expeditiously heard by the court. A parent's failure
5 to file for the relief provided under this subsection
6 constitutes a waiver of that parent's objections to the
7 relocation. If the court finds that objections are made in bad
8 faith, it shall award reasonable attorney's fees and costs to
9 the other party.

10 (e) The court shall modify the parenting plan or allocation
11 judgment to accommodate a parent's relocation as agreed by the
12 parents as long as the agreed modification is in the child's
13 best interests.

14 (f) The court shall modify the parenting plan or allocation
15 judgment to accommodate the relocation without changing the
16 proportion of parental responsibilities between the parties,
17 if practicable, as long as such a modification is in the
18 child's best interests.

19 (g) If a parent's relocation makes it impracticable to
20 maintain the same proportion of parental responsibilities
21 between the parties, the court shall modify the parenting plan
22 or allocation judgment in accordance with the child's best
23 interests. The court shall consider the following factors:

24 (1) The factors set forth in subsection (c) of this
25 Section.

26 (2) The reasons, if any, why a parent is objecting to

1 the intended relocation.

2 (3) The history and quality of each parent's
3 relationship with the child since the implementation of any
4 previous parenting plan or allocation judgment.

5 (4) The educational opportunities for the child at the
6 existing location and at the proposed new location.

7 (5) The presence or absence of extended family at the
8 existing location and at the proposed new location.

9 (6) The anticipated impact of the relocation on the
10 child.

11 (7) Whether the court will be able to fashion a
12 reasonable allocation of parental responsibilities between
13 all parents if the relocation occurs.

14 (8) The wishes of the child after taking into
15 consideration the child's age and maturity.

16 (9) Whether the intended relocation is valid, in good
17 faith, and to a location that is reasonable in light of the
18 purpose.

19 (10) Possible arrangements for the exercise of
20 parental responsibilities appropriate to the parents'
21 resources and circumstances and the developmental level of
22 the child.

23 (11) Minimization of the impairment to a parent-child
24 relationship caused by a parent's relocation.

25 (12) Any other relevant factors bearing on the child's
26 best interests.

1 (h) Unless the non-relocating parent demonstrates that a
2 reallocation of parental responsibilities is necessary to
3 prevent harm to the child, the court shall deny the
4 non-relocating parent's request for a reallocation of parental
5 responsibilities based on relocation if the non-relocating
6 parent either:

7 (1) failed to object to the relocation within the time
8 allowed; or

9 (2) has substantially failed or refused to exercise the
10 parental responsibilities allocated to him or her under the
11 parenting plan or allocation judgment.

12 (750 ILCS 5/610.5 new)

13 Sec. 610.5. Modification.

14 (a) Except in a case concerning the modification of any
15 restriction of parental responsibilities under Section 603.10,
16 the court shall modify a parenting plan or allocation judgment
17 when necessary to serve the child's best interests if the court
18 finds, by a preponderance of the evidence, that:

19 (1) on the basis of facts that have arisen since the
20 entry of the existing parenting plan or allocation judgment
21 or were not anticipated therein, a substantial change has
22 occurred in the circumstances of the child or of any parent
23 and that a modification is necessary to serve the child's
24 best interests; or

25 (2) the existing allocation of parental

1 responsibilities seriously endangers the child's physical,
2 mental, moral, or emotional health.

3 (b) The court shall modify a parenting plan or allocation
4 judgment in accordance with a parental agreement, unless it
5 finds that the modification is not in the child's best
6 interests.

7 (c) The court may modify a parenting plan or allocation
8 judgment without a showing of changed circumstances if (i) the
9 modification is in the child's best interests and (ii) any of
10 the following are proven as to the modification:

11 (1) The modification reflects the actual arrangement
12 under which the child has been receiving care, without
13 parental objection, for the 6 months preceding the filing
14 of the petition for modification, provided that the
15 arrangement is not the result of a parent's acquiescence
16 resulting from circumstances that negated the parent's
17 ability to give meaningful consent.

18 (2) The modification constitutes a minor modification
19 in the parenting plan or allocation judgment.

20 (3) The modification is necessary to modify an agreed
21 parenting plan or allocation judgment that the court would
22 not have ordered or approved under Section 602.5 or 602.7
23 had the court been aware of the circumstances at the time
24 of the order or approval.

25 (d) Attorney's fees and costs shall be assessed against a
26 party seeking modification if the court finds that the

1 modification action is vexatious or constitutes harassment.

2 (750 ILCS 5/612 new)

3 Sec. 612. Application of provisions concerning allocation
4 of parental responsibilities.

5 (a) The changes made by this amendatory Act of the 97th
6 General Assembly apply to all proceedings commenced on or after
7 the effective date of this amendatory Act of the 97th General
8 Assembly.

9 (b) The changes made by this amendatory Act of the 97th
10 General Assembly apply to all actions pending on the effective
11 date of this amendatory Act of the 97th General Assembly and to
12 all proceedings commenced before that effective date with
13 respect to issues on which a judgment has not been entered.
14 Evidence adduced after the effective date of this amendatory
15 Act of the 97th General Assembly shall comply with the changes
16 made by this amendatory Act of the 97th General Assembly.

17 (c) The changes made by this amendatory Act of the 97th
18 General Assembly apply to all proceedings commenced on or after
19 the effective date of this amendatory Act of the 97th General
20 Assembly for the modification of a judgment or order entered
21 before that effective date.

