

HB4074



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4074

Introduced 5/9/2023, by Rep. Terra Costa Howard

SYNOPSIS AS INTRODUCED:

750 ILCS 5/504
750 ILCS 5/505

from Ch. 40, par. 504
from Ch. 40, par. 505

Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that when maintenance or child support is paid through the clerk of the circuit court in a county of 500,000 inhabitants or less, the order shall direct the obligor to pay to the clerk all fees imposed by the county board under a debt collection provision of the Clerks of Court Act.

LRB103 32266 LNS 61521 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 Sections 504 and 505 as
6 follows:

7 (750 ILCS 5/504) (from Ch. 40, par. 504)

8 Sec. 504. Maintenance.

9 (a) Entitlement to maintenance. In a proceeding for
10 dissolution of marriage, legal separation, declaration of
11 invalidity of marriage, or dissolution of a civil union, a
12 proceeding for maintenance following a legal separation or
13 dissolution of the marriage or civil union by a court which
14 lacked personal jurisdiction over the absent spouse, a
15 proceeding for modification of a previous order for
16 maintenance under Section 510 of this Act, or any proceeding
17 authorized under Section 501 of this Act, the court may grant a
18 maintenance award for either spouse in amounts and for periods
19 of time as the court deems just, without regard to marital
20 misconduct, and the maintenance may be paid from the income or
21 property of the other spouse. The court shall first make a
22 finding as to whether a maintenance award is appropriate,
23 after consideration of all relevant factors, including:

1 (1) the income and property of each party, including
2 marital property apportioned and non-marital property
3 assigned to the party seeking maintenance as well as all
4 financial obligations imposed on the parties as a result
5 of the dissolution of marriage;

6 (2) the needs of each party;

7 (3) the realistic present and future earning capacity
8 of each party;

9 (4) any impairment of the present and future earning
10 capacity of the party seeking maintenance due to that
11 party devoting time to domestic duties or having forgone
12 or delayed education, training, employment, or career
13 opportunities due to the marriage;

14 (5) any impairment of the realistic present or future
15 earning capacity of the party against whom maintenance is
16 sought;

17 (6) the time necessary to enable the party seeking
18 maintenance to acquire appropriate education, training,
19 and employment, and whether that party is able to support
20 himself or herself through appropriate employment;

21 (6.1) the effect of any parental responsibility
22 arrangements and its effect on a party's ability to seek
23 or maintain employment;

24 (7) the standard of living established during the
25 marriage;

26 (8) the duration of the marriage;

1 (9) the age, health, station, occupation, amount and
2 sources of income, vocational skills, employability,
3 estate, liabilities, and the needs of each of the parties;

4 (10) all sources of public and private income
5 including, without limitation, disability and retirement
6 income;

7 (11) the tax consequences to each party;

8 (12) contributions and services by the party seeking
9 maintenance to the education, training, career or career
10 potential, or license of the other spouse;

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

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

14 (b) (Blank).

15 (b-1) Amount and duration of maintenance. Unless the court
16 finds that a maintenance award is appropriate, it shall bar
17 maintenance as to the party seeking maintenance regardless of
18 the length of the marriage at the time the action was
19 commenced. Only if the court finds that a maintenance award is
20 appropriate, the court shall order guideline maintenance in
21 accordance with paragraph (1) or non-guideline maintenance in
22 accordance with paragraph (2) of this subsection (b-1). If the
23 application of guideline maintenance results in a combined
24 maintenance and child support obligation that exceeds 50% of
25 the payor's net income, the court may determine non-guideline
26 maintenance in accordance with paragraph (2) of this

1 subsection (b-1), non-guideline child support in accordance
2 with paragraph (3.4) of subsection (a) of Section 505, or
3 both.

4 (1) Maintenance award in accordance with guidelines.
5 If the combined gross annual income of the parties is less
6 than \$500,000 and the payor has no obligation to pay child
7 support or maintenance or both from a prior relationship,
8 maintenance payable after the date the parties' marriage
9 is dissolved shall be in accordance with subparagraphs (A)
10 and (B) of this paragraph (1), unless the court makes a
11 finding that the application of the guidelines would be
12 inappropriate.

