

SB1131



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1131

Introduced 2/5/2019, by Sen. Michael E. Hastings

SYNOPSIS AS INTRODUCED:

750 ILCS 5/505

from Ch. 40, par. 505

Amends the Illinois Marriage and Dissolution of Marriage Act. Makes a technical change in a Section concerning child support.

LRB101 08576 LNS 53655 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 ~~for~~ dissolution of marriage, legal
9 separation, declaration of invalidity of marriage, or
10 dissolution of a civil union, a proceeding for child support
11 following a legal separation or dissolution of the marriage or
12 civil union by a court that lacked personal jurisdiction over
13 the absent spouse, a proceeding for modification of a previous
14 order for child support under Section 510 of this Act, or any
15 proceeding authorized under Section 501 or 601 of this Act, the
16 court may order either or both parents owing a duty of support
17 to a child of the marriage or civil union to pay an amount
18 reasonable and necessary for support. The duty of support owed
19 to a child includes the obligation to provide for the
20 reasonable and necessary physical, mental and emotional health
21 needs of the child. For purposes of this Section, the term
22 "child" shall include any child under age 18 and any child age
23 19 or younger who is still attending high school. For purposes

1 of this Section, the term "obligor" means the parent obligated
2 to pay 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 Needy Families, Supplemental Security Income, and
18 the Supplemental Nutrition Assistance Program or (ii)
19 benefits and income received by the parent for other
20 children in the household, including, but not limited
21 to, child support, survivor benefits, and foster care
22 payments. Social security disability and retirement
23 benefits paid for the benefit of the subject child must
24 be included in the disabled or retired parent's gross
25 income for purposes of calculating the parent's child
26 support obligation, but the parent is entitled to a

1 child support credit for the amount of benefits paid to
2 the other party for the child. "Gross income" includes
3 maintenance treated as taxable income for federal
4 income tax purposes to the payee and received pursuant
5 to a court order in the pending proceedings or any
6 other proceedings and shall be included in the payee's
7 gross income for purposes of calculating the parent's
8 child support obligation.

9 (B) As used in this Section, "net income" means
10 gross income minus either the standardized tax amount
11 calculated pursuant to subparagraph (C) of this
12 paragraph (3) or the individualized tax amount
13 calculated pursuant to subparagraph (D) of this
14 paragraph (3), and minus any adjustments pursuant to
15 subparagraph (F) of this paragraph (3). The
16 standardized tax amount shall be used unless the
17 requirements for an individualized tax amount set
18 forth in subparagraph (E) of this paragraph (3) are
19 met. "Net income" includes maintenance not includable
20 in the gross taxable income of the payee for federal
21 income tax purposes under a court order in the pending
22 proceedings or any other proceedings and shall be
23 included in the payee's net income for purposes of
24 calculating the parent's child support obligation.

25 (C) As used in this Section, "standardized tax
26 amount" means the total of federal and state income

1 taxes for a single person claiming the standard tax
2 deduction, one personal exemption, and the applicable
3 number of dependency exemptions for the minor child or
4 children of the parties, and Social Security and
5 Medicare tax calculated at the Federal Insurance
6 Contributions Act rate.

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

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

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

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

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

23 (III) Social Security or self-employment tax,
24 if applicable (or, if none, mandatory retirement
25 contributions required by law or as a condition of
26 employment) and Medicare tax calculated at the

1 Federal Insurance Contributions Act rate.

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

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

24 (II) Summary hearing. If the court determines
25 child support in a summary hearing under Section
26 501 and an eligible party opts in to the

1 individualized tax amount method under this item
2 (II), the individualized tax amount shall be
3 determined by the court on the basis of information
4 contained in one or both parties' Supreme Court
5 approved Financial Affidavit (Family & Divorce
6 Cases) and relevant supporting documents under
7 applicable court rules. No party, however, is
8 eligible to opt in unless the party, under
9 applicable court rules, has served the other party
10 with the required Supreme Court approved Financial
11 Affidavit (Family & Divorce Cases) and has
12 substantially produced supporting documents
13 required by the applicable court rules.

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

22 (F) Adjustments to income.

23 (I) Multi-family adjustment. If a parent is
24 also legally responsible for support of a child not
25 shared with the other parent and not subject to the
26 present proceeding, there shall be an adjustment

1 to net income as follows:

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

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

23 (II) Spousal Maintenance adjustment.
24 Obligations pursuant to a court order for spousal
25 maintenance in the pending proceeding actually
26 paid or payable to the same party to whom child

1 support is to be payable or actually paid to a
2 former spouse pursuant to a court order shall be
3 deducted from the parent's after-tax income,
4 unless the maintenance obligation is tax
5 deductible to the payor for federal income tax
6 purposes, in which case it shall be deducted from
7 the payor's gross income for purposes of
8 calculating the parent's child support obligation.

