

AN ACT concerning civil law.

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

Section 5. The Illinois Marriage and Dissolution of Marriage Act is amended by changing Sections 505 and 510 as follows:

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

Sec. 505. Child support; contempt; penalties.

(a) In a proceeding for dissolution of marriage, legal separation, declaration of invalidity of marriage, or dissolution of a civil union, a proceeding for child support following a legal separation or dissolution of the marriage or civil union by a court that lacked personal jurisdiction over the absent spouse, a proceeding for modification of a previous order for child support under Section 510 of this Act, or any proceeding authorized under Section 501 or 601 of this Act, the court may order either or both parents owing a duty of support to a child of the marriage or civil union to pay an amount reasonable and necessary for support. The duty of support owed to a child includes the obligation to provide for the reasonable and necessary physical, mental and emotional health needs of the child. For purposes of this Section, the term "child" shall include any child under age 18 and any child

over the age of 18 who has not attained age 19 and is still attending high school. For purposes of this Section, the term "obligor" means the parent obligated to pay support to the other parent.

(1) Child support guidelines. The Illinois Department of Healthcare and Family Services shall adopt rules establishing child support guidelines which include worksheets to aid in the calculation of the child support obligations and a schedule of basic child support obligations that reflects the percentage of combined net income that parents living in the same household in this State ordinarily spend on their child. The child support guidelines have the following purposes:

(A) to establish as State policy an adequate standard of support for a child, subject to the ability of parents to pay;

(B) to make child support obligations more equitable by ensuring more consistent treatment of parents in similar circumstances;

(C) to improve the efficiency of the court process by promoting settlements and giving courts and the parties guidance in establishing levels of child support;

(D) to calculate child support based upon the parents' combined net income estimated to have been allocated for the support of the child if the parents

and child were living in an intact household;

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

(F) to allocate the amount of child support to be paid by each parent based upon a parent's net income and the child's physical care arrangements.

(1.5) Computation of basic child support obligation. The court shall compute the basic child support obligation by taking the following steps:

(A) determine each parent's monthly net income;

(B) add the parents' monthly net incomes together to determine the combined monthly net income of the parents;

(C) select the corresponding appropriate amount from the schedule of basic child support obligations based on the parties' combined monthly net income and number of children of the parties; and

(D) calculate each parent's percentage share of the basic child support obligation.

Although a monetary obligation is computed for each parent as child support, the receiving parent's share is not payable to the other parent and is presumed to be spent directly on the child.

(2) Duty of support. The court shall determine child support in each case by applying the child support guidelines unless the court makes a finding that

application of the guidelines would be inappropriate, after considering the best interests of the child and evidence which shows relevant factors including, but not limited to, one or more of the following:

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

(B) the financial resources and needs of the parents;

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

(D) the physical and emotional condition of the child and his or her educational needs.

(3) Income.

(A) As used in this Section, "gross income" means the total of all income from all sources, except "gross income" does not include (i) benefits received by the parent from means-tested public assistance programs, including, but not limited to, Temporary Assistance for Needy Families, Supplemental Security Income, and the Supplemental Nutrition Assistance Program or (ii) benefits and income received by the parent for other children in the household, including, but not limited to, child support, survivor benefits, and foster care payments. Social security disability and retirement benefits paid for the benefit of the

subject child must be included in the disabled or retired parent's gross income for purposes of calculating the parent's child support obligation, but the parent is entitled to a child support credit for the amount of benefits paid to the other party for the child. "Gross income" includes maintenance treated as taxable income for federal income tax purposes to the payee and received pursuant to a court order in the pending proceedings or any other proceedings and shall be included in the payee's gross income for purposes of calculating the parent's child support obligation.