13 (A) The amount of maintenance under this paragraph
14 (1) shall be calculated by taking 33 1/3% of the
15 payor's net annual income minus 25% of the payee's net
16 annual income. The amount calculated as maintenance,
17 however, when added to the net income of the payee,
18 shall not result in the payee receiving an amount that
19 is in excess of 40% of the combined net income of the
20 parties.

21 (A-1) Modification of maintenance orders entered
22 before January 1, 2019 that are and continue to be
23 eligible for inclusion in the gross income of the
24 payee for federal income tax purposes and deductible
25 by the payor shall be calculated by taking 30% of the
26 payor's gross annual income minus 20% of the payee's

1 gross annual income, unless both parties expressly
2 provide otherwise in the modification order. The
3 amount calculated as maintenance, however, when added
4 to the gross income of the payee, may not result in the
5 payee receiving an amount that is in excess of 40% of
6 the combined gross income of the parties.

7 (B) The duration of an award under this paragraph
8 (1) shall be calculated by multiplying the length of
9 the marriage at the time the action was commenced by
10 whichever of the following factors applies: less than
11 5 years (.20); 5 years or more but less than 6 years
12 (.24); 6 years or more but less than 7 years (.28); 7
13 years or more but less than 8 years (.32); 8 years or
14 more but less than 9 years (.36); 9 years or more but
15 less than 10 years (.40); 10 years or more but less
16 than 11 years (.44); 11 years or more but less than 12
17 years (.48); 12 years or more but less than 13 years
18 (.52); 13 years or more but less than 14 years (.56);
19 14 years or more but less than 15 years (.60); 15 years
20 or more but less than 16 years (.64); 16 years or more
21 but less than 17 years (.68); 17 years or more but less
22 than 18 years (.72); 18 years or more but less than 19
23 years (.76); 19 years or more but less than 20 years
24 (.80). For a marriage of 20 or more years, the court,
25 in its discretion, shall order maintenance for a
26 period equal to the length of the marriage or for an

1 indefinite term.

2 (1.5) In the discretion of the court, any term of
3 temporary maintenance paid by court order under Section
4 501 may be a corresponding credit to the duration of
5 maintenance set forth in subparagraph (b-1) (1) (B).

6 (2) Maintenance award not in accordance with
7 guidelines. Any non-guidelines award of maintenance shall
8 be made after the court's consideration of all relevant
9 factors set forth in subsection (a) of this Section.

10 (b-2) Findings. In each case involving the issue of
11 maintenance, the court shall make specific findings of fact,
12 as follows:

13 (1) the court shall state its reasoning for awarding
14 or not awarding maintenance and shall include references
15 to each relevant factor set forth in subsection (a) of
16 this Section;

17 (2) if the court deviates from applicable guidelines
18 under paragraph (1) of subsection (b-1), it shall state in
19 its findings the amount of maintenance (if determinable)
20 or duration that would have been required under the
21 guidelines and the reasoning for any variance from the
22 guidelines; and

23 (3) the court shall state whether the maintenance is
24 fixed-term, indefinite, reviewable, or reserved by the
25 court.

26 (b-3) Gross income. For purposes of this Section, the term

1 "gross income" means all income from all sources, within the
2 scope of that phrase in Section 505 of this Act, except
3 maintenance payments in the pending proceedings shall not be
4 included.

5 (b-3.5) Net income. As used in this Section, "net income"
6 has the meaning provided in Section 505 of this Act, except
7 maintenance payments in the pending proceedings shall not be
8 included.

9 (b-4) Modification of maintenance orders entered before
10 January 1, 2019. For any order for maintenance or unallocated
11 maintenance and child support entered before January 1, 2019
12 that is modified after December 31, 2018, payments thereunder
13 shall continue to retain the same tax treatment for federal
14 income tax purposes unless both parties expressly agree
15 otherwise and the agreement is included in the modification
16 order.

17 (b-4.5) Maintenance designation.

18 (1) Fixed-term maintenance. If a court grants
19 maintenance for a fixed term, the court shall designate
20 the termination of the period during which this
21 maintenance is to be paid. Maintenance is barred after the
22 end of the period during which fixed-term maintenance is
23 to be paid.

24 (2) Indefinite maintenance. If a court grants
25 maintenance for an indefinite term, the court shall not
26 designate a termination date. Indefinite maintenance shall

1 continue until modification or termination under Section
2 510.

