

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 501 as follows:

6 (750 ILCS 5/501) (from Ch. 40, par. 501)

7 Sec. 501. Temporary relief. In all proceedings under this
8 Act, temporary relief shall be as follows:

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

10 (1) temporary maintenance or temporary support of a
11 child of the marriage entitled to support, accompanied by
12 an affidavit as to the factual basis for the relief
13 requested. One form of financial affidavit, as determined
14 by the Supreme Court, shall be used statewide. The
15 financial affidavit shall be supported by documentary
16 evidence including, but not limited to, income tax
17 returns, pay stubs, and banking statements. Unless the
18 court otherwise directs, any affidavit or supporting
19 documentary evidence submitted pursuant to this paragraph
20 shall not be made part of the public record of the
21 proceedings but shall be available to the court or an
22 appellate court in which the proceedings are subject to
23 review, to the parties, their attorneys, and such other

1 persons as the court may direct. Upon motion of a party, a
2 court may hold a hearing to determine whether and why
3 there is a disparity between a party's sworn affidavit and
4 the supporting documentation. If a party intentionally or
5 recklessly files an inaccurate or misleading financial
6 affidavit, the court shall impose significant penalties
7 and sanctions including, but not limited to, costs and
8 attorney's fees;

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

12 (i) restraining any person from transferring,
13 encumbering, concealing or otherwise disposing of any
14 property except in the usual course of business or for
15 the necessities of life, and, if so restrained,
16 requiring him to notify the moving party and his
17 attorney of any proposed extraordinary expenditures
18 made after the order is issued; however, an order need
19 not include an exception for transferring,
20 encumbering, or otherwise disposing of property in the
21 usual course of business or for the necessities of
22 life if the court enters appropriate orders that
23 enable the parties to pay their necessary personal and
24 business expenses including, but not limited to,
25 appropriate professionals to assist the court pursuant
26 to subsection (1) of Section 503 to administer the

1 payment and accounting of such living and business
2 expenses;

3 (ii) enjoining a party from removing a child from
4 the jurisdiction of the court for more than 14 days;

5 (iii) enjoining a party from striking or
6 interfering with the personal liberty of the other
7 party or of any child; or

8 (iv) providing other injunctive relief proper in
9 the circumstances; or

10 (3) other appropriate temporary relief including, in
11 the discretion of the court, ordering the purchase or sale
12 of assets and requiring that a party or parties borrow
13 funds in the appropriate circumstances.

14 Issues concerning temporary maintenance or temporary
15 support of a child entitled to support shall be dealt with on a
16 summary basis based on allocated parenting time, financial
17 affidavits, tax returns, pay stubs, banking statements, and
18 other relevant documentation, except an evidentiary hearing
19 may be held upon a showing of good cause. If a party
20 intentionally or recklessly files an inaccurate or misleading
21 financial affidavit, the court shall impose significant
22 penalties and sanctions including, but not limited to, costs
23 and attorney's fees resulting from the improper
24 representation.

25 (b) The court may issue a temporary restraining order
26 without requiring notice to the other party only if it finds,

1 on the basis of the moving affidavit or other evidence, that
2 irreparable injury will result to the moving party if no order
3 is issued until the time for responding has elapsed.

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

7 (c-1) As used in this subsection (c-1), "interim
8 attorney's fees and costs" means attorney's fees and costs,
9 including an allowance from the other party for a retainer fee
10 to obtain an attorney, assessed from time to time while a case
11 is pending, in favor of the petitioning party's current
12 counsel, for reasonable fees and costs either already incurred
13 or to be incurred, and "interim award" means an award of
14 interim attorney's fees and costs, including an allowance from
15 the other party for a retainer fee to obtain an attorney.

