

HB5444



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5444

by Rep. Lindsay Parkhurst

SYNOPSIS AS INTRODUCED:

750 ILCS 5/505

from Ch. 40, par. 505

Amends provisions of the Illinois Marriage and Dissolution of Marriage Act concerning the determination of child support. Provides that, if each parent exercises 73 (rather than 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.

LRB100 20517 HEP 35897 b

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

6 (750 ILCS 5/505) (from Ch. 40, par. 505)

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

8 (a) In a proceeding for dissolution of marriage, legal
9 separation, declaration of invalidity of marriage, dissolution
10 of a civil union, a proceeding for child support following
11 dissolution of the marriage or civil union by a court that
12 lacked personal jurisdiction over the absent spouse, a
13 proceeding for modification of a previous order for child
14 support under Section 510 of this Act, or any proceeding
15 authorized under Section 501 or 601 of this Act, the court may
16 order either or both parents owing a duty of support to a child
17 of the marriage or civil union to pay an amount reasonable and
18 necessary for support. The duty of support owed to a child
19 includes the obligation to provide for the reasonable and
20 necessary physical, mental and emotional health needs of the
21 child. For purposes of this Section, the term "child" shall
22 include any child under age 18 and any child age 19 or younger
23 who is still attending high school. For purposes of this

1 Section, the term "obligor" means the parent obligated to pay
2 support to the other parent.

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

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

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

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

22 (D) to calculate child support based upon the
23 parents' combined net income estimated to have been
24 allocated for the support of the child if the parents
25 and child were living in an intact household;

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

1 the child; and

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

5 (1.5) Computation of basic child support obligation.
6 The court shall compute the basic child support obligation
7 by taking the following steps:

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

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

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

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

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

22 (2) Duty of support. The court shall determine child
23 support in each case by applying the child support
24 guidelines unless the court makes a finding that
25 application of the guidelines would be inappropriate,
26 after considering the best interests of the child and

1 evidence which shows relevant factors including, but not
2 limited to, one or more of the following:

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

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

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

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

11 (3) Income.

12 (A) As used in this Section, "gross income" means
13 the total of all income from all sources, except "gross
14 income" does not include (i) benefits received by the
15 parent from means-tested public assistance programs,
16 including, but not limited to, Temporary Assistance
17 for ~~to~~ Needy Families, Supplemental Security Income,
18 and the Supplemental Nutrition Assistance Program or
19 (ii) benefits and income received by the parent for
20 other children in the household, including, but not
21 limited to, child support, survivor benefits, and
22 foster care payments. Social security disability and
23 retirement benefits paid for the benefit of the subject
24 child must be included in the disabled or retired
25 parent's gross income for purposes of calculating the
26 parent's child support obligation, but the parent is

1 entitled to a child support credit for the amount of
2 benefits paid to the other party for the child. "Gross
3 income" also includes spousal maintenance received
4 pursuant to a court order in the pending proceedings or
5 any other proceedings that must be included in the
6 recipient's gross income for purposes of calculating
7 the parent's child support obligation.

8 (B) As used in this Section, "net income" means
9 gross income minus either the standardized tax amount
10 calculated pursuant to subparagraph (C) of this
11 paragraph (3) or the individualized tax amount
12 calculated pursuant to subparagraph (D) of this
13 paragraph (3), and minus any adjustments pursuant to
14 subparagraph (F) of this paragraph (3). The
15 standardized tax amount shall be used unless the
16 requirements for an individualized tax amount set
17 forth in subparagraph (E) of this paragraph (3) are
18 met.

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

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

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

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

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

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

17 (III) Social Security or self-employment tax,
18 if applicable (or, if none, mandatory retirement
19 contributions required by law or as a condition of
20 employment) and Medicare tax calculated at the
21 Federal Insurance Contributions Act rate.

22 (E) In lieu of a standardized tax amount, a
23 determination of an individualized tax amount may be
24 made under items (I), (II), or (III) below. If an
25 individualized tax amount determination is made under
26 this subparagraph (E), all relevant tax attributes

1 (including filing status, allocation of dependency
2 exemptions, and whether a party is to claim the
3 standard deduction or itemized deductions for federal
4 income tax purposes) shall be as the parties agree or
5 as the court determines. To determine a party's
6 reported income, the court may order the party to
7 complete an Internal Revenue Service Form 4506-T,
8 Request for Tax Transcript.