3 (3) Reviewable maintenance. If a court grants
4 maintenance for a specific term with a review, the court
5 shall designate the period of the specific term and state
6 that the maintenance is reviewable. Upon review, the court
7 shall make a finding in accordance with subdivision (b-8)
8 of this Section, unless the maintenance is modified or
9 terminated under Section 510.

10 (b-5) Interest on maintenance. Any maintenance obligation
11 including any unallocated maintenance and child support
12 obligation, or any portion of any support obligation, that
13 becomes due and remains unpaid shall accrue simple interest as
14 set forth in Section 505 of this Act.

15 (b-7) Maintenance judgments. Any new or existing
16 maintenance order including any unallocated maintenance and
17 child support order entered by the court under this Section
18 shall be deemed to be a series of judgments against the person
19 obligated to pay support thereunder. Each such judgment to be
20 in the amount of each payment or installment of support and
21 each such judgment to be deemed entered as of the date the
22 corresponding payment or installment becomes due under the
23 terms of the support order, except no judgment shall arise as
24 to any installment coming due after the termination of
25 maintenance as provided by Section 510 of the Illinois
26 Marriage and Dissolution of Marriage Act or the provisions of

1 any order for maintenance. Each such judgment shall have the
2 full force, effect and attributes of any other judgment of
3 this State, including the ability to be enforced.
4 Notwithstanding any other State or local law to the contrary,
5 a lien arises by operation of law against the real and personal
6 property of the obligor for each installment of overdue
7 support owed by the obligor.

8 (b-8) Review of maintenance. Upon review of any previously
9 ordered maintenance award, the court may extend maintenance
10 for further review, extend maintenance for a fixed
11 non-modifiable term, extend maintenance for an indefinite
12 term, or permanently terminate maintenance in accordance with
13 subdivision (b-1) (1) (A) of this Section.

14 (c) Maintenance during an appeal. The court may grant and
15 enforce the payment of maintenance during the pendency of an
16 appeal as the court shall deem reasonable and proper.

17 (d) Maintenance during imprisonment. No maintenance shall
18 accrue during the period in which a party is imprisoned for
19 failure to comply with the court's order for the payment of
20 such maintenance.

21 (e) Fees when maintenance is paid through the clerk. When
22 maintenance is to be paid through the clerk of the court in a
23 county of 500,000 inhabitants or less, the order shall direct
24 the obligor to pay to the clerk, in addition to the maintenance
25 payments, all fees imposed by the county board under paragraph
26 (2) of subsection (j-5) of Section 27.1b ~~paragraph (4) of~~

1 ~~subsection (bb) of Section 27.1a~~ of the Clerks of Courts Act.
2 When maintenance is to be paid through the clerk of the court
3 in a county of more than 500,000 but less than 3,000,000
4 inhabitants, the order shall direct the obligor to pay to the
5 clerk, in addition to the maintenance payments, all fees
6 imposed by the county board under paragraph (4) of subsection
7 (bb) of Section 27.2 of the Clerks of Courts Act. Unless paid
8 in cash or pursuant to an order for withholding, the payment of
9 the fee shall be by a separate instrument from the support
10 payment and shall be made to the order of the Clerk.

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

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

26 (2) To the extent the court determines that its award

1 should be secured, in whole or in part, by new life
2 insurance on the payor's life, the court may only order:

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

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

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

22 (3) (Blank).

23 (Source: P.A. 99-90, eff. 1-1-16; 99-763, eff. 1-1-17;
24 100-520, eff. 1-1-18 (see Section 5 of P.A. 100-565 for the
25 effective date of P.A. 100-520); 100-923, eff. 1-1-19.)

1 (750 ILCS 5/505) (from Ch. 40, par. 505)

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

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

21 (1) Child support guidelines. The Illinois Department
22 of Healthcare and Family Services shall adopt rules
23 establishing child support guidelines which include
24 worksheets to aid in the calculation of the child support
25 obligations and a schedule of basic child support
26 obligations that reflects the percentage of combined net

1 income that parents living in the same household in this
2 State ordinarily spend on their child. The child support
3 guidelines have the following purposes:

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

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

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

14 (D) to calculate child support based upon the
15 parents' combined net income estimated to have been
16 allocated for the support of the child if the parents
17 and child were living in an intact household;

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

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

23 (1.5) Computation of basic child support obligation.
24 The court shall compute the basic child support obligation
25 by taking the following steps:

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

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

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

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

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

14 (2) Duty of support. The court shall determine child
15 support in each case by applying the child support
16 guidelines unless the court makes a finding that
17 application of the guidelines would be inappropriate,
18 after considering the best interests of the child and
19 evidence which shows relevant factors including, but not
20 limited to, one or more of the following:

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

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

25 (C) the standard of living the child would have
26 enjoyed had the marriage or civil union not been

1 dissolved; and

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

4 (3) Income.