22 (d) In any action or proceeding in which an appeal was
23 pending or a new trial was ordered before the effective date of
24 this amendatory Act of the 97th General Assembly, the law in
25 effect at the time of the order sustaining the appeal or the

1 new trial governs the appeal, the new trial, and any subsequent
2 trial or appeal.

3 (750 ILCS 5/406 rep.)

4 (750 ILCS 5/407 rep.)

5 (750 ILCS 5/408 rep.)

6 (750 ILCS 5/412 rep.)

7 (750 ILCS 5/514 rep.)

8 (750 ILCS 5/515 rep.)

9 (750 ILCS 5/516 rep.)

10 (750 ILCS 5/517 rep.)

11 (750 ILCS 5/601 rep.)

12 (750 ILCS 5/601.5 rep.)

13 (750 ILCS 5/602 rep.)

14 (750 ILCS 5/602.1 rep.)

15 (750 ILCS 5/603 rep.)

16 (750 ILCS 5/604 rep.)

17 (750 ILCS 5/604.5 rep.)

18 (750 ILCS 5/605 rep.)

19 (750 ILCS 5/606 rep.)

20 (750 ILCS 5/607 rep.)

21 (750 ILCS 5/607.1 rep.)

22 (750 ILCS 5/608 rep.)

23 (750 ILCS 5/609 rep.)

24 (750 ILCS 5/610 rep.)

25 (750 ILCS 5/611 rep.)

1 (750 ILCS 5/701 rep.)

2 (750 ILCS 5/703 rep.)

3 Section 5-20. The Illinois Marriage and Dissolution of
4 Marriage Act is amended by repealing Sections 406, 407, 408,
5 412, 514, 515, 516, 517, 601, 601.5, 602, 602.1, 603, 604,
6 604.5, 605, 606, 607, 607.1, 608, 609, 610, 611, 701, and 703.

7 Section 5-25. The Illinois Domestic Violence Act of 1986 is
8 amended by changing Sections 214 and 223 as follows:

9 (750 ILCS 60/214) (from Ch. 40, par. 2312-14)

10 Sec. 214. Order of protection; remedies.

11 (a) Issuance of order. If the court finds that petitioner
12 has been abused by a family or household member or that
13 petitioner is a high-risk adult who has been abused, neglected,
14 or exploited, as defined in this Act, an order of protection
15 prohibiting the abuse, neglect, or exploitation shall issue;
16 provided that petitioner must also satisfy the requirements of
17 one of the following Sections, as appropriate: Section 217 on
18 emergency orders, Section 218 on interim orders, or Section 219
19 on plenary orders. Petitioner shall not be denied an order of
20 protection because petitioner or respondent is a minor. The
21 court, when determining whether or not to issue an order of
22 protection, shall not require physical manifestations of abuse
23 on the person of the victim. Modification and extension of
24 prior orders of protection shall be in accordance with this

1 Act.

2 (b) Remedies and standards. The remedies to be included in
3 an order of protection shall be determined in accordance with
4 this Section and one of the following Sections, as appropriate:
5 Section 217 on emergency orders, Section 218 on interim orders,
6 and Section 219 on plenary orders. The remedies listed in this
7 subsection shall be in addition to other civil or criminal
8 remedies available to petitioner.

9 (1) Prohibition of abuse, neglect, or exploitation.
10 Prohibit respondent's harassment, interference with
11 personal liberty, intimidation of a dependent, physical
12 abuse, or willful deprivation, neglect or exploitation, as
13 defined in this Act, or stalking of the petitioner, as
14 defined in Section 12-7.3 of the Criminal Code of 1961, if
15 such abuse, neglect, exploitation, or stalking has
16 occurred or otherwise appears likely to occur if not
17 prohibited.

18 (2) Grant of exclusive possession of residence.
19 Prohibit respondent from entering or remaining in any
20 residence, household, or premises of the petitioner,
21 including one owned or leased by respondent, if petitioner
22 has a right to occupancy thereof. The grant of exclusive
23 possession of the residence, household, or premises shall
24 not affect title to real property, nor shall the court be
25 limited by the standard set forth in Section 701 of the
26 Illinois Marriage and Dissolution of Marriage Act.

1 (A) Right to occupancy. A party has a right to
2 occupancy of a residence or household if it is solely
3 or jointly owned or leased by that party, that party's
4 spouse, a person with a legal duty to support that
5 party or a minor child in that party's care, or by any
6 person or entity other than the opposing party that
7 authorizes that party's occupancy (e.g., a domestic
8 violence shelter). Standards set forth in subparagraph
9 (B) shall not preclude equitable relief.

10 (B) Presumption of hardships. If petitioner and
11 respondent each has the right to occupancy of a
12 residence or household, the court shall balance (i) the
13 hardships to respondent and any minor child or
14 dependent adult in respondent's care resulting from
15 entry of this remedy with (ii) the hardships to
16 petitioner and any minor child or dependent adult in
17 petitioner's care resulting from continued exposure to
18 the risk of abuse (should petitioner remain at the
19 residence or household) or from loss of possession of
20 the residence or household (should petitioner leave to
21 avoid the risk of abuse). When determining the balance
22 of hardships, the court shall also take into account
23 the accessibility of the residence or household.
24 Hardships need not be balanced if respondent does not
25 have a right to occupancy.