16 Interim awards shall be governed by the following:

17 (1) Except for good cause shown, a proceeding for (or
18 relating to) interim attorney's fees and costs in a
19 pre-judgment dissolution proceeding shall be
20 nonevidentiary and summary in nature. All hearings for or
21 relating to interim attorney's fees and costs under this
22 subsection shall be scheduled expeditiously by the court.
23 When a party files a petition for interim attorney's fees
24 and costs supported by one or more affidavits that
25 delineate relevant factors, the court (or a hearing
26 officer) shall assess an interim award after affording the

1 opposing party a reasonable opportunity to file a
2 responsive pleading. A responsive pleading shall set out
3 the amount of each retainer or other payment or payments,
4 or both, previously paid to the responding party's counsel
5 by or on behalf of the responding party. A responsive
6 pleading shall include costs incurred, and shall indicate
7 whether the costs are paid or unpaid. In assessing an
8 interim award, the court shall consider all relevant
9 factors, as presented, that appear reasonable and
10 necessary, including to the extent applicable:

11 (A) the income and property of each party,
12 including alleged marital property within the sole
13 control of one party and alleged non-marital property
14 within access to a party;

15 (B) the needs of each party;

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

17 (D) any impairment to present earning capacity of
18 either party, including age and physical and emotional
19 health;

20 (E) the standard of living established during the
21 marriage;

22 (F) the degree of complexity of the issues,
23 including allocation of parental responsibility,
24 valuation or division (or both) of closely held
25 businesses, and tax planning, as well as reasonable
26 needs for expert investigations or expert witnesses,

1 or both;

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

3 (H) the amount of the payment or payments made or
4 reasonably expected to be made to the attorney for the
5 other party; and

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

8 (1.5) A petition for interim fees that seeks an order
9 for the payment of an initial retainer to retain an
10 attorney shall have attached to it an affidavit from the
11 attorney to be retained that the attorney has been
12 contacted by the moving party and the attorney has agreed
13 to enter an appearance if the court grants the relief
14 requested, together with a certificate from the moving
15 party that the interim fees granted will only be used by
16 the moving party to retain the attorney. Any interim fees
17 granted pursuant to this paragraph shall be paid directly
18 to the identified attorney.

19 (2) Any assessment of an interim award (including one
20 pursuant to an agreed order) shall be without prejudice to
21 any final allocation and without prejudice as to any claim
22 or right of either party or any counsel of record at the
23 time of the award. Any such claim or right may be presented
24 by the appropriate party or counsel at a hearing on
25 contribution under subsection (j) of Section 503 or a
26 hearing on counsel's fees under subsection (c) of Section

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

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

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

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

15 (c-2) Allocation of use of marital residence. Where there
16 is on file a verified complaint or verified petition seeking
17 temporary eviction from the marital residence, the court may,
18 during the pendency of the proceeding, only in cases where the
19 physical or mental well-being of either spouse or his or her
20 children is jeopardized by occupancy of the marital residence
21 by both spouses, and only upon due notice and full hearing,
22 unless waived by the court on good cause shown, enter orders
23 granting the exclusive possession of the marital residence to
24 either spouse, by eviction from, or restoration of, the
25 marital residence, until the final determination of the cause
26 pursuant to the factors listed in Section 602.7 of this Act. No

1 such order shall in any manner affect any estate in homestead
2 property of either party. In entering orders under this
3 subsection (c-2), the court shall balance hardships to the
4 parties.

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

6 (1) does not prejudice the rights of the parties or
7 the child which are to be adjudicated at subsequent
8 hearings in the proceeding;

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

11 (3) terminates when the final judgment is entered or
12 when the petition for dissolution of marriage or legal
13 separation or declaration of invalidity of marriage is
14 dismissed.

15 (e) The fees or costs of mediation shall be borne by the
16 parties and may be assessed by the court as it deems equitable
17 without prejudice and are subject to reallocation at the
18 conclusion of the case.

19 (f) Companion animals. Either party may petition or move
20 for the temporary allocation of sole or joint possession of
21 and responsibility for a companion animal jointly owned by the
22 parties. In issuing an order under this subsection, the court
23 shall take into consideration the well-being of the companion
24 animal. As used in this Section, "companion animal" does not
25 include a service animal as defined in Section 2.01c of the
26 Humane Care for Animals Act.

1 (Source: P.A. 99-90, eff. 1-1-16; 99-763, eff. 1-1-17;
2 100-422, eff. 1-1-18.)