5 (A) As used in this Section, "gross income" means
6 the total of all income from all sources, except
7 "gross income" does not include (i) benefits received
8 by the parent from means-tested public assistance
9 programs, including, but not limited to, Temporary
10 Assistance for Needy Families, Supplemental Security
11 Income, and the Supplemental Nutrition Assistance
12 Program or (ii) benefits and income received by the
13 parent for other children in the household, including,
14 but not limited to, child support, survivor benefits,
15 and foster care payments. Social security disability
16 and retirement benefits paid for the benefit of the
17 subject child must be included in the disabled or
18 retired parent's gross income for purposes of
19 calculating the parent's child support obligation, but
20 the parent is entitled to a child support credit for
21 the amount of benefits paid to the other party for the
22 child. "Gross income" includes maintenance treated as
23 taxable income for federal income tax purposes to the
24 payee and received pursuant to a court order in the
25 pending proceedings or any other proceedings and shall
26 be included in the payee's gross income for purposes

1 of calculating the parent's child support obligation.

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

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

26 (I) Unless a court has determined otherwise or

1 the parties otherwise agree, the party with the
2 majority of parenting time shall be deemed
3 entitled to claim the dependency exemption for the
4 parties' minor child.

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

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

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

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

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

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

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

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

17 (II) Summary hearing. If the court determines
18 child support in a summary hearing under Section
19 501 and an eligible party opts in to the
20 individualized tax amount method under this item
21 (II), the individualized tax amount shall be
22 determined by the court on the basis of
23 information contained in one or both parties'
24 Supreme Court approved Financial Affidavit (Family
25 & Divorce Cases) and relevant supporting documents
26 under applicable court rules. No party, however,

1 is eligible to opt in unless the party, under
2 applicable court rules, has served the other party
3 with the required Supreme Court approved Financial
4 Affidavit (Family & Divorce Cases) and has
5 substantially produced supporting documents
6 required by the applicable court rules.

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

15 (F) Adjustments to income.

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

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

1 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
9 income the amount of financial support
10 actually paid by the parent for the child or
11 75% of the support the parent should pay under
12 the child support guidelines (before this
13 adjustment), whichever is less, unless the
14 court makes a finding that it would cause
15 economic hardship to the child. The adjustment
16 shall be calculated using that parent's income
17 alone.

18 (II) Spousal Maintenance adjustment.
19 Obligations pursuant to a court order for spousal
20 maintenance in the pending proceeding actually
21 paid or payable to the same party to whom child
22 support is to be payable or actually paid to a
23 former spouse pursuant to a court order shall be
24 deducted from the parent's after-tax income,
25 unless the maintenance obligation is tax
26 deductible to the payor for federal income tax

1 purposes, in which case it shall be deducted from
2 the payor's gross income for purposes of
3 calculating the parent's child support obligation.

4 (3.1) Business income. For purposes of calculating
5 child support, net business income from the operation of a
6 business means gross receipts minus ordinary and necessary
7 expenses required to carry on the trade or business. As
8 used in this paragraph, "business" includes, but is not
9 limited to, sole proprietorships, closely held
10 corporations, partnerships, other flow-through business
11 entities, and self-employment. The court shall apply the
12 following:

13 (A) The accelerated component of depreciation and
14 any business expenses determined either judicially or
15 administratively to be inappropriate or excessive
16 shall be excluded from the total of ordinary and
17 necessary business expenses to be deducted in the
18 determination of net business income from gross
19 business income.

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

1 (3.2) Unemployment or underemployment. If a parent is
2 voluntarily unemployed or underemployed, child support
3 shall be calculated based on a determination of potential
4 income. A determination of potential income shall be made
5 by determining employment potential and probable earnings
6 level based on the obligor's work history, occupational
7 qualifications, prevailing job opportunities, the
8 ownership by a parent of a substantial non-income
9 producing asset, and earnings levels in the community. If
10 there is insufficient work history to determine employment
11 potential and probable earnings level, there shall be a
12 rebuttable presumption that the parent's potential income
13 is 75% of the most recent United States Department of
14 Health and Human Services Federal Poverty Guidelines for a
15 family of one person.