26 The balance of hardships is presumed to favor

1 possession by petitioner unless the presumption is
2 rebutted by a preponderance of the evidence, showing
3 that the hardships to respondent substantially
4 outweigh the hardships to petitioner and any minor
5 child or dependent adult in petitioner's care. The
6 court, on the request of petitioner or on its own
7 motion, may order respondent to provide suitable,
8 accessible, alternate housing for petitioner instead
9 of excluding respondent from a mutual residence or
10 household.

11 (3) Stay away order and additional prohibitions. Order
12 respondent to stay away from petitioner or any other person
13 protected by the order of protection, or prohibit
14 respondent from entering or remaining present at
15 petitioner's school, place of employment, or other
16 specified places at times when petitioner is present, or
17 both, if reasonable, given the balance of hardships.
18 Hardships need not be balanced for the court to enter a
19 stay away order or prohibit entry if respondent has no
20 right to enter the premises.

21 (A) If an order of protection grants petitioner
22 exclusive possession of the residence, or prohibits
23 respondent from entering the residence, or orders
24 respondent to stay away from petitioner or other
25 protected persons, then the court may allow respondent
26 access to the residence to remove items of clothing and

1 personal adornment used exclusively by respondent,
2 medications, and other items as the court directs. The
3 right to access shall be exercised on only one occasion
4 as the court directs and in the presence of an
5 agreed-upon adult third party or law enforcement
6 officer.

7 (B) When the petitioner and the respondent attend
8 the same public, private, or non-public elementary,
9 middle, or high school, the court when issuing an order
10 of protection and providing relief shall consider the
11 severity of the act, any continuing physical danger or
12 emotional distress to the petitioner, the educational
13 rights guaranteed to the petitioner and respondent
14 under federal and State law, the availability of a
15 transfer of the respondent to another school, a change
16 of placement or a change of program of the respondent,
17 the expense, difficulty, and educational disruption
18 that would be caused by a transfer of the respondent to
19 another school, and any other relevant facts of the
20 case. The court may order that the respondent not
21 attend the public, private, or non-public elementary,
22 middle, or high school attended by the petitioner,
23 order that the respondent accept a change of placement
24 or change of program, as determined by the school
25 district or private or non-public school, or place
26 restrictions on the respondent's movements within the

1 school attended by the petitioner. The respondent
2 bears the burden of proving by a preponderance of the
3 evidence that a transfer, change of placement, or
4 change of program of the respondent is not available.
5 The respondent also bears the burden of production with
6 respect to the expense, difficulty, and educational
7 disruption that would be caused by a transfer of the
8 respondent to another school. A transfer, change of
9 placement, or change of program is not unavailable to
10 the respondent solely on the ground that the respondent
11 does not agree with the school district's or private or
12 non-public school's transfer, change of placement, or
13 change of program or solely on the ground that the
14 respondent fails or refuses to consent or otherwise
15 does not take an action required to effectuate a
16 transfer, change of placement, or change of program.
17 When a court orders a respondent to stay away from the
18 public, private, or non-public school attended by the
19 petitioner and the respondent requests a transfer to
20 another attendance center within the respondent's
21 school district or private or non-public school, the
22 school district or private or non-public school shall
23 have sole discretion to determine the attendance
24 center to which the respondent is transferred. In the
25 event the court order results in a transfer of the
26 minor respondent to another attendance center, a

1 change in the respondent's placement, or a change of
2 the respondent's program, the parents, guardian, or
3 legal custodian of the respondent is responsible for
4 transportation and other costs associated with the
5 transfer or change.

6 (C) The court may order the parents, guardian, or
7 legal custodian of a minor respondent to take certain
8 actions or to refrain from taking certain actions to
9 ensure that the respondent complies with the order. ~~The~~
10 ~~court may order the parents, guardian, or legal~~
11 ~~custodian of a minor respondent to take certain actions~~
12 ~~or to refrain from taking certain actions to ensure~~
13 ~~that the respondent complies with the order.~~ In the
14 event the court orders a transfer of the respondent to
15 another school, the parents, guardian, or legal
16 custodian of the respondent is responsible for
17 transportation and other costs associated with the
18 change of school by the respondent.

19 (4) Counseling. Require or recommend the respondent to
20 undergo counseling for a specified duration with a social
21 worker, psychologist, clinical psychologist, psychiatrist,
22 family service agency, alcohol or substance abuse program,
23 mental health center guidance counselor, agency providing
24 services to elders, program designed for domestic violence
25 abusers or any other guidance service the court deems
26 appropriate. The Court may order the respondent in any

1 intimate partner relationship to report to an Illinois
2 Department of Human Services protocol approved partner
3 abuse intervention program for an assessment and to follow
4 all recommended treatment.

5 (5) Physical care and possession of the minor child. In
6 order to protect the minor child from abuse, neglect, or
7 unwarranted separation from the person who has been the
8 minor child's primary caretaker, or to otherwise protect
9 the well-being of the minor child, the court may do either
10 or both of the following: (i) grant petitioner physical
11 care or possession of the minor child, or both, or (ii)
12 order respondent to return a minor child to, or not remove
13 a minor child from, the physical care of a parent or person
14 in loco parentis.

15 If a court finds, after a hearing, that respondent has
16 committed abuse (as defined in Section 103) of a minor
17 child, there shall be a rebuttable presumption that
18 awarding physical care to respondent would not be in the
19 minor child's best interest.