(B) As used in this Section, "net income" means gross income minus either the standardized tax amount calculated pursuant to subparagraph (C) of this paragraph (3) or the individualized tax amount calculated pursuant to subparagraph (D) of this paragraph (3), and minus any adjustments pursuant to subparagraph (F) of this paragraph (3). The standardized tax amount shall be used unless the requirements for an individualized tax amount set forth in subparagraph (E) of this paragraph (3) are met. "Net income" includes maintenance not includable in the gross taxable income of the payee for federal income tax purposes under a court order in the pending proceedings or any other proceedings and shall be included in the payee's net income for purposes of

calculating the parent's child support obligation.

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

(I) Unless a court has determined otherwise or the parties otherwise agree, the party with the majority of parenting time shall be deemed entitled to claim the dependency exemption for the parties' minor child.

(II) The Illinois Department of Healthcare and Family Services shall promulgate a standardized net income conversion table that computes net income by deducting the standardized tax amount from gross income.

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

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

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

(III) Social Security or self-employment tax,

if applicable (or, if none, mandatory retirement contributions required by law or as a condition of employment) and Medicare tax calculated at the Federal Insurance Contributions Act rate.

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

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

(II) Summary hearing. If the court determines child support in a summary hearing under Section 501 and an eligible party opts in to the individualized tax amount method under this item (II), the individualized tax amount shall be determined by the court on the basis of information contained in one or both parties' Supreme Court approved Financial Affidavit (Family & Divorce Cases) and relevant supporting documents under applicable court rules. No party, however, is eligible to opt in unless the party, under applicable court rules, has served the other party with the required Supreme Court approved Financial Affidavit (Family & Divorce Cases) and has substantially produced supporting documents required by the applicable court rules.

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

(F) Adjustments to income.

(I) Multi-family adjustment. If a parent is

also legally responsible for support of a child not shared with the other parent and not subject to the present proceeding, there shall be an adjustment to net income as follows:

(i) Multi-family adjustment with court order. The court shall deduct from the parent's net income the amount of child support actually paid by the parent pursuant to a support order unless the court makes a finding that it would cause economic hardship to the child.

(ii) Multi-family adjustment without court order. Upon the request or application of a parent actually supporting a presumed, acknowledged, or adjudicated child living in or outside of that parent's household, there shall be an adjustment to child support. The court shall deduct from the parent's net income the amount of financial support actually paid by the parent for the child or 75% of the support the parent should pay under the child support guidelines (before this adjustment), whichever is less, unless the court makes a finding that it would cause economic hardship to the child. The adjustment shall be calculated using that parent's income

alone.

(II) Spousal Maintenance adjustment.

Obligations pursuant to a court order for spousal maintenance in the pending proceeding actually paid or payable to the same party to whom child support is to be payable or actually paid to a former spouse pursuant to a court order shall be deducted from the parent's after-tax income, unless the maintenance obligation is tax deductible to the payor for federal income tax purposes, in which case it shall be deducted from the payor's gross income for purposes of calculating the parent's child support obligation.

(3.1) Business income. For purposes of calculating child support, net business income from the operation of a business means gross receipts minus ordinary and necessary expenses required to carry on the trade or business. As used in this paragraph, "business" includes, but is not limited to, sole proprietorships, closely held corporations, partnerships, other flow-through business entities, and self-employment. The court shall apply the following:

(A) The accelerated component of depreciation and any business expenses determined either judicially or administratively to be inappropriate or excessive shall be excluded from the total of ordinary and

necessary business expenses to be deducted in the determination of net business income from gross business income.

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

(3.2a) Unemployment or underemployment. If a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of potential income. In determining potential income, the court shall consider the specific circumstances of a party, to the extent known, including, but not limited to, the parent's:

- (1) assets;
- (2) ownership of a substantial non-income producing asset;
- (3) residence;
- (4) employment and earning history;
- (5) job skills;
- (6) educational attainment;
- (7) literacy;
- (8) age;
- (9) health;

(10) criminal records and other employment barriers; and

(11) record of seeking work.

The court shall also consider the local job market, availability of local employers willing to hire the parent, prevailing earning levels in the local community, and other relevant background factors in the case. If there is insufficient work history to determine employment potential and probable earnings level, there shall be a rebuttable presumption that the parent's potential income is 75% of the most recent United States Department of Health and Human Services Federal Poverty Guidelines for a family of one person. Incarceration shall not be considered voluntary unemployment for child support purposes in establishing or modifying child support.