16 (3.3) Rebuttable presumption in favor of guidelines.
17 There is a rebuttable presumption in any judicial or
18 administrative proceeding for child support that the
19 amount of the child support obligation that would result
20 from the application of the child support guidelines is
21 the correct amount of child support.

22 (3.3a) Minimum child support obligation. There is a
23 rebuttable presumption that a minimum child support
24 obligation of \$40 per month, per child, will be entered
25 for an obligor who has actual or imputed gross income at or
26 less than 75% of the most recent United States Department

1 of Health and Human Services Federal Poverty Guidelines
2 for a family of one person, with a maximum total child
3 support obligation for that obligor of \$120 per month to
4 be divided equally among all of the obligor's children.

5 (3.3b) Zero dollar child support order. For parents
6 with no gross income, who receive only means-tested
7 assistance, or who cannot work due to a medically proven
8 disability, incarceration, or institutionalization, there
9 is a rebuttable presumption that the \$40 per month minimum
10 support order is inapplicable and a zero dollar order
11 shall be entered.

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

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

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

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

8 (3.5) Income in excess of the schedule of basic child
9 support obligation. A court may use its discretion to
10 determine child support if the combined adjusted net
11 income of the parties exceeds the highest level of the
12 schedule of basic child support obligation, except that
13 the basic child support obligation shall not be less than
14 the highest level of combined net income set forth in the
15 schedule of basic child support obligation.

16 (3.6) Extracurricular activities and school expenses.
17 The court, in its discretion, in addition to the basic
18 child support obligation, may order either or both parents
19 owing a duty of support to the child to contribute to the
20 reasonable school and extracurricular activity expenses
21 incurred which are intended to enhance the educational,
22 athletic, social, or cultural development of the child.

23 (3.7) Child care expenses. The court, in its
24 discretion, in addition to the basic child support
25 obligation, may order either or both parents owing a duty
26 of support to the child to contribute to the reasonable

1 child care expenses of the child. The child care expenses
2 shall be made payable directly to a party or directly to
3 the child care provider at the time of child care
4 services.

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

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

26 (C) The amount of child care expenses shall be

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

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

19 (3.8) Shared physical care. If each parent exercises
20 146 or more overnights per year with the child, the basic
21 child support obligation is multiplied by 1.5 to calculate
22 the shared care child support obligation. The court shall
23 determine each parent's share of the shared care child
24 support obligation based on the parent's percentage share
25 of combined net income. The child support obligation is
26 then computed for each parent by multiplying that parent's

1 portion of the shared care support obligation by the
2 percentage of time the child spends with the other parent.
3 The respective child support obligations are then offset,
4 with the parent owing more child support paying the
5 difference between the child support amounts. The Illinois
6 Department of Healthcare and Family Services shall
7 promulgate a worksheet to calculate child support in cases
8 in which the parents have shared physical care and use the
9 standardized tax amount to determine net income.

10 (3.9) Split physical care. When there is more than one
11 child and each parent has physical care of at least one but
12 not all of the children, the support is calculated by
13 using 2 child support worksheets to determine the support
14 each parent owes the other. The support shall be
15 calculated as follows:

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

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

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

24 The parent who owes the greater obligation shall be
25 ordered to pay the difference in support to the other
26 parent, unless the court determines, pursuant to other

1 provisions of this Section, that it should deviate from
2 the guidelines.

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

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

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

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

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

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

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

19 (D) The amount to be added to the basic child
20 support obligation shall be the actual amount of the
21 total health insurance premium that is attributable to
22 the child who is the subject of the order. If this
23 amount is not available or cannot be verified, the
24 total cost of the health insurance premium shall be
25 divided by the total number of persons covered by the
26 policy. The cost per person derived from this

1 calculation shall be multiplied by the number of
2 children who are the subject of the order and who are
3 covered under the health insurance policy. This amount
4 shall be added to the basic child support obligation
5 and shall be allocated between the parents in
6 proportion to their respective net incomes.