20 (6) Temporary allocation of parental responsibilities
21 ~~legal custody~~. Award temporary parental responsibility
22 ~~legal custody~~ to petitioner in accordance with this
23 Section, the Illinois Marriage and Dissolution of Marriage
24 Act, the Illinois Parentage Act of 1984, and this State's
25 Uniform Child-Custody Jurisdiction and Enforcement Act.

26 If a court finds, after a hearing, that respondent has

1 committed abuse (as defined in Section 103) of a minor
2 child, there shall be a rebuttable presumption that
3 awarding temporary parental responsibility ~~legal custody~~
4 to respondent would not be in the child's best interest.

5 (7) Parenting time ~~Visitation~~. Determine the parenting
6 time ~~visitation rights~~, if any, of respondent in any case
7 in which the court awards physical care or allocates
8 temporary parental responsibility ~~legal custody~~ of a minor
9 child to petitioner. The court shall restrict or deny
10 respondent's visitation with a minor child if the court
11 finds that respondent has done or is likely to do any of
12 the following: (i) abuse or endanger the minor child during
13 parenting time ~~visitation~~; (ii) use the parenting time
14 ~~visitation~~ as an opportunity to abuse or harass petitioner
15 or petitioner's family or household members; (iii)
16 improperly conceal or detain the minor child; or (iv)
17 otherwise act in a manner that is not in the best interests
18 of the minor child. The court shall not be limited by the
19 standards set forth in Section 603.10 ~~607.1~~ of the Illinois
20 Marriage and Dissolution of Marriage Act. If the court
21 grants parenting time ~~visitation~~, the order shall specify
22 dates and times for the parenting time ~~visitation~~ to take
23 place or other specific parameters or conditions that are
24 appropriate. No order for parenting time ~~visitation~~ shall
25 refer merely to the term "reasonable parenting time
26 ~~visitation~~".

1 Petitioner may deny respondent access to the minor
2 child if, when respondent arrives for parenting time
3 ~~visitation~~, respondent is under the influence of drugs or
4 alcohol and constitutes a threat to the safety and
5 well-being of petitioner or petitioner's minor children or
6 is behaving in a violent or abusive manner.

7 If necessary to protect any member of petitioner's
8 family or household from future abuse, respondent shall be
9 prohibited from coming to petitioner's residence to meet
10 the minor child for parenting time ~~visitation~~, and the
11 parties shall submit to the court their recommendations for
12 reasonable alternative arrangements for parenting time
13 ~~visitation~~. A person may be approved to supervise parenting
14 time ~~visitation~~ only after filing an affidavit accepting
15 that responsibility and acknowledging accountability to
16 the court.

17 (8) Removal or concealment of minor child. Prohibit
18 respondent from removing a minor child from the State or
19 concealing the child within the State.

20 (9) Order to appear. Order the respondent to appear in
21 court, alone or with a minor child, to prevent abuse,
22 neglect, removal or concealment of the child, to return the
23 child to the custody or care of the petitioner or to permit
24 any court-ordered interview or examination of the child or
25 the respondent.

26 (10) Possession of personal property. Grant petitioner

1 exclusive possession of personal property and, if
2 respondent has possession or control, direct respondent to
3 promptly make it available to petitioner, if:

4 (i) petitioner, but not respondent, owns the
5 property; or

6 (ii) the parties own the property jointly; sharing
7 it would risk abuse of petitioner by respondent or is
8 impracticable; and the balance of hardships favors
9 temporary possession by petitioner.

10 If petitioner's sole claim to ownership of the property
11 is that it is marital property, the court may award
12 petitioner temporary possession thereof under the
13 standards of subparagraph (ii) of this paragraph only if a
14 proper proceeding has been filed under the Illinois
15 Marriage and Dissolution of Marriage Act, as now or
16 hereafter amended.

17 No order under this provision shall affect title to
18 property.

19 (11) Protection of property. Forbid the respondent
20 from taking, transferring, encumbering, concealing,
21 damaging or otherwise disposing of any real or personal
22 property, except as explicitly authorized by the court, if:

23 (i) petitioner, but not respondent, owns the
24 property; or

25 (ii) the parties own the property jointly, and the
26 balance of hardships favors granting this remedy.

1 If petitioner's sole claim to ownership of the property
2 is that it is marital property, the court may grant
3 petitioner relief under subparagraph (ii) of this
4 paragraph only if a proper proceeding has been filed under
5 the Illinois Marriage and Dissolution of Marriage Act, as
6 now or hereafter amended.

7 The court may further prohibit respondent from
8 improperly using the financial or other resources of an
9 aged member of the family or household for the profit or
10 advantage of respondent or of any other person.

11 (11.5) Protection of animals. Grant the petitioner the
12 exclusive care, custody, or control of any animal owned,
13 possessed, leased, kept, or held by either the petitioner
14 or the respondent or a minor child residing in the
15 residence or household of either the petitioner or the
16 respondent and order the respondent to stay away from the
17 animal and forbid the respondent from taking,
18 transferring, encumbering, concealing, harming, or
19 otherwise disposing of the animal.