9 (3.1) Business income. For purposes of calculating
10 child support, net business income from the operation of a
11 business means gross receipts minus ordinary and necessary
12 expenses required to carry on the trade or business. As
13 used in this paragraph, "business" includes, but is not
14 limited to, sole proprietorships, closely held
15 corporations, partnerships, other flow-through business
16 entities, and self-employment. The court shall apply the
17 following:

18 (A) The accelerated component of depreciation and
19 any business expenses determined either judicially or
20 administratively to be inappropriate or excessive
21 shall be excluded from the total of ordinary and
22 necessary business expenses to be deducted in the
23 determination of net business income from gross
24 business income.

25 (B) Any item of reimbursement or in-kind payment
26 received by a parent from a business, including, but

1 not limited to, a company car, reimbursed meals, free
2 housing, or a housing allowance, shall be counted as
3 income if not otherwise included in the recipient's
4 gross income, if the item is significant in amount and
5 reduces personal expenses.

6 (3.2) Unemployment or underemployment. If a parent is
7 voluntarily unemployed or underemployed, child support
8 shall be calculated based on a determination of potential
9 income. A determination of potential income shall be made
10 by determining employment potential and probable earnings
11 level based on the obligor's work history, occupational
12 qualifications, prevailing job opportunities, the
13 ownership by a parent of a substantial non-income producing
14 asset, and earnings levels in the community. If there is
15 insufficient work history to determine employment
16 potential and probable earnings level, there shall be a
17 rebuttable presumption that the parent's potential income
18 is 75% of the most recent United States Department of
19 Health and Human Services Federal Poverty Guidelines for a
20 family of one person.

21 (3.3) Rebuttable presumption in favor of guidelines.
22 There is a rebuttable presumption in any judicial or
23 administrative proceeding for child support that the
24 amount of the child support obligation that would result
25 from the application of the child support guidelines is the
26 correct amount of child support.

1 (3.3a) Minimum child support obligation. There is a
2 rebuttable presumption that a minimum child support
3 obligation of \$40 per month, per child, will be entered for
4 an obligor who has actual or imputed gross income at or
5 less than 75% of the most recent United States Department
6 of Health and Human Services Federal Poverty Guidelines for
7 a family of one person, with a maximum total child support
8 obligation for that obligor of \$120 per month to be divided
9 equally among all of the obligor's children.

10 (3.3b) Zero dollar child support order. For parents
11 with no gross income, who receive only means-tested
12 assistance, or who cannot work due to a medically proven
13 disability, incarceration, or institutionalization, there
14 is a rebuttable presumption that the \$40 per month minimum
15 support order is inapplicable and a zero dollar order shall
16 be entered.

17 (3.4) Deviation factors. In any action to establish or
18 modify child support, whether pursuant to a temporary or
19 final administrative or court order, the child support
20 guidelines shall be used as a rebuttable presumption for
21 the establishment or modification of the amount of child
22 support. The court may deviate from the child support
23 guidelines if the application would be inequitable,
24 unjust, or inappropriate. Any deviation from the
25 guidelines shall be accompanied by written findings by the
26 court specifying the reasons for the deviation and the

1 presumed amount under the child support guidelines without
2 a deviation. These reasons may include:

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

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

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

13 (3.5) Income in excess of the schedule of basic child
14 support obligation. A court may use its discretion to
15 determine child support if the combined adjusted net income
16 of the parties exceeds the highest level of the schedule of
17 basic child support obligation, except that the basic child
18 support obligation shall not be less than the highest level
19 of combined net income set forth in the schedule of basic
20 child support obligation.

21 (3.6) Extracurricular activities and school expenses.
22 The court, in its discretion, in addition to the basic
23 child support obligation, may order either or both parents
24 owing a duty of support to the child to contribute to the
25 reasonable school and extracurricular activity expenses
26 incurred which are intended to enhance the educational,

1 athletic, social, or cultural development of the child.

2 (3.7) Child care expenses. The court, in its
3 discretion, in addition to the basic child support
4 obligation, may order either or both parents owing a duty
5 of support to the child to contribute to the reasonable
6 child care expenses of the child. The child care expenses
7 shall be made payable directly to a party or directly to
8 the child care provider at the time of child care services.