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

21 (F) Prior to allowing the health insurance
22 adjustment, the parent requesting the adjustment must
23 submit proof that the child has been enrolled in a
24 health insurance plan and must submit proof of the
25 cost of the premium. The court shall require the
26 parent receiving the adjustment to annually submit

1 proof of continued coverage of the child to the other
2 parent, or as designated by the court.

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

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

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

26 (4.5) In a proceeding for child support following

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

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

21 (6) If (i) the obligor was properly served with a
22 request for discovery of financial information relating to
23 the obligor's ability to provide child support, (ii) the
24 obligor failed to comply with the request, despite having
25 been ordered to do so by the court, and (iii) the obligor
26 is not present at the hearing to determine support despite

1 having received proper notice, then any relevant financial
2 information concerning the obligor's ability to provide
3 child support that was obtained pursuant to subpoena and
4 proper notice shall be admitted into evidence without the
5 need to establish any further foundation for its
6 admission.

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

16 (1) Existing life insurance. The court shall be
17 apprised through evidence, stipulation, or otherwise as to
18 the level, ownership, and type of existing life insurance
19 death benefit coverage available to one or both parents,
20 the cost of the premiums, cost ratings, and escalations
21 and assignment of the policy, if applicable, and all other
22 relevant circumstances. The court shall make findings
23 relative thereto.

24 (2) New life insurance. The court shall be apprised
25 through evidence, stipulation, or otherwise as to the
26 availability of obtaining reasonably affordable new life

1 insurance. To the extent the court determines that the
2 support obligations should be secured, in whole or in
3 part, by new life insurance on the life of one or both
4 parents, the court may order that one or both parents
5 comply with all requirements to obtain such new life
6 insurance through employment, trade union, fraternal
7 organizations, associations, or individual means.

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

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

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

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

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

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

12 (A) work; or

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

15 The court may further order any part or all of the earnings
16 of a parent during a sentence of periodic imprisonment paid to
17 the Clerk of the Circuit Court or to the parent having physical
18 possession of the child or to the non-parent custodian having
19 custody of the child of the sentenced parent for the support of
20 the child until further order of the court.

21 If a parent who is found guilty of contempt for failure to
22 comply with an order to pay support is a person who conducts a
23 business or who is self-employed, the court in addition to
24 other penalties provided by law may order that the parent do
25 one or more of the following: (i) provide to the court monthly
26 financial statements showing income and expenses from the

1 business or the self-employment; (ii) seek employment and
2 report periodically to the court with a diary, listing, or
3 other memorandum of his or her employment search efforts; or
4 (iii) report to the Department of Employment Security for job
5 search services to find employment that will be subject to
6 withholding for child support.

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

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

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

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

25 With respect to assets which are real property, no order
26 entered under this paragraph shall affect the rights of bona

1 fide purchasers, mortgagees, judgment creditors, or other lien
2 holders who acquire their interests in the property prior to
3 the time a notice of lis pendens pursuant to the Code of Civil
4 Procedure or a copy of the order is placed of record in the
5 office of the recorder of deeds for the county in which the
6 real property is located.

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

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

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

1 Procedure. Failure to include the statement in the order for
2 support does not affect the validity of the order or the
3 accrual of interest as provided in this Section.

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

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

23 (e) When child support is to be paid through the Clerk of
24 the Court in a county of 500,000 inhabitants or less, the order
25 shall direct the obligor to pay to the Clerk, in addition to
26 the child support payments, all fees imposed by the county

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

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

1 to ascertain the location of the obligor, service of process
2 or provision of notice necessary in the case may be made at the
3 last known address of the obligor in any manner expressly
4 provided by the Code of Civil Procedure or this Act, which
5 service shall be sufficient for purposes of due process.

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

20 (g-5) If there is an unpaid arrearage or delinquency (as
21 those terms are defined in the Income Withholding for Support
22 Act) equal to at least one month's support obligation on the
23 termination date stated in the order for support or, if there
24 is no termination date stated in the order, on the date the
25 child attains the age of majority or is otherwise emancipated,
26 the periodic amount required to be paid for current support of

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

23 (h) An order entered under this Section shall include a
24 provision requiring either parent to report to the other
25 parent and to the Clerk of Court within 10 days each time
26 either parent obtains new employment, and each time either

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

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

22 (Source: P.A. 102-823, eff. 5-13-22.)