

1 AN ACT concerning family law.

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

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

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

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

8 (a) In a proceeding for dissolution of marriage, legal  
9 separation, declaration of invalidity of marriage, a  
10 proceeding for child support following dissolution of the  
11 marriage by a court which lacked personal jurisdiction over  
12 the absent spouse, a proceeding for modification of a  
13 previous order for child support under Section 510 of this  
14 Act, or any proceeding authorized under Section 501 or 601 of  
15 this Act, the court may order either or both parents owing a  
16 duty of support to a child of the marriage to pay an amount  
17 reasonable and necessary for his support, without regard to  
18 marital misconduct. The duty of support owed to a child  
19 includes the obligation to provide for the reasonable and  
20 necessary physical, mental and emotional health needs of the  
21 child. For purposes of this Section, the term "child" shall  
22 include any child under age 18 and any child under age 19 who  
23 is still attending high school.

24 (1) The Court shall determine the minimum amount of  
25 support by using the following guidelines:

Number of Children	Percent of Supporting Party's Net Income
1	20%
2	25%
3	32%
4	40%

1	5	45%
2	6 or more	50%

3           (2) The above guidelines shall be applied in each  
4 case unless the court makes a finding that application of  
5 the guidelines would be inappropriate, after considering  
6 the best interests of the child in light of evidence  
7 including but not limited to one or more of the following  
8 relevant factors:

9                   (a) the financial resources and needs of the  
10 child;

11                   (b) the financial resources and needs of the  
12 custodial parent;

13                   (c) the standard of living the child would  
14 have enjoyed had the marriage not been dissolved;

15                   (d) the physical and emotional condition of  
16 the child, and his educational needs; and

17                   (e) the financial resources and needs of the  
18 non-custodial parent.

19           If the court deviates from the guidelines, the  
20 court's finding shall state the amount of support that  
21 would have been required under the guidelines, if  
22 determinable. The court shall include the reason or  
23 reasons for the variance from the guidelines.

24           (3) "Net income" is defined as the total of all  
25 income from all sources, minus the following deductions:

26                   (a) Federal income tax (properly calculated  
27 withholding or estimated payments);

28                   (b) State income tax (properly calculated  
29 withholding or estimated payments);

30                   (c) Social Security (FICA payments);

31                   (d) Mandatory retirement contributions  
32 required by law or as a condition of employment;

33                   (e) Union dues;

34                   (f) Dependent                   and                   individual

1 health/hospitalization insurance premiums;

2 (g) Prior obligations of support or  
3 maintenance actually paid pursuant to a court order;

4 (h) Expenditures for repayment of debts that  
5 represent reasonable and necessary expenses for the  
6 production of income, medical expenditures necessary  
7 to preserve life or health, reasonable expenditures  
8 for the benefit of the child and the other parent,  
9 exclusive of gifts. The court shall reduce net  
10 income in determining the minimum amount of support  
11 to be ordered only for the period that such payments  
12 are due and shall enter an order containing  
13 provisions for its self-executing modification upon  
14 termination of such payment period;

15 (i) Amounts properly deducted for federal  
16 income tax purposes including but not limited to  
17 depreciation of farm machinery and equipment.

18 (4) In cases where the court order provides for  
19 health/hospitalization insurance coverage pursuant to  
20 Section 505.2 of this Act, the premiums for that  
21 insurance, or that portion of the premiums for which the  
22 supporting party is responsible in the case of insurance  
23 provided through an employer's health insurance plan  
24 where the employer pays a portion of the premiums, shall  
25 be subtracted from net income in determining the minimum  
26 amount of support to be ordered.

27 (4.5) In a proceeding for child support following  
28 dissolution of the marriage by a court that lacked  
29 personal jurisdiction over the absent spouse, and in  
30 which the court is requiring payment of support for the  
31 period before the date an order for current support is  
32 entered, there is a rebuttable presumption that the  
33 supporting party's net income for the prior period was  
34 the same as his or her net income at the time the order

1 for current support is entered.

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

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

28 (a-5) In an action to enforce an order for support based  
29 on the respondent's failure to make support payments as  
30 required by the order, notice of proceedings to hold the  
31 respondent in contempt for that failure may be served on the  
32 respondent by personal service or by regular mail addressed  
33 to the respondent's last known address. The respondent's last  
34 known address may be determined from records of the clerk of

1 the court, from the Federal Case Registry of Child Support  
2 Orders, or by any other reasonable means.