(3.2b) The court may impute income to a party only upon conducting an evidentiary hearing or by agreement of the parties. Imputation of income shall be accompanied by specific written findings identifying the basis or bases for imputation using these factors.

(3.3) Rebuttable presumption in favor of guidelines. There is a rebuttable presumption in any judicial or administrative proceeding for child support that the amount of the child support obligation that would result from the application of the child support guidelines is the correct amount of child support.

(3.3a) Minimum child support obligation. There is a rebuttable presumption that a minimum child support obligation of \$40 per month, per child, will be entered for an obligor who has actual or imputed gross income at or less than 100% ~~75%~~ of the most recent United States Department of Health and Human Services Federal Poverty Guidelines for a family of one person, with a maximum total child support obligation for that obligor of \$120 per month to be divided equally among all of the obligor's children.

(3.3b) Zero dollar child support order. For parents with no gross income, who receive only means-tested assistance, or who cannot work due to a medically proven disability, incarceration, or institutionalization, there is a rebuttable presumption that the \$40 per month minimum support order is inapplicable and a zero dollar order shall be entered.

(3.4) Deviation factors. In any action to establish or modify child support, whether pursuant to a temporary or final administrative or court order, the child support guidelines shall be used as a rebuttable presumption for the establishment or modification of the amount of child support. The court may deviate from the child support guidelines if the application would be inequitable, unjust, or inappropriate. Any deviation from the guidelines shall be accompanied by written findings by the

court specifying the reasons for the deviation and the presumed amount under the child support guidelines without a deviation. These reasons may include:

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

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

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

(3.5) Income in excess of the schedule of basic child support obligation. A court may use its discretion to determine child support if the combined adjusted net income of the parties exceeds the highest level of the schedule of basic child support obligation, except that the basic child support obligation shall not be less than the highest level of combined net income set forth in the schedule of basic child support obligation.

(3.6) Extracurricular activities and school expenses. The court, in its discretion, in addition to the basic child support obligation, may order either or both parents owing a duty of support to the child to contribute to the reasonable school and extracurricular activity expenses

incurred which are intended to enhance the educational, athletic, social, or cultural development of the child.

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

(A) "Child care expenses" means actual expenses reasonably necessary to enable a parent or non-parent custodian to be employed, to attend educational or vocational training programs to improve employment opportunities, or to search for employment. "Child care expenses" also includes deposits for securing placement in a child care program, the cost of before and after school care, and camps when school is not in session. A child's special needs shall be a consideration in determining reasonable child care expenses.

(B) Child care expenses shall be prorated in proportion to each parent's percentage share of combined net income, and may be added to the basic child support obligation if not paid directly by each parent to the provider of child care services. The

obligor's and obligee's portion of actual child care expenses shall appear in the support order. If allowed, the value of the federal income tax credit for child care shall be subtracted from the actual cost to determine the net child care costs.

(C) The amount of child care expenses shall be adequate to obtain reasonable and necessary child care. The actual child care expenses shall be used to calculate the child care expenses, if available. When actual child care expenses vary, the actual child care expenses may be averaged over the most recent 12-month period. When a parent is temporarily unemployed or temporarily not attending educational or vocational training programs, future child care expenses shall be based upon prospective expenses to be incurred upon return to employment or educational or vocational training programs.

(D) An order for child care expenses may be modified upon a showing of a substantial change in circumstances. The party incurring child care expenses shall notify the other party within 14 days of any change in the amount of child care expenses that would affect the annualized child care amount as determined in the support order.

(3.8) Shared physical care. If parents have shared physical care of a child, the court shall calculate the

shared care child support obligation.