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

18 (II) Summary hearing. If the court determines
19 child support in a summary hearing under Section
20 501 and an eligible party opts in to the
21 individualized tax amount method under this item
22 (II), the individualized tax amount shall be
23 determined by the court on the basis of information
24 contained in one or both parties' Supreme Court
25 approved Financial Affidavit (Family & Divorce
26 Cases) and relevant supporting documents under

1 applicable court rules. No party, however, is
2 eligible to opt in unless the party, under
3 applicable court rules, has served the other party
4 with the required Supreme Court approved Financial
5 Affidavit (Family & Divorce Cases) and has
6 substantially produced supporting documents
7 required by the applicable court rules.

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

16 (F) Adjustments to income.

17 (I) Multi-family adjustment. If a parent is
18 also legally responsible for support of a child not
19 shared with the other parent and not subject to the
20 present proceeding, there shall be an adjustment
21 to net income as follows:

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

1 cause economic hardship to the child.

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

17 (II) Spousal Maintenance adjustment.

18 Obligations pursuant to a court order for spousal
19 maintenance in the pending proceeding actually
20 paid or payable to the same party to whom child
21 support is to be payable or actually paid to a
22 former spouse pursuant to a court order shall be
23 deducted from the parent's gross income.

24 (3.1) Business income. For purposes of calculating
25 child support, net business income from the operation of a
26 business means gross receipts minus ordinary and necessary

1 expenses required to carry on the trade or business. As
2 used in this paragraph, "business" includes, but is not
3 limited to, sole proprietorships, closely held
4 corporations, partnerships, other flow-through business
5 entities, and self-employment. The court shall apply the
6 following:

7 (A) The accelerated component of depreciation and
8 any business expenses determined either judicially or
9 administratively to be inappropriate or excessive
10 shall be excluded from the total of ordinary and
11 necessary business expenses to be deducted in the
12 determination of net business income from gross
13 business income.

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

21 (3.2) Unemployment or underemployment. If a parent is
22 voluntarily unemployed or underemployed, child support
23 shall be calculated based on a determination of potential
24 income. A determination of potential income shall be made
25 by determining employment potential and probable earnings
26 level based on the obligor's work history, occupational

1 qualifications, prevailing job opportunities, the
2 ownership by a parent of a substantial non-income producing
3 asset, and earnings levels in the community. If there is
4 insufficient work history to determine employment
5 potential and probable earnings level, there shall be a
6 rebuttable presumption that the parent's potential income
7 is 75% of the most recent United States Department of
8 Health and Human Services Federal Poverty Guidelines for a
9 family of one person.

10 (3.3) Rebuttable presumption in favor of guidelines.
11 There is a rebuttable presumption in any judicial or
12 administrative proceeding for child support that the
13 amount of the child support obligation that would result
14 from the application of the child support guidelines is the
15 correct amount of child support.

16 (3.3a) Minimum child support obligation. There is a
17 rebuttable presumption that a minimum child support
18 obligation of \$40 per month, per child, will be entered for
19 an obligor who has actual or imputed gross income at or
20 less than 75% of the most recent United States Department
21 of Health and Human Services Federal Poverty Guidelines for
22 a family of one person, with a maximum total child support
23 obligation for that obligor of \$120 per month to be divided
24 equally among all of the obligor's children.

25 (3.3b) Zero dollar child support order. For parents
26 with no gross income, who receive only means-tested

1 assistance, or who cannot work due to a medically proven
2 disability, incarceration, or institutionalization, there
3 is a rebuttable presumption that the \$40 per month minimum
4 support order is inapplicable and a zero dollar order shall
5 be entered.

6 (3.4) Deviation factors. In any action to establish or
7 modify child support, whether pursuant to a temporary or
8 final administrative or court order, the child support
9 guidelines shall be used as a rebuttable presumption for
10 the establishment or modification of the amount of child
11 support. The court may deviate from the child support
12 guidelines if the application would be inequitable,
13 unjust, or inappropriate. Any deviation from the
14 guidelines shall be accompanied by written findings by the
15 court specifying the reasons for the deviation and the
16 presumed amount under the child support guidelines without
17 a deviation. These reasons may include:

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

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

24 (C) any other factor the court determines should be
25 applied upon a finding that the application of the
26 child support guidelines would be inappropriate, after

1 considering the best interest of the child.

