

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 minor
19 child includes the obligation to provide for the reasonable
20 and necessary physical, mental and emotional health needs of
21 the child.

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

Number of Children	Percent of Supporting Party's Net Income
1	20%
2	25%
3	32%
4	40%
5	45%
6 or more	50%

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

7 (a) the financial resources and needs of the
8 child;

9 (b) the financial resources and needs of the
10 custodial parent;

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

13 (d) the physical and emotional condition of
14 the child, and his educational needs; and

15 (e) the financial resources and needs of the
16 non-custodial parent.

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

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

24 (a) Federal income tax (properly calculated
25 withholding or estimated payments);

26 (b) State income tax (properly calculated
27 withholding or estimated payments);

28 (c) Social Security (FICA payments);

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

31 (e) Union dues;

32 (f) Dependent and individual
33 health/hospitalization insurance premiums;

34 (g) Prior obligations of support or

1 maintenance actually paid pursuant to a court order;

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

13 (i) Amounts properly deducted for federal
14 income tax purposes for depreciation of farm
15 machinery and equipment.

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

25 (4.5) In a proceeding for child support following
26 dissolution of the marriage by a court that lacked
27 personal jurisdiction over the absent spouse, and in
28 which the court is requiring payment of support for the
29 period before the date an order for current support is
30 entered, there is a rebuttable presumption that the
31 supporting party's net income for the prior period was
32 the same as his or her net income at the time the order
33 for current support is entered.

34 (5) If the net income cannot be determined because

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

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

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

1 (b) Failure of either parent to comply with an order to
2 pay support shall be punishable as in other cases of
3 contempt. In addition to other penalties provided by law the
4 Court may, after finding the parent guilty of contempt, order
5 that the 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
16 earnings of a parent during a sentence of periodic
17 imprisonment paid to the Clerk of the Circuit Court or to the
18 parent having custody or to the guardian having custody of
19 the minor children of the sentenced parent for the support of
20 said minor children until further order of the Court.

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

32 (1) the non-custodial parent and the person,
33 persons, or business entity maintain records together.

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

1 persons, or business entity fail to maintain an arms
2 length relationship between themselves with regard to any
3 assets.

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

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

15 The court may also order in cases where the parent is 90
16 days or more delinquent in payment of support or has been
17 adjudicated in arrears in an amount equal to 90 days
18 obligation or more, that the parent's Illinois driving
19 privileges be suspended until the court determines that the
20 parent is in compliance with the order of support. The court
21 may also order that the parent be issued a family financial
22 responsibility driving permit that would allow limited
23 driving privileges for employment and medical purposes in
24 accordance with Section 7-702.1 of the Illinois Vehicle Code.
25 The clerk of the circuit court shall certify the order
26 suspending the driving privileges of the parent or granting
27 the issuance of a family financial responsibility driving
28 permit to the Secretary of State on forms prescribed by the
29 Secretary. Upon receipt of the authenticated documents, the
30 Secretary of State shall suspend the parent's driving
31 privileges until further order of the court and shall, if
32 ordered by the court, subject to the provisions of Section
33 7-702.1 of the Illinois Vehicle Code, issue a family
34 financial 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
7 to a requirement that the person perform community service
8 under Section 50 of that Act or participate in a work
9 alternative program under Section 50 of that Act. A person
10 may not be required to participate in a work alternative
11 program under Section 50 of that Act if the person is
12 currently participating in a work program pursuant to Section
13 505.1 of this Act.

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

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

32 (d) Any new or existing support order entered by the
33 court under this Section shall be deemed to be a series of
34 judgments against the person obligated to pay support

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

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

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

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

5 (g) An order for support shall include a date on which
6 the current support obligation terminates. The termination
7 date shall be no earlier than the date on which the child
8 covered by the order will attain the age of majority or is
9 otherwise emancipated. The order for support shall state that
10 the termination date does not apply to any arrearage that may
11 remain unpaid on that date. Nothing in this subsection shall
12 be construed to prevent the court from modifying the order.

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

33 (i) The court does not lose the powers of contempt,
34 driver's license suspension, or other child support

1 enforcement mechanisms, including, but not limited to,
2 criminal prosecution as set forth in this Act, upon the
3 emancipation of the minor child or children.

4 (Source: P.A. 91-113, eff. 7-15-99; 91-397, eff. 1-1-00;
5 91-655, eff. 6-1-00; 91-767, eff. 6-9-00; 92-16, eff.
6 6-28-01; 92-203, eff. 8-1-01; 92-374, eff. 8-15-01; 92-651,
7 eff. 7-11-02.)