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

20 (B) Child care expenses shall be prorated in
21 proportion to each parent's percentage share of
22 combined net income, and may be added to the basic
23 child support obligation if not paid directly by each
24 parent to the provider of child care services. The
25 obligor's and obligee's portion of actual child care
26 expenses shall appear in the support order. If allowed,

1 the value of the federal income tax credit for child
2 care shall be subtracted from the actual cost to
3 determine the net child care costs.

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

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

23 (3.8) Shared physical care. If each parent exercises
24 146 or more overnights per year with the child, the basic
25 child support obligation is multiplied by 1.5 to calculate
26 the shared care child support obligation. The court shall

1 determine each parent's share of the shared care child
2 support obligation based on the parent's percentage share
3 of combined net income. The child support obligation is
4 then computed for each parent by multiplying that parent's
5 portion of the shared care support obligation by the
6 percentage of time the child spends with the other parent.
7 The respective child support obligations are then offset,
8 with the parent owing more child support paying the
9 difference between the child support amounts. The Illinois
10 Department of Healthcare and Family Services shall
11 promulgate a worksheet to calculate child support in cases
12 in which the parents have shared physical care and use the
13 standardized tax amount to determine net income.

14 (3.9) Split physical care. When there is more than one
15 child and each parent has physical care of at least one but
16 not all of the children, the support is calculated by using
17 2 child support worksheets to determine the support each
18 parent owes the other. The support shall be calculated as
19 follows:

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

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

26 (C) subtract the lesser support obligation from

1 the greater.

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

7 (4) Health care.

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

20 (B) The court, in its discretion, may order either
21 or both parents to contribute to the reasonable health
22 care needs of the child not covered by insurance,
23 including, but not limited to, unreimbursed medical,
24 dental, orthodontic, or vision expenses and any
25 prescription medication for the child not covered
26 under the child's health insurance.

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

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

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

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

21 (D) The amount to be added to the basic child
22 support obligation shall be the actual amount of the
23 total health insurance premium that is attributable to
24 the child who is the subject of the order. If this
25 amount is not available or cannot be verified, the
26 total cost of the health insurance premium shall be

1 divided by the total number of persons covered by the
2 policy. The cost per person derived from this
3 calculation shall be multiplied by the number of
4 children who are the subject of the order and who are
5 covered under the health insurance policy. This amount
6 shall be added to the basic child support obligation
7 and shall be allocated between the parents in
8 proportion to their respective net incomes.

9 (E) After the health insurance premium for the
10 child is added to the basic child support obligation
11 and allocated between the parents in proportion to
12 their respective incomes for child support purposes,
13 if the obligor is paying the premium, the amount
14 calculated for the obligee's share of the health
15 insurance premium for the child shall be deducted from
16 the obligor's share of the total child support
17 obligation. If the obligee is paying for private health
18 insurance for the child, the child support obligation
19 shall be increased by the obligor's share of the
20 premium payment. The obligor's and obligee's portion
21 of health insurance costs shall appear in the support
22 order.

23 (F) Prior to allowing the health insurance
24 adjustment, the parent requesting the adjustment must
25 submit proof that the child has been enrolled in a
26 health insurance plan and must submit proof of the cost

1 of the premium. The court shall require the parent
2 receiving the adjustment to annually submit proof of
3 continued coverage of the child to the other parent, or
4 as designated by the court.

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

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

21 (I) If a parent has been directed to provide health
22 insurance pursuant to this paragraph and that parent's
23 spouse or legally recognized partner provides the
24 insurance for the benefit of the child either directly
25 or through employment, a credit on the child support
26 worksheet shall be given to that parent in the same

1 manner as if the premium were paid by that parent.

2 (4.5) In a proceeding for child support following
3 dissolution of the marriage or civil union by a court that
4 lacked personal jurisdiction over the absent spouse, and in
5 which the court is requiring payment of support for the
6 period before the date an order for current support is
7 entered, there is a rebuttable presumption that the
8 obligor's net income for the prior period was the same as
9 his or her net income at the time the order for current
10 support is entered.

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

23 (6) If (i) the obligor was properly served with a
24 request for discovery of financial information relating to
25 the obligor's ability to provide child support, (ii) the
26 obligor failed to comply with the request, despite having

1 been ordered to do so by the court, and (iii) the obligor
2 is not present at the hearing to determine support despite
3 having received proper notice, then any relevant financial
4 information concerning the obligor's ability to provide
5 child support that was obtained pursuant to subpoena and
6 proper notice shall be admitted into evidence without the
7 need to establish any further foundation for its admission.

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

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

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

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

1 the day or night to:

2 (A) work; or

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

5 The court may further order any part or all of the earnings
6 of a parent during a sentence of periodic imprisonment paid to
7 the Clerk of the Circuit Court or to the parent having physical
8 possession of the child or to the non-parent custodian having
9 custody of the child of the sentenced parent for the support of
10 the child until further order of the court.