(1) Shared Physical Care. Shared physical care means each parent exercises 110 or more overnights per year with the child, or 110 or more overnight equivalents as determined by a court as a deviation from guidelines or upon agreement by the parties. Overnight equivalents are calculated by using a method other than overnights if the parent has significant parenting time periods on separate days in which the child is in the parent's physical care and under the direct care of that parent but does not stay overnight.

(2) Shared Care Child Support Obligation. If parents have shared physical care of a child, the basic child support obligation shall be multiplied by 1.5 to calculate the combined shared care child support obligation. The court shall determine each parent's portion of the shared care child support obligation based on the parent's percentage share of combined adjusted net income. The shared care child support obligation is then computed for each parent by multiplying that parent's portion of the shared care support obligation by the percentage of time the child spends with the other parent and determining any adjustment for shared physical custody that is less than 146 overnights or overnight equivalents. The

respective shared care child support obligations are then offset, with the parent owing more paying the difference in child support.

(3) Adjustment. When a parent has shared physical care for less than 146 overnights or overnight equivalents per year, the shared care child support obligation for that parent shall be increased by the percentage in the Adjustment Table below.

<u>Number of Overnights</u>	<u>Percentage</u>
<u>110-114</u>	<u>10%</u>
<u>115-119</u>	<u>9%</u>
<u>120-124</u>	<u>8%</u>
<u>125-129</u>	<u>7%</u>
<u>130-134</u>	<u>6%</u>
<u>135-139</u>	<u>4%</u>
<u>140-145</u>	<u>2%</u>

The shared care child support obligation after adjustment may not be greater than the amount that would have been ordered under the basic support guidelines in any event.

(4) The Department of Healthcare and Family Services. The worksheets to calculate the shared care child support obligation, including the adjustment, shall be promulgated by the Department of Healthcare and Family Services. ~~If each parent exercises 146 or more overnights per year with the child, the basic~~

~~child support obligation is multiplied by 1.5 to calculate the shared care child support obligation. The court shall determine each parent's share of the shared care child support obligation based on the parent's percentage share of combined net income. The child support obligation is then computed for each parent by multiplying that parent's portion of the shared care support obligation by the percentage of time the child spends with the other parent. The respective child support obligations are then offset, with the parent owing more child support paying the difference between the child support amounts. The Illinois Department of Healthcare and Family Services shall promulgate a worksheet to calculate child support in cases in which the parents have shared physical care and use the standardized tax amount to determine net income.~~

(3.9) Split physical care. When there is more than one child and each parent has physical care of at least one but not all of the children, the support is calculated by using 2 child support worksheets to determine the support each parent owes the other. The support shall be calculated as follows:

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

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

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

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

(4) Health care to be addressed by the court.

(A) A portion of the basic child support obligation is intended to cover basic ordinary out-of-pocket medical expenses. The court, in its discretion, in addition to the basic child support obligation, shall also provide for the child's current and future medical needs by ordering either or both parents to initiate health insurance coverage for the child through currently effective health insurance policies held by the parent or parents, purchase one or more or all health, dental, or vision insurance policies for the child, or provide for the child's current and future medical needs through some other manner.

(B) The court, in its discretion, may order either or both parents to contribute to the reasonable health

care needs of the child not covered by insurance, including, but not limited to, unreimbursed medical, dental, orthodontic, or vision expenses and any prescription medication for the child not covered under the child's health insurance.

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

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

(II) the parent or non-parent custodian with primary physical responsibility for the child to apply for public health insurance coverage for the child and require either or both parents to pay a reasonable amount of the cost of health insurance for the child.

The order may also provide that any time private health insurance coverage is available at a reasonable cost to that party it will be provided instead of cash medical support. As used in this Section, "cash medical support" means an amount ordered to be paid toward the cost of health insurance provided by a public entity or by another person through employment or otherwise or for other medical costs not covered by insurance.

(D) The amount to be added to the basic child support obligation shall be the actual amount of the total health insurance premium that is attributable to the child who is the subject of the order. If this amount is not available or cannot be verified, the total cost of the health insurance premium shall be divided by the total number of persons covered by the policy. The cost per person derived from this calculation shall be multiplied by the number of children who are the subject of the order and who are covered under the health insurance policy. This amount shall be added to the basic child support obligation and shall be allocated between the parents in proportion to their respective net incomes.