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

8 (1) placed on probation with such conditions of  
9 probation as the Court deems advisable;

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

14 (A) work; or

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

17 The Court may further order any part or all of the  
18 earnings of a parent during a sentence of periodic  
19 imprisonment paid to the Clerk of the Circuit Court or to the  
20 parent having custody or to the guardian having custody of  
21 the children of the sentenced parent for the support of said  
22 children until further order of the Court.

23 If there is a unity of interest and ownership sufficient  
24 to render no financial separation between a non-custodial  
25 parent and another person or persons or business entity, the  
26 court may pierce the ownership veil of the person, persons,  
27 or business entity to discover assets of the non-custodial  
28 parent held in the name of that person, those persons, or  
29 that business entity. The following circumstances are  
30 sufficient to authorize a court to order discovery of the  
31 assets of a person, persons, or business entity and to compel  
32 the application of any discovered assets toward payment on  
33 the judgment for support:

34 (1) the non-custodial parent and the person,

1 persons, or business entity maintain records together.

2 (2) the non-custodial parent and the person,  
3 persons, or business entity fail to maintain an arms  
4 length relationship between themselves with regard to any  
5 assets.

6 (3) the non-custodial parent transfers assets to  
7 the person, persons, or business entity with the intent  
8 to perpetrate a fraud on the custodial parent.

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

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

1 7-702.1 of the Illinois Vehicle Code, issue a family  
2 financial responsibility driving permit to the parent.

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

16 A support obligation, or any portion of a support  
17 obligation, which becomes due and remains unpaid for 30 days  
18 or more shall accrue simple interest at the rate of 9% per  
19 annum. An order for support entered or modified on or after  
20 January 1, 2002 shall contain a statement that a support  
21 obligation required under the order, or any portion of a  
22 support obligation required under the order, that becomes due  
23 and remains unpaid for 30 days or more shall accrue simple  
24 interest at the rate of 9% per annum. Failure to include the  
25 statement in the order for support does not affect the  
26 validity of the order or the accrual of interest as provided  
27 in this Section.

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

34 (d) Any new or existing support order entered by the

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

13 (e) When child support is to be paid through the clerk  
14 of the court in a county of 1,000,000 inhabitants or less,  
15 the order shall direct the obligor to pay to the clerk, in  
16 addition to the child support payments, all fees imposed by  
17 the county board under paragraph (3) of subsection (u) of  
18 Section 27.1 of the Clerks of Courts Act. Unless paid in  
19 cash or pursuant to an order for withholding, the payment of  
20 the fee shall be by a separate instrument from the support  
21 payment and shall be made to the order of the Clerk.

22 (f) All orders for support, when entered or modified,  
23 shall include a provision requiring the obligor to notify the  
24 court and, in cases in which a party is receiving child and  
25 spouse services under Article X of the Illinois Public Aid  
26 Code, the Illinois Department of Public Aid, within 7 days,  
27 (i) of the name and address of any new employer of the  
28 obligor, (ii) whether the obligor has access to health  
29 insurance coverage through the employer or other group  
30 coverage and, if so, the policy name and number and the names  
31 of persons covered under the policy, and (iii) of any new  
32 residential or mailing address or telephone number of the  
33 non-custodial parent. In any subsequent action to enforce a  
34 support order, upon a sufficient showing that a diligent



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

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

21 (h) An order entered under this Section shall include a  
22 provision requiring the obligor to report to the obligee and  
23 to the clerk of court within 10 days each time the obligor  
24 obtains new employment, and each time the obligor's  
25 employment is terminated for any reason. The report shall be  
26 in writing and shall, in the case of new employment, include  
27 the name and address of the new employer. Failure to report  
28 new employment or the termination of current employment, if  
29 coupled with nonpayment of support for a period in excess of  
30 60 days, is indirect criminal contempt. For any obligor  
31 arrested for failure to report new employment bond shall be  
32 set in the amount of the child support that should have been  
33 paid during the period of unreported employment. An order  
34 entered under this Section shall also include a provision

1 requiring the obligor and obligee parents to advise each  
2 other of a change in residence within 5 days of the change  
3 except when the court finds that the physical, mental, or  
4 emotional health of a party or that of a child, or both,  
5 would be seriously endangered by disclosure of the party's  
6 address.

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

12 (Source: P.A. 91-113, eff. 7-15-99; 91-397, eff. 1-1-00;  
13 91-655, eff. 6-1-00; 91-767, eff. 6-9-00; 92-16, eff.  
14 6-28-01; 92-203, eff. 8-1-01; 92-374, eff. 8-15-01; 92-651,  
15 eff. 7-11-02; 92-876, eff. 6-1-03.)