20 (12) Order for payment of support. Order respondent to
21 pay temporary support for the petitioner or any child in
22 the petitioner's care or over whom the petitioner has been
23 allocated parental responsibility ~~custody~~, when the
24 respondent has a legal obligation to support that person,
25 in accordance with the Illinois Marriage and Dissolution of
26 Marriage Act, which shall govern, among other matters, the

1 amount of support, payment through the clerk and
2 withholding of income to secure payment. An order for child
3 support may be granted to a petitioner with lawful physical
4 care ~~or custody~~ of a child, or an order or agreement for
5 physical care of a child ~~or custody~~, prior to entry of an
6 order allocating parental responsibility ~~for legal~~
7 ~~custody~~. Such a support order shall expire upon entry of a
8 valid order allocating parental responsibility differently
9 ~~granting legal custody to another~~, unless otherwise
10 provided in the custody order.

11 (13) Order for payment of losses. Order respondent to
12 pay petitioner for losses suffered as a direct result of
13 the abuse, neglect, or exploitation. Such losses shall
14 include, but not be limited to, medical expenses, lost
15 earnings or other support, repair or replacement of
16 property damaged or taken, reasonable attorney's fees,
17 court costs and moving or other travel expenses, including
18 additional reasonable expenses for temporary shelter and
19 restaurant meals.

20 (i) Losses affecting family needs. If a party is
21 entitled to seek maintenance, child support or
22 property distribution from the other party under the
23 Illinois Marriage and Dissolution of Marriage Act, as
24 now or hereafter amended, the court may order
25 respondent to reimburse petitioner's actual losses, to
26 the extent that such reimbursement would be

1 "appropriate temporary relief", as authorized by
2 subsection (a) (3) of Section 501 of that Act.

3 (ii) Recovery of expenses. In the case of an
4 improper concealment or removal of a minor child, the
5 court may order respondent to pay the reasonable
6 expenses incurred or to be incurred in the search for
7 and recovery of the minor child, including but not
8 limited to legal fees, court costs, private
9 investigator fees, and travel costs.

10 (14) Prohibition of entry. Prohibit the respondent
11 from entering or remaining in the residence or household
12 while the respondent is under the influence of alcohol or
13 drugs and constitutes a threat to the safety and well-being
14 of the petitioner or the petitioner's children.

15 (14.5) Prohibition of firearm possession.

16 (a) Prohibit a respondent against whom an order of
17 protection was issued from possessing any firearms
18 during the duration of the order if the order:

19 (1) was issued after a hearing of which such
20 person received actual notice, and at which such
21 person had an opportunity to participate;

22 (2) restrains such person from harassing,
23 stalking, or threatening an intimate partner of
24 such person or child of such intimate partner or
25 person, or engaging in other conduct that would
26 place an intimate partner in reasonable fear of

1 bodily injury to the partner or child; and

2 (3)(i) includes a finding that such person
3 represents a credible threat to the physical
4 safety of such intimate partner or child; or (ii)
5 by its terms explicitly prohibits the use,
6 attempted use, or threatened use of physical force
7 against such intimate partner or child that would
8 reasonably be expected to cause bodily injury.

9 Any Firearm Owner's Identification Card in the
10 possession of the respondent, except as provided in
11 subsection (b), shall be ordered by the court to be
12 turned over to the local law enforcement agency for
13 safekeeping. The court shall issue a warrant for
14 seizure of any firearm and Firearm Owner's
15 Identification Card in the possession of the
16 respondent, to be kept by the local law enforcement
17 agency for safekeeping, except as provided in
18 subsection (b). The period of safekeeping shall be for
19 the duration of the order of protection. The firearm or
20 firearms and Firearm Owner's Identification Card shall
21 be returned to the respondent at the end of the order
22 of protection.

23 (b) If the respondent is a peace officer as defined
24 in Section 2-13 of the Criminal Code of 1961, the court
25 shall order that any firearms used by the respondent in
26 the performance of his or her duties as a peace officer

1 be surrendered to the chief law enforcement executive
2 of the agency in which the respondent is employed, who
3 shall retain the firearms for safekeeping for the
4 duration of the order of protection.

5 (c) Upon expiration of the period of safekeeping,
6 if the firearms or Firearm Owner's Identification Card
7 cannot be returned to respondent because respondent
8 cannot be located, fails to respond to requests to
9 retrieve the firearms, or is not lawfully eligible to
10 possess a firearm, upon petition from the local law
11 enforcement agency, the court may order the local law
12 enforcement agency to destroy the firearms, use the
13 firearms for training purposes, or for any other
14 application as deemed appropriate by the local law
15 enforcement agency; or that the firearms be turned over
16 to a third party who is lawfully eligible to possess
17 firearms, and who does not reside with respondent.

18 (15) Prohibition of access to records. If an order of
19 protection prohibits respondent from having contact with
20 the minor child, or if petitioner's address is omitted
21 under subsection (b) of Section 203, or if necessary to
22 prevent abuse or wrongful removal or concealment of a minor
23 child, the order shall deny respondent access to, and
24 prohibit respondent from inspecting, obtaining, or
25 attempting to inspect or obtain, school or any other
26 records of the minor child who is in the care of

1 petitioner.

2 (16) Order for payment of shelter services. Order
3 respondent to reimburse a shelter providing temporary
4 housing and counseling services to the petitioner for the
5 cost of the services, as certified by the shelter and
6 deemed reasonable by the court.