(E) After the health insurance premium for the child is added to the basic child support obligation and allocated between the parents in proportion to their respective incomes for child support purposes, if the obligor is paying the premium, the amount calculated for the obligee's share of the health insurance premium for the child shall be deducted from the obligor's share of the total child support obligation. If the obligee is paying for private health insurance for the child, the child support obligation shall be increased by the obligor's share of the premium payment. The obligor's and obligee's

portion of health insurance costs shall appear in the support order.

(F) Prior to allowing the health insurance adjustment, the parent requesting the adjustment must submit proof that the child has been enrolled in a health insurance plan and must submit proof of the cost of the premium. The court shall require the parent receiving the adjustment to annually submit proof of continued coverage of the child to the other parent, or as designated by the court.

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

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

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

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

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

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

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

(a-3) Life insurance to secure support. At the discretion of the court, a child support obligation pursuant to this Section and Sections 510, 513, and 513.5 of this Act may be secured, in whole or in part, by reasonably affordable life insurance on the life of one or both parents on such terms as the parties agree or as the court orders. The court may require such insurance remain in full force and effect until the termination of all obligations of support, subject to the following:

(1) Existing life insurance. The court shall be apprised through evidence, stipulation, or otherwise as to the level, ownership, and type of existing life insurance

death benefit coverage available to one or both parents, the cost of the premiums, cost ratings, and escalations and assignment of the policy, if applicable, and all other relevant circumstances. The court shall make findings relative thereto.

(2) New life insurance. The court shall be apprised through evidence, stipulation, or otherwise as to the availability of obtaining reasonably affordable new life insurance. To the extent the court determines that the support obligations should be secured, in whole or in part, by new life insurance on the life of one or both parents, the court may order that one or both parents comply with all requirements to obtain such new life insurance through employment, trade union, fraternal organizations, associations, or individual means.

In determining the level and type of death benefits coverage to be obtained by a parent, the court shall consider access and availability of life insurance to that parent, the cost of the premium, cost ratings, and escalations, if applicable, and all other relevant circumstances.

(3) Other security. If life insurance is unavailable to a parent, the court, in its discretion, or as agreed to by the parties, may order other equitable and reasonable means to secure a child support obligation.

(a-5) In an action to enforce an order for child support

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

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

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

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

(A) work; or

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

The court may further order any part or all of the earnings of a parent during a sentence of periodic imprisonment paid to the Clerk of the Circuit Court or to the parent having physical possession of the child or to the non-parent custodian having

custody of the child of the sentenced parent for the support of the child until further order of the court.

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

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

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

(2) the obligor and the person, persons, or business entity fail to maintain an arm's length relationship between themselves with regard to any assets.

(3) the obligor transfers assets to the person, persons, or business entity with the intent to perpetrate a fraud on the obligee.

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

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

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

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

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

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

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

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

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

(e) When child support is to be paid through the Clerk of the Court in a county of 500,000 inhabitants or less, the order shall direct the obligor to pay to the Clerk, in addition to the child support payments, all fees imposed by the county board under paragraph (2) of subsection (j-5) of Section 27.1b of the Clerks of Courts Act. When child support is to be paid through the clerk of the court in a county of more than 500,000 but less than 3,000,000 inhabitants, the order shall direct the obligor to pay to the clerk, in addition to the child support payments, all fees imposed by the county board under paragraph (4) of subsection (bb) of Section 27.2 of the Clerks of Courts Act. Unless paid pursuant to an Income Withholding Order/Notice for Support, the payment of the fee shall be by payment acceptable to the clerk and shall be made to the order of the Clerk.