2 (3.5) Income in excess of the schedule of basic child
3 support obligation. A court may use its discretion to
4 determine child support if the combined adjusted net income
5 of the parties exceeds the highest level of the schedule of
6 basic child support obligation, except that the basic child
7 support obligation shall not be less than the highest level
8 of combined net income set forth in the schedule of basic
9 child support obligation.

10 (3.6) Extracurricular activities and school expenses.
11 The court, in its discretion, in addition to the basic
12 child support obligation, may order either or both parents
13 owing a duty of support to the child to contribute to the
14 reasonable school and extracurricular activity expenses
15 incurred which are intended to enhance the educational,
16 athletic, social, or cultural development of the child.

17 (3.7) Child care expenses. The court, in its
18 discretion, in addition to the basic child support
19 obligation, may order either or both parents owing a duty
20 of support to the child to contribute to the reasonable
21 child care expenses of the child. The child care expenses
22 shall be made payable directly to a party or directly to
23 the child care provider at the time of child care services.

24 (A) "Child care expenses" means actual expenses
25 reasonably necessary to enable a parent or non-parent
26 custodian to be employed, to attend educational or

1 vocational training programs to improve employment
2 opportunities, or to search for employment. "Child
3 care expenses" also includes deposits for securing
4 placement in a child care program, the cost of before
5 and after school care, and camps when school is not in
6 session. A child's special needs shall be a
7 consideration in determining reasonable child care
8 expenses.

9 (B) Child care expenses shall be prorated in
10 proportion to each parent's percentage share of
11 combined net income, and may be added to the basic
12 child support obligation if not paid directly by each
13 parent to the provider of child care services. The
14 obligor's and obligee's portion of actual child care
15 expenses shall appear in the support order. If allowed,
16 the value of the federal income tax credit for child
17 care shall be subtracted from the actual cost to
18 determine the net child care costs.

19 (C) The amount of child care expenses shall be
20 adequate to obtain reasonable and necessary child
21 care. The actual child care expenses shall be used to
22 calculate the child care expenses, if available. When
23 actual child care expenses vary, the actual child care
24 expenses may be averaged over the most recent 12-month
25 period. When a parent is temporarily unemployed or
26 temporarily not attending educational or vocational

1 training programs, future child care expenses shall be
2 based upon prospective expenses to be incurred upon
3 return to employment or educational or vocational
4 training programs.

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

12 (3.8) Shared physical care. If each parent exercises 73
13 ~~146~~ or more overnights per year with the child, the basic
14 child support obligation is multiplied by 1.5 to calculate
15 the shared care child support obligation. The court shall
16 determine each parent's share of the shared care child
17 support obligation based on the parent's percentage share
18 of combined net income. The child support obligation is
19 then computed for each parent by multiplying that parent's
20 portion of the shared care support obligation by the
21 percentage of time the child spends with the other parent.
22 The respective child support obligations are then offset,
23 with the parent owing more child support paying the
24 difference between the child support amounts. The Illinois
25 Department of Healthcare and Family Services shall
26 promulgate a worksheet to calculate child support in cases

1 in which the parents have shared physical care and use the
2 standardized tax amount to determine net income.

3 (3.9) Split physical care. When there is more than one
4 child and each parent has physical care of at least one but
5 not all of the children, the support is calculated by using
6 2 child support worksheets to determine the support each
7 parent owes the other. The support shall be calculated as
8 follows:

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

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

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

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

22 (4) Health care.

23 (A) A portion of the basic child support obligation
24 is intended to cover basic ordinary out-of-pocket
25 medical expenses. The court, in its discretion, in
26 addition to the basic child support obligation, shall

1 also provide for the child's current and future medical
2 needs by ordering either or both parents to initiate
3 health insurance coverage for the child through
4 currently effective health insurance policies held by
5 the parent or parents, purchase one or more or all
6 health, dental, or vision insurance policies for the
7 child, or provide for the child's current and future
8 medical needs through some other manner.

9 (B) The court, in its discretion, may order either
10 or both parents to contribute to the reasonable health
11 care needs of the child not covered by insurance,
12 including, but not limited to, unreimbursed medical,
13 dental, orthodontic, or vision expenses and any
14 prescription medication for the child not covered
15 under the child's health insurance.