7 (17) Order for injunctive relief. Enter injunctive
8 relief necessary or appropriate to prevent further abuse of
9 a family or household member or further abuse, neglect, or
10 exploitation of a high-risk adult with disabilities or to
11 effectuate one of the granted remedies, if supported by the
12 balance of hardships. If the harm to be prevented by the
13 injunction is abuse or any other harm that one of the
14 remedies listed in paragraphs (1) through (16) of this
15 subsection is designed to prevent, no further evidence is
16 necessary that the harm is an irreparable injury.

17 (c) Relevant factors; findings.

18 (1) In determining whether to grant a specific remedy,
19 other than payment of support, the court shall consider
20 relevant factors, including but not limited to the
21 following:

22 (i) the nature, frequency, severity, pattern and
23 consequences of the respondent's past abuse, neglect
24 or exploitation of the petitioner or any family or
25 household member, including the concealment of his or
26 her location in order to evade service of process or

1 notice, and the likelihood of danger of future abuse,
2 neglect, or exploitation to petitioner or any member of
3 petitioner's or respondent's family or household; and

4 (ii) the danger that any minor child will be abused
5 or neglected or improperly relocated ~~removed~~ from the
6 jurisdiction, improperly concealed within the State or
7 improperly separated from the child's primary
8 caretaker.

9 (2) In comparing relative hardships resulting to the
10 parties from loss of possession of the family home, the
11 court shall consider relevant factors, including but not
12 limited to the following:

13 (i) availability, accessibility, cost, safety,
14 adequacy, location and other characteristics of
15 alternate housing for each party and any minor child or
16 dependent adult in the party's care;

17 (ii) the effect on the party's employment; and

18 (iii) the effect on the relationship of the party,
19 and any minor child or dependent adult in the party's
20 care, to family, school, church and community.

21 (3) Subject to the exceptions set forth in paragraph
22 (4) of this subsection, the court shall make its findings
23 in an official record or in writing, and shall at a minimum
24 set forth the following:

25 (i) That the court has considered the applicable
26 relevant factors described in paragraphs (1) and (2) of

1 this subsection.

2 (ii) Whether the conduct or actions of respondent,
3 unless prohibited, will likely cause irreparable harm
4 or continued abuse.

5 (iii) Whether it is necessary to grant the
6 requested relief in order to protect petitioner or
7 other alleged abused persons.

8 (4) For purposes of issuing an ex parte emergency order
9 of protection, the court, as an alternative to or as a
10 supplement to making the findings described in paragraphs
11 (c) (3) (i) through (c) (3) (iii) of this subsection, may use
12 the following procedure:

13 When a verified petition for an emergency order of
14 protection in accordance with the requirements of Sections
15 203 and 217 is presented to the court, the court shall
16 examine petitioner on oath or affirmation. An emergency
17 order of protection shall be issued by the court if it
18 appears from the contents of the petition and the
19 examination of petitioner that the averments are
20 sufficient to indicate abuse by respondent and to support
21 the granting of relief under the issuance of the emergency
22 order of protection.

23 (5) Never married parties. No rights or
24 responsibilities for a minor child born outside of marriage
25 attach to a putative father until a father and child
26 relationship has been established under the Illinois

1 Parentage Act of 1984, the Illinois Public Aid Code,
2 Section 12 of the Vital Records Act, the Juvenile Court Act
3 of 1987, the Probate Act of 1985, the Revised Uniform
4 Reciprocal Enforcement of Support Act, the Uniform
5 Interstate Family Support Act, the Expedited Child Support
6 Act of 1990, any judicial, administrative, or other act of
7 another state or territory, any other Illinois statute, or
8 by any foreign nation establishing the father and child
9 relationship, any other proceeding substantially in
10 conformity with the Personal Responsibility and Work
11 Opportunity Reconciliation Act of 1996 (Pub. L. 104-193),
12 or where both parties appeared in open court or at an
13 administrative hearing acknowledging under oath or
14 admitting by affirmation the existence of a father and
15 child relationship. Absent such an adjudication, finding,
16 or acknowledgement, no putative father shall be granted
17 temporary allocation of parental responsibilities,
18 including parenting time ~~custody of the minor child,~~
19 ~~visitation~~ with the minor child, or physical care and
20 possession of the minor child, nor shall an order of
21 payment for support of the minor child be entered.

22 (d) Balance of hardships; findings. If the court finds that
23 the balance of hardships does not support the granting of a
24 remedy governed by paragraph (2), (3), (10), (11), or (16) of
25 subsection (b) of this Section, which may require such
26 balancing, the court's findings shall so indicate and shall

1 include a finding as to whether granting the remedy will result
2 in hardship to respondent that would substantially outweigh the
3 hardship to petitioner from denial of the remedy. The findings
4 shall be an official record or in writing.

5 (e) Denial of remedies. Denial of any remedy shall not be
6 based, in whole or in part, on evidence that:

7 (1) Respondent has cause for any use of force, unless
8 that cause satisfies the standards for justifiable use of
9 force provided by Article VII of the Criminal Code of 1961;

10 (2) Respondent was voluntarily intoxicated;

11 (3) Petitioner acted in self-defense or defense of
12 another, provided that, if petitioner utilized force, such
13 force was justifiable under Article VII of the Criminal
14 Code of 1961;

15 (4) Petitioner did not act in self-defense or defense
16 of another;

17 (5) Petitioner left the residence or household to avoid
18 further abuse, neglect, or exploitation by respondent;

19 (6) Petitioner did not leave the residence or household
20 to avoid further abuse, neglect, or exploitation by
21 respondent;

22 (7) Conduct by any family or household member excused
23 the abuse, neglect, or exploitation by respondent, unless
24 that same conduct would have excused such abuse, neglect,
25 or exploitation if the parties had not been family or
26 household members.