(f) All orders for support, when entered or modified, shall include a provision requiring the obligor to notify the court and, in cases in which a party is receiving child and spouse services under Article X of the Illinois Public Aid Code, the Department of Healthcare and Family Services, within 7 days, (i) of the name and address of any new employer of the obligor, (ii) whether the obligor has access to health

insurance coverage through the employer or other group coverage and, if so, the policy name and number and the names of persons covered under the policy, except only the initials of any covered minors shall be included, and (iii) of any new residential or mailing address or telephone number of the obligor. In any subsequent action to enforce a support order, upon a sufficient showing that a diligent effort has been made to ascertain the location of the obligor, service of process or provision of notice necessary in the case may be made at the last known address of the obligor in any manner expressly provided by the Code of Civil Procedure or this Act, which service shall be sufficient for purposes of due process.

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

(g-5) If there is an unpaid arrearage or delinquency (as those terms are defined in the Income Withholding for Support Act) equal to at least one month's support obligation on the termination date stated in the order for support or, if there is no termination date stated in the order, on the date the child attains the age of majority or is otherwise emancipated, the periodic amount required to be paid for current support of that child immediately prior to that date shall automatically continue to be an obligation, not as current support but as periodic payment toward satisfaction of the unpaid arrearage or delinquency. That periodic payment shall be in addition to any periodic payment previously required for satisfaction of the arrearage or delinquency. The total periodic amount to be paid toward satisfaction of the arrearage or delinquency may be enforced and collected by any method provided by law for enforcement and collection of child support, including but not limited to income withholding under the Income Withholding for Support Act. Each order for support entered or modified on or after January 1, 2005 (the effective date of Public Act 93-1061) must contain a statement notifying the parties of the requirements of this subsection. Failure to include the statement in the order for support does not affect the validity of the order or the operation of the provisions of this subsection with regard to the order. This subsection shall not be construed to prevent or affect the establishment or modification of an order for support of a minor child or the

establishment or modification of an order for support of a non-minor child or educational expenses under Section 513 of this Act.

(h) An order entered under this Section shall include a provision requiring both parents to exchange information annually, and either parent to report to the other parent and to the Clerk of Court within 10 days each time either parent obtains new employment, and each time either parent's employment is terminated for any reason. The information exchanged or reported ~~report~~ shall be in writing and shall verify the parent's net income as defined in this Section. In ~~7~~ ~~in~~ the case of new employment, the information shall include the name and address of the new employer. Failure to report new employment or the termination of current employment, if coupled with nonpayment of support for a period in excess of 60 days, is indirect criminal contempt. For either parent arrested for failure to report new employment bond shall be set in the amount of the child support that should have been paid during the period of unreported employment. An order entered under this Section shall also include a provision requiring either obligor and obligee to advise the other of a change in residence within 5 days of the change except when the court finds that the physical, mental, or emotional health of a party or that of a child, or both, would be seriously endangered by disclosure of the party's address.

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

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

(Source: P.A. 103-967, eff. 1-1-25; 104-340, eff. 8-15-25.)

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

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

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

(1) upon a showing of a substantial change in circumstances. Contemplation or foreseeability of future events shall not be considered as a factor or used as a defense in determining whether a substantial change in circumstances is shown, unless the future event is expressly specified in the court's order or the agreement of the parties incorporated into a court order. The parties may expressly specify in the agreement incorporated into a court order or the court may expressly

specify in the order that the occurrence of a specific future event is contemplated and will not constitute a substantial change in circumstances to warrant modification of the order; and

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

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

(B) upon a showing of a need to provide for the health care needs of the child under the order through health insurance or other means.

(3) upon a showing that a parent will be incarcerated for more than 180 consecutive days or released from incarceration lasting more than 180 consecutive days. A parent incarcerated for more than 180 days is presumed to be unable to pay any amount of child support, and this presumption may be rebutted by evidence establishing the ability to pay child support during incarceration. A parent released from incarceration after more than 180

days is presumed to be able to pay the amount set forth in paragraph (3.3a) of subsection (a) of Section 505, following the expiration of 90 days after the date the parent is released from incarceration. This Section does not preclude any party, including the Department of Healthcare and Family Services, from seeking a modification of the child support obligation based upon the ability to pay child support during or after incarceration or for other reasons allowable by law.