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

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

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

1 for the child.

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

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

24 (E) After the health insurance premium for the
25 child is added to the basic child support obligation
26 and allocated between the parents in proportion to

1 their respective incomes for child support purposes,
2 if the obligor is paying the premium, the amount
3 calculated for the obligee's share of the health
4 insurance premium for the child shall be deducted from
5 the obligor's share of the total child support
6 obligation. If the obligee is paying for private health
7 insurance for the child, the child support obligation
8 shall be increased by the obligor's share of the
9 premium payment. The obligor's and obligee's portion
10 of health insurance costs shall appear in the support
11 order.

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

20 (G) A reasonable cost for providing health
21 insurance coverage for the child may not exceed 5% of
22 the providing parent's gross income. Parents with a net
23 income below 133% of the most recent United States
24 Department of Health and Human Services Federal
25 Poverty Guidelines or whose child is covered by
26 Medicaid based on that parent's income may not be

1 ordered to contribute toward or provide private
2 coverage, unless private coverage is obtainable
3 without any financial contribution by that parent.

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

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

17 (4.5) In a proceeding for child support following
18 dissolution of the marriage or civil union by a court that
19 lacked personal jurisdiction over the absent spouse, and in
20 which the court is requiring payment of support for the
21 period before the date an order for current support is
22 entered, there is a rebuttable presumption that the
23 obligor's net income for the prior period was the same as
24 his or her net income at the time the order for current
25 support is entered.

26 (5) If the net income cannot be determined because of

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

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

23 (a-5) In an action to enforce an order for child support
24 based on the obligor's failure to make support payments as
25 required by the order, notice of proceedings to hold the
26 obligor in contempt for that failure may be served on the

1 obligor by personal service or by regular mail addressed to the
2 last known address of the obligor. The last known address of
3 the obligor may be determined from records of the clerk of the
4 court, from the Federal Case Registry of Child Support Orders,
5 or by any other reasonable means.

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

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

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

17 (A) work; or

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

20 The court may further order any part or all of the earnings
21 of a parent during a sentence of periodic imprisonment paid to
22 the Clerk of the Circuit Court or to the parent having physical
23 possession of the child or to the non-parent custodian having
24 custody of the child of the sentenced parent for the support of
25 the child until further order of the court.

26 If a parent who is found guilty of contempt for failure to

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

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

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

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

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

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

12 The court may also order in cases where the parent is 90
13 days or more delinquent in payment of support or has been
14 adjudicated in arrears in an amount equal to 90 days obligation
15 or more, that the parent's Illinois driving privileges be
16 suspended until the court determines that the parent is in
17 compliance with the order of support. The court may also order
18 that the parent be issued a family financial responsibility
19 driving permit that would allow limited driving privileges for
20 employment and medical purposes in accordance with Section
21 7-702.1 of the Illinois Vehicle Code. The Clerk of the Circuit
22 Court shall certify the order suspending the driving privileges
23 of the parent or granting the issuance of a family financial
24 responsibility driving permit to the Secretary of State on
25 forms prescribed by the Secretary of State. Upon receipt of the
26 authenticated documents, the Secretary of State shall suspend

1 the parent's driving privileges until further order of the
2 court and shall, if ordered by the court, subject to the
3 provisions of Section 7-702.1 of the Illinois Vehicle Code,
4 issue a family financial responsibility driving permit to the
5 parent.

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

18 A support obligation, or any portion of a support
19 obligation, which becomes due and remains unpaid as of the end
20 of each month, excluding the child support that was due for
21 that month to the extent that it was not paid in that month,
22 shall accrue simple interest as set forth in Section 12-109 of
23 the Code of Civil Procedure. An order for support entered or
24 modified on or after January 1, 2006 shall contain a statement
25 that a support obligation required under the order, or any
26 portion of a support obligation required under the order, that

1 becomes due and remains unpaid as of the end of each month,
2 excluding the child support that was due for that month to the
3 extent that it was not paid in that month, shall accrue simple
4 interest as set forth in Section 12-109 of the Code of Civil
5 Procedure. Failure to include the statement in the order for
6 support does not affect the validity of the order or the
7 accrual of interest as provided in this Section.

8 (c) A one-time charge of 20% is imposable upon the amount
9 of past-due child support owed on July 1, 1988 which has
10 accrued under a support order entered by the court. The charge
11 shall be imposed in accordance with the provisions of Section
12 10-21 of the Illinois Public Aid Code and shall be enforced by
13 the court upon petition.