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

23 If there is a unity of interest and ownership sufficient to
24 render no financial separation between an obligor and another
25 person or persons or business entity, the court may pierce the
26 ownership veil of the person, persons, or business entity to

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

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

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

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

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

23 The court may also order in cases where the parent is 90
24 days or more delinquent in payment of support or has been
25 adjudicated in arrears in an amount equal to 90 days obligation
26 or more, that the parent's Illinois driving privileges be

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

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

1 Section 50 of that Act if the person is currently participating
2 in a work program pursuant to Section 505.1 of this Act.

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

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

25 (d) Any new or existing support order entered by the court
26 under this Section shall be deemed to be a series of judgments

1 against the person obligated to pay support thereunder, each
2 such judgment to be in the amount of each payment or
3 installment of support and each such judgment to be deemed
4 entered as of the date the corresponding payment or installment
5 becomes due under the terms of the support order. Each such
6 judgment shall have the full force, effect and attributes of
7 any other judgment of this State, including the ability to be
8 enforced. Notwithstanding any other State or local law to the
9 contrary, a lien arises by operation of law against the real
10 and personal property of the obligor for each installment of
11 overdue support owed by the obligor.

12 (e) When child support is to be paid through the Clerk of
13 the Court in a county of 500,000 inhabitants or less, the order
14 shall direct the obligor to pay to the Clerk, in addition to
15 the child support payments, all fees imposed by the county
16 board under paragraph (4) of subsection (bb) of Section 27.1a
17 of the Clerks of Courts Act. When child support is to be paid
18 through the clerk of the court in a county of more than 500,000
19 but less than 3,000,000 inhabitants, the order shall direct the
20 obligor to pay to the clerk, in addition to the child support
21 payments, all fees imposed by the county board under paragraph
22 (4) of subsection (bb) of Section 27.2 of the Clerks of Courts
23 Act. Unless paid pursuant to an Income Withholding Order/Notice
24 for Support, the payment of the fee shall be by payment
25 acceptable to the clerk and shall be made to the order of the
26 Clerk.

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

20 (g) An order for support shall include a date on which the
21 current support obligation terminates. The termination date
22 shall be no earlier than the date on which the child covered by
23 the order will attain the age of 18. However, if the child will
24 not graduate from high school until after attaining the age of
25 18, then the termination date shall be no earlier than the
26 earlier of the date on which the child's high school graduation

1 will occur or the date on which the child will attain the age
2 of 19. The order for support shall state that the termination
3 date does not apply to any arrearage that may remain unpaid on
4 that date. Nothing in this subsection shall be construed to
5 prevent the court from modifying the order or terminating the
6 order in the event the child is otherwise emancipated.

7 (g-5) If there is an unpaid arrearage or delinquency (as
8 those terms are defined in the Income Withholding for Support
9 Act) equal to at least one month's support obligation on the
10 termination date stated in the order for support or, if there
11 is no termination date stated in the order, on the date the
12 child attains the age of majority or is otherwise emancipated,
13 the periodic amount required to be paid for current support of
14 that child immediately prior to that date shall automatically
15 continue to be an obligation, not as current support but as
16 periodic payment toward satisfaction of the unpaid arrearage or
17 delinquency. That periodic payment shall be in addition to any
18 periodic payment previously required for satisfaction of the
19 arrearage or delinquency. The total periodic amount to be paid
20 toward satisfaction of the arrearage or delinquency may be
21 enforced and collected by any method provided by law for
22 enforcement and collection of child support, including but not
23 limited to income withholding under the Income Withholding for
24 Support Act. Each order for support entered or modified on or
25 after January 1, 2005 (the effective date of Public Act
26 93-1061) must contain a statement notifying the parties of the

1 requirements of this subsection. Failure to include the
2 statement in the order for support does not affect the validity
3 of the order or the operation of the provisions of this
4 subsection with regard to the order. This subsection shall not
5 be construed to prevent or affect the establishment or
6 modification of an order for support of a minor child or the
7 establishment or modification of an order for support of a
8 non-minor child or educational expenses under Section 513 of
9 this Act.

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

1 or that of a child, or both, would be seriously endangered by
2 disclosure of the party's address.

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

8 (Source: P.A. 99-90, eff. 1-1-16; 99-763, eff. 1-1-17; 99-764,
9 eff. 7-1-17; 100-15, eff. 7-1-17; 100-863, eff. 8-14-18;
10 100-923, eff. 1-1-19.)