(A) "Incarceration," for the purposes of this Section, means confinement of a parent on a full-time basis in a place of detention, including home detention or a municipal, county, state, or federal prison, jail, or detention. It does not include a parent on parole, work release, or any other detention alternative program that allows the parent to be employed or otherwise earn money.

(B) "Effective date," for purposes of this Section, means the date that a notice of incarceration is filed with the circuit court clerk and mailed to the parties under Illinois Supreme Court Rule 11.

(C) If a parent will be incarcerated for more than 180 consecutive days, the parent's child support obligation shall be modified to \$0.00 by operation of law if:

(i) the Department of Healthcare and Family

Services, or any other party, files with the circuit court clerk a notice of incarceration and provides notice under the Illinois Code of Civil Procedure to all parties; and

(ii) no written objection is filed with the circuit court clerk, with notice provided to all parties, within 45 days of the effective date of the notice of incarceration.

(D) A notice of incarceration must provide the following information:

(i) the name and address of the facility where the parent is incarcerated; and

(ii) the parent's inmate number; and

(iii) the beginning and projected end dates of incarceration, if known, or, if unknown, the reason a date cannot be provided; and

(iv) That failure to file a written objection within 45 days of the effective date, with notice to all parties under Illinois Supreme Court Rule 11, shall result in the child support obligation being reduced to \$0.00 as of the effective date of the notice of incarceration.

(E) A child support order reduced to \$0.00 under this Section shall be modified by operation of law to the amount set forth in paragraph (3.3a) of subsection (a) of Section 505 following the expiration of 90 days

after the date the parent is released from incarceration. This Section does not preclude any party including the Department of Healthcare and Family Services from seeking a modification of the child support obligation based upon the ability to pay child support during or after incarceration or for other reasons allowable by statute.

(F) The notice of incarceration shall be filed in the jurisdiction in which any pending child support, divorce, or paternity action between the parties exists.

(G) If any party files a timely objection to the notice of incarceration, the court shall set the matter for hearing as soon as practicable and send notice of the hearing date to all parties including HFS. The presumption that the parent is unable to pay any amount of support may be rebutted by a preponderance of the evidence at the hearing by showing:

(i) the parent has substantial income or assets that can be used to satisfy the child support obligation during incarceration; or

(ii) the parent is not, or will not be, incarcerated for more than 180 consecutive days. If the presumption is rebutted, the court shall make written findings as to the factual basis or

bases for the rebuttal.

(H) If any party fails to file a timely objection, or if a hearing is held and the Court determines that the presumption has not been rebutted, the support obligation shall be modified to \$0.00 as of the effective date of the notice of incarceration.

(I) An order that modifies a support obligation to \$0.00 because of the parent's incarceration shall provide that support will be modified by operation of law at the amount set forth in subsection 3.3(a) of Section 505, on the first day of the month following the expiration of 90 days after the date the parent is projected to be released from incarceration. The order shall include the specific calendar date upon which the first day of the month following the expiration of 90 days falls. The order shall further provide that if the parent is released before or after the projected release or parole date, support shall be reinstated at the amount set forth in paragraph (3.3a) of subsection (a) of Section 505 on the first day of the month following the expiration of 90 days after the parent's actual release date. The order shall further provide that this Section does not preclude any party, including the Department of Healthcare and Family Services, from seeking a modification of the child support obligation based upon the ability to pay child

support during or after incarceration or for other reasons allowable by statute.

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

The court may grant a petition for modification that seeks to apply the changes made to subsection (a) of Section 505 by subsequent Public Acts ~~Act 99-764 to an order entered before the effective date of Public Act 99-764~~ only upon a finding of a substantial change in circumstances that warrants application of the changes. The enactment of a subsequent Public Act 99-764 itself does not constitute a substantial change in circumstances warranting a modification, unless otherwise expressly provided in that Public Act.