14 (d) Any new or existing support order entered by the court
15 under this Section shall be deemed to be a series of judgments
16 against the person obligated to pay support thereunder, each
17 such judgment to be in the amount of each payment or
18 installment of support and each such judgment to be deemed
19 entered as of the date the corresponding payment or installment
20 becomes due under the terms of the support order. Each such
21 judgment shall have the full force, effect and attributes of
22 any other judgment of this State, including the ability to be
23 enforced. Notwithstanding any other State or local law to the
24 contrary, a lien arises by operation of law against the real
25 and personal property of the obligor for each installment of
26 overdue support owed by the obligor.

1 (e) When child support is to be paid through the Clerk of
2 the Court in a county of 1,000,000 inhabitants or less, the
3 order shall direct the obligor to pay to the Clerk, in addition
4 to the child support payments, all fees imposed by the county
5 board under paragraph (3) of subsection (u) of Section 27.1 of
6 the Clerks of Courts Act. Unless paid pursuant to an Income
7 Withholding Order/Notice for Support, the payment of the fee
8 shall be by payment acceptable to the clerk and shall be made
9 to the order of the Clerk.

10 (f) All orders for support, when entered or modified, shall
11 include a provision requiring the obligor to notify the court
12 and, in cases in which a party is receiving child and spouse
13 services under Article X of the Illinois Public Aid Code, the
14 Department of Healthcare and Family Services, within 7 days,
15 (i) of the name and address of any new employer of the obligor,
16 (ii) whether the obligor has access to health insurance
17 coverage through the employer or other group coverage and, if
18 so, the policy name and number and the names of persons covered
19 under the policy, except only the initials of any covered
20 minors shall be included, and (iii) of any new residential or
21 mailing address or telephone number of the obligor. In any
22 subsequent action to enforce a support order, upon a sufficient
23 showing that a diligent effort has been made to ascertain the
24 location of the obligor, service of process or provision of
25 notice necessary in the case may be made at the last known
26 address of the obligor in any manner expressly provided by the

1 Code of Civil Procedure or this Act, which service shall be
2 sufficient for purposes of due process.

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

16 (g-5) If there is an unpaid arrearage or delinquency (as
17 those terms are defined in the Income Withholding for Support
18 Act) equal to at least one month's support obligation on the
19 termination date stated in the order for support or, if there
20 is no termination date stated in the order, on the date the
21 child attains the age of majority or is otherwise emancipated,
22 the periodic amount required to be paid for current support of
23 that child immediately prior to that date shall automatically
24 continue to be an obligation, not as current support but as
25 periodic payment toward satisfaction of the unpaid arrearage or
26 delinquency. That periodic payment shall be in addition to any

1 periodic payment previously required for satisfaction of the
2 arrearage or delinquency. The total periodic amount to be paid
3 toward satisfaction of the arrearage or delinquency may be
4 enforced and collected by any method provided by law for
5 enforcement and collection of child support, including but not
6 limited to income withholding under the Income Withholding for
7 Support Act. Each order for support entered or modified on or
8 after January 1, 2005 (the effective date of Public Act
9 93-1061) ~~this amendatory Act of the 93rd General Assembly~~ must
10 contain a statement notifying the parties of the requirements
11 of this subsection. Failure to include the statement in the
12 order for support does not affect the validity of the order or
13 the operation of the provisions of this subsection with regard
14 to the order. This subsection shall not be construed to prevent
15 or affect the establishment or modification of an order for
16 support of a minor child or the establishment or modification
17 of an order for support of a non-minor child or educational
18 expenses under Section 513 of this Act.

19 (h) An order entered under this Section shall include a
20 provision requiring either parent to report to the other parent
21 and to the Clerk of Court within 10 days each time either
22 parent obtains new employment, and each time either parent's
23 employment is terminated for any reason. The report shall be in
24 writing and shall, in the case of new employment, include the
25 name and address of the new employer. Failure to report new
26 employment or the termination of current employment, if coupled

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

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

17 (Source: P.A. 99-90, eff. 1-1-16; 99-763, eff. 1-1-17; 99-764,
18 eff. 7-1-17; 100-15, eff. 7-1-17; revised 10-6-17.)