1 (Source: P.A. 96-701, eff. 1-1-10; 96-1239, eff. 1-1-11;
2 97-158, eff. 1-1-12; 97-294, eff. 1-1-12; revised 10-4-11.)

3 (750 ILCS 60/223) (from Ch. 40, par. 2312-23)

4 Sec. 223. Enforcement of orders of protection.

5 (a) When violation is crime. A violation of any order of
6 protection, whether issued in a civil or criminal proceeding,
7 shall be enforced by a criminal court when:

8 (1) The respondent commits the crime of violation of an
9 order of protection pursuant to Section 12-3.4 or 12-30 of
10 the Criminal Code of 1961, by having knowingly violated:

11 (i) remedies described in paragraphs (1), (2),
12 (3), (14), or (14.5) of subsection (b) of Section 214
13 of this Act; or

14 (ii) a remedy, which is substantially similar to
15 the remedies authorized under paragraphs (1), (2),
16 (3), (14), and (14.5) of subsection (b) of Section 214
17 of this Act, in a valid order of protection which is
18 authorized under the laws of another state, tribe, or
19 United States territory; or

20 (iii) any other remedy when the act constitutes a
21 crime against the protected parties as defined by the
22 Criminal Code of 1961.

23 Prosecution for a violation of an order of protection
24 shall not bar concurrent prosecution for any other crime,
25 including any crime that may have been committed at the

1 time of the violation of the order of protection; or

2 (2) The respondent commits the crime of child abduction
3 pursuant to Section 10-5 of the Criminal Code of 1961, by
4 having knowingly violated:

5 (i) remedies described in paragraphs (5), (6) or
6 (8) of subsection (b) of Section 214 of this Act; or

7 (ii) a remedy, which is substantially similar to
8 the remedies authorized under paragraphs (5), (6), or
9 (8) of subsection (b) of Section 214 of this Act, in a
10 valid order of protection which is authorized under the
11 laws of another state, tribe, or United States
12 territory.

13 (b) When violation is contempt of court. A violation of any
14 valid Illinois order of protection, whether issued in a civil
15 or criminal proceeding, may be enforced through civil or
16 criminal contempt procedures, as appropriate, by any court with
17 jurisdiction, regardless where the act or acts which violated
18 the order of protection were committed, to the extent
19 consistent with the venue provisions of this Act. Nothing in
20 this Act shall preclude any Illinois court from enforcing any
21 valid order of protection issued in another state. Illinois
22 courts may enforce orders of protection through both criminal
23 prosecution and contempt proceedings, unless the action which
24 is second in time is barred by collateral estoppel or the
25 constitutional prohibition against double jeopardy.

26 (1) In a contempt proceeding where the petition for a

1 rule to show cause sets forth facts evidencing an immediate
2 danger that the respondent will flee the jurisdiction,
3 conceal a child, or inflict physical abuse on the
4 petitioner or minor children or on dependent adults in
5 petitioner's care, the court may order the attachment of
6 the respondent without prior service of the rule to show
7 cause or the petition for a rule to show cause. Bond shall
8 be set unless specifically denied in writing.

9 (2) A petition for a rule to show cause for violation
10 of an order of protection shall be treated as an expedited
11 proceeding.

12 (b-1) The court shall not hold a school district or private
13 or non-public school or any of its employees in civil or
14 criminal contempt unless the school district or private or
15 non-public school has been allowed to intervene.

16 (b-2) The court may hold the parents, guardian, or legal
17 custodian of a minor respondent in civil or criminal contempt
18 for a violation of any provision of any order entered under
19 this Act for conduct of the minor respondent in violation of
20 this Act if the parents, guardian, or legal custodian directed,
21 encouraged, or assisted the respondent minor in such conduct.

22 (c) Violation of custody or support orders or temporary or
23 final judgments allocating parental responsibilities. A
24 violation of remedies described in paragraphs (5), (6), (8), or
25 (9) of subsection (b) of Section 214 of this Act may be
26 enforced by any remedy provided by Section 607.5 ~~611~~ of the

1 Illinois Marriage and Dissolution of Marriage Act. The court
2 may enforce any order for support issued under paragraph (12)
3 of subsection (b) of Section 214 in the manner provided for
4 under Parts V and VII of the Illinois Marriage and Dissolution
5 of Marriage Act.

6 (d) Actual knowledge. An order of protection may be
7 enforced pursuant to this Section if the respondent violates
8 the order after the respondent has actual knowledge of its
9 contents as shown through one of the following means:

10 (1) By service, delivery, or notice under Section 210.

11 (2) By notice under Section 210.1 or 211.

12 (3) By service of an order of protection under Section
13 222.

14 (4) By other means demonstrating actual knowledge of
15 the contents of the order.

16 (e) The enforcement of an order of protection in civil or
17 criminal court shall not be affected by either of the
18 following:

19 (1) The existence of a separate, correlative order,
20 entered under Section 215.

21 (2) Any finding or order entered in a conjoined
22 criminal proceeding.

23 (f) Circumstances. The court, when determining whether or
24 not a violation of an order of protection has occurred, shall
25 not require physical manifestations of abuse on the person of
26 the victim.