(a-5) An order for maintenance may be modified or terminated only upon a showing of a substantial change in circumstances. Contemplation or foreseeability of future events shall not be considered as a factor or used as a defense in determining whether a substantial change in circumstances is shown, unless the future event is expressly specified in the court's order or the agreement of the parties incorporated into a court order. The parties may expressly specify in the agreement incorporated into a court order or the court may

expressly specify in the order that the occurrence of a specific future event is contemplated and will not constitute a substantial change in circumstances to warrant modification of the order. The court may grant a petition for modification that seeks to apply the changes made to Section 504 by this amendatory Act of the 100th General Assembly to an order entered before the effective date of this amendatory Act of the 100th General Assembly only upon a finding of a substantial change in circumstances that warrants application of the changes. The enactment of this amendatory Act of the 100th General Assembly itself does not constitute a substantial change in circumstances warranting a modification. In all such proceedings, as well as in proceedings in which maintenance is being reviewed, the court shall consider the applicable factors set forth in subsection (a) of Section 504 and the following factors:

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

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

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

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

- (5) the duration of the maintenance payments

previously paid (and remaining to be paid) relative to the length of the marriage;

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

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

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

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

(a-6) (Blank).

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

(c) Unless otherwise agreed by the parties in a written agreement set forth in the judgment or otherwise approved by the court, the obligation to pay future maintenance is terminated upon the death of either party, or the remarriage of the party receiving maintenance, or if the party receiving

maintenance cohabits with another person on a resident, continuing conjugal basis. An obligor's obligation to pay maintenance or unallocated maintenance terminates by operation of law on the date the obligee remarries or the date the court finds cohabitation began. The obligor is entitled to reimbursement for all maintenance paid from that date forward. Any termination of an obligation for maintenance as a result of the death of the obligor, however, shall be inapplicable to any right of the other party or such other party's designee to receive a death benefit under such insurance on the obligor's life. An obligee must advise the obligor of his or her intention to marry at least 30 days before the remarriage, unless the decision is made within this time period. In that event, he or she must notify the obligor within 72 hours of getting married.

(c-5) In an adjudicated case, the court shall make specific factual findings as to the reason for the modification as well as the amount, nature, and duration of the modified maintenance award.

(d) Unless otherwise provided in this Act, or as agreed in writing or expressly provided in the judgment, provisions for the support of a child are terminated by emancipation of the child, or if the child has attained the age of 18 and is still attending high school, provisions for the support of the child are terminated upon the date that the child graduates from high school or the date the child attains the age of 19,

whichever is earlier, but not by the death of a parent obligated to support or educate the child. An existing obligation to pay for support or educational expenses, or both, is not terminated by the death of a parent. When a parent obligated to pay support or educational expenses, or both, dies, the amount of support or educational expenses, or both, may be enforced, modified, revoked or commuted to a lump sum payment, as equity may require, and that determination may be provided for at the time of the dissolution of the marriage or thereafter.

(e) The right to petition for support or educational expenses, or both, under Sections 505, 513, and 513.5 is not extinguished by the death of a parent. Upon a petition filed before or after a parent's death, the court may award sums of money out of the decedent's estate for the child's support or educational expenses, or both, as equity may require. The time within which a claim may be filed against the estate of a decedent under Sections 505 and 513 and subsection (d) and this subsection shall be governed by the provisions of the Probate Act of 1975, as a barrable, noncontingent claim.

(f) A petition to modify or terminate child support or the allocation of parental responsibilities, including parenting time, shall not delay any child support enforcement litigation or supplementary proceeding on behalf of the obligee, including, but not limited to, a petition for a rule to show cause, for non-wage garnishment, or for a restraining order.

Public Act 104-0733

SB3524 Enrolled

LRB104 20266 JRC 33717 b

(Source: P.A. 102-541, eff. 8-20-21; 102-823, eff. 5-13-22.)

Section 99. Effective date. This Act takes effect January 1, 2027.