1 (g) Penalties.

2 (1) Except as provided in paragraph (3) of this
3 subsection, where the court finds the commission of a crime
4 or contempt of court under subsections (a) or (b) of this
5 Section, the penalty shall be the penalty that generally
6 applies in such criminal or contempt proceedings, and may
7 include one or more of the following: incarceration,
8 payment of restitution, a fine, payment of attorneys' fees
9 and costs, or community service.

10 (2) The court shall hear and take into account evidence
11 of any factors in aggravation or mitigation before deciding
12 an appropriate penalty under paragraph (1) of this
13 subsection.

14 (3) To the extent permitted by law, the court is
15 encouraged to:

16 (i) increase the penalty for the knowing violation
17 of any order of protection over any penalty previously
18 imposed by any court for respondent's violation of any
19 order of protection or penal statute involving
20 petitioner as victim and respondent as defendant;

21 (ii) impose a minimum penalty of 24 hours
22 imprisonment for respondent's first violation of any
23 order of protection; and

24 (iii) impose a minimum penalty of 48 hours
25 imprisonment for respondent's second or subsequent
26 violation of an order of protection

1 unless the court explicitly finds that an increased penalty
2 or that period of imprisonment would be manifestly unjust.

3 (4) In addition to any other penalties imposed for a
4 violation of an order of protection, a criminal court may
5 consider evidence of any violations of an order of
6 protection:

7 (i) to increase, revoke or modify the bail bond on
8 an underlying criminal charge pursuant to Section
9 110-6 of the Code of Criminal Procedure of 1963;

10 (ii) to revoke or modify an order of probation,
11 conditional discharge or supervision, pursuant to
12 Section 5-6-4 of the Unified Code of Corrections;

13 (iii) to revoke or modify a sentence of periodic
14 imprisonment, pursuant to Section 5-7-2 of the Unified
15 Code of Corrections.

16 (5) In addition to any other penalties, the court shall
17 impose an additional fine of \$20 as authorized by Section
18 5-9-1.11 of the Unified Code of Corrections upon any person
19 convicted of or placed on supervision for a violation of an
20 order of protection. The additional fine shall be imposed
21 for each violation of this Section.

22 (Source: P.A. 96-1551, eff. 7-1-11; 97-294, eff. 1-1-12.)

23 Section 5-30. The Probate Act of 1975 is amended by
24 changing Section 11-7.1 as follows:

1 (755 ILCS 5/11-7.1) (from Ch. 110 1/2, par. 11-7.1)

2 Sec. 11-7.1. Parenting time ~~Visitation rights~~.

3 (a) Whenever both natural or adoptive parents of a minor
4 are deceased, an allocation of parenting time ~~visitation rights~~
5 shall be granted to the grandparents of the minor who are the
6 parents of the minor's legal parents unless it is shown that
7 such parenting time ~~visitation~~ would be detrimental to the best
8 interests and welfare of the minor. In the discretion of the
9 court, reasonable parenting time ~~visitation rights~~ may be
10 granted to any other relative of the minor or other person
11 having an interest in the welfare of the child. However, the
12 court shall not grant parenting time ~~visitation privileges~~ to
13 any person who otherwise might have parenting time ~~visitation~~
14 ~~privileges~~ under this Section where the minor has been adopted
15 subsequent to the death of both his legal parents except where
16 such adoption is by a close relative. For the purpose of this
17 Section, "close relative" shall include, but not be limited to,
18 a grandparent, aunt, uncle, first cousin, or adult brother or
19 sister.

20 Where such adoption is by a close relative, the court shall
21 not grant parenting time ~~visitation privileges~~ under this
22 Section unless the petitioner alleges and proves that he or she
23 has been unreasonably denied parenting time ~~visitation~~ with the
24 child. The court may grant reasonable parenting time ~~visitation~~
25 ~~privileges~~ upon finding that such parenting time ~~visitation~~
26 would be in the best interest of the child.

1 An order denying parenting time ~~visitation rights~~ to
2 grandparents of the minor shall be in writing and shall state
3 the reasons for denial. An order denying parenting time
4 ~~visitation rights~~ is a final order for purposes of appeal.

5 (b) Unless the court determines, after considering all
6 relevant factors, including but not limited to those set forth
7 in Section 602.7 ~~602(a)~~ of the Illinois Marriage and
8 Dissolution of Marriage Act, that it would be in the best
9 interests of the child to allow parenting time ~~visitation~~, the
10 court shall not enter an order providing parenting time
11 ~~visitation rights~~ and pursuant to a motion to modify parenting
12 time ~~visitation~~ brought under Section 610.5 ~~607(f)~~ of the
13 Illinois Marriage and Dissolution of Marriage Act shall revoke
14 parenting time ~~visitation rights~~ previously granted to any
15 person who would otherwise be entitled to petition for
16 parenting time ~~visitation rights~~ under this Section who has
17 been convicted of first degree murder of the parent,
18 grandparent, great-grandparent, or sibling of the child who is
19 the subject of the order. Until an order is entered pursuant to
20 this subsection, no person shall visit, with the child present,
21 a person who has been convicted of first degree murder of the
22 parent, grandparent, great-grandparent, or sibling of the
23 child without the consent of the child's parent, other than a
24 parent convicted of first degree murder as set forth herein, or
25 legal guardian.

26 (Source: P.A. 90-801, eff. 6-1-99.)

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