

1 AN ACT concerning child support.

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

4 Section 5. The Income Withholding for Support Act is
5 amended by changing Section 35 as follows:

6 (750 ILCS 28/35)

7 Sec. 35. Duties of payor.

8 (a) It shall be the duty of any payor who has been
9 served with an income withholding notice to deduct and pay
10 over income as provided in this Section. The payor shall
11 deduct the amount designated in the income withholding
12 notice, as supplemented by any notice provided pursuant to
13 subsection (f) of Section 45, beginning no later than the
14 next payment of income which is payable or creditable to the
15 obligor that occurs 14 days following the date the income
16 withholding notice was mailed, sent by facsimile or other
17 electronic means, or placed for personal delivery to or
18 service on the payor. The payor may combine all amounts
19 withheld for the benefit of an obligee or public office into
20 a single payment and transmit the payment with a listing of
21 obligors from whom withholding has been effected. The payor
22 shall pay the amount withheld to the State Disbursement Unit
23 within 7 business days after the date the amount would (but
24 for the duty to withhold income) have been paid or credited
25 to the obligor. If the payor knowingly fails to withhold the
26 amount designated in the income withholding notice or to pay
27 any amount withheld to the State Disbursement Unit within 7
28 business days after the date the amount would have been paid
29 or credited to the obligor, then the payor shall pay a
30 penalty of \$100 for each day that the withheld amount
31 designated in the income withholding notice (whether or not

1 withheld by the payor) is not paid to the State Disbursement
2 Unit after the period of 7 business days has expired. The
3 failure of a payor, on more than one occasion, to pay amounts
4 withheld to the State Disbursement Unit within 7 business
5 days after the date the amount would have been paid or
6 credited to the obligor creates a presumption that the payor
7 knowingly failed to pay over the amounts. This penalty may
8 be collected in a civil action which may be brought against
9 the payor in favor of the obligee or public office. A finding
10 of a payor's nonperformance within the time required under
11 this Act must be documented by a certified mail return
12 receipt showing the date the income withholding notice was
13 served on the payor. For purposes of this Act, a withheld
14 amount shall be considered paid by a payor on the date it is
15 mailed by the payor, or on the date an electronic funds
16 transfer of the amount has been initiated by the payor, or on
17 the date delivery of the amount has been initiated by the
18 payor. For each deduction, the payor shall provide the State
19 Disbursement Unit, at the time of transmittal, with the date
20 the amount would (but for the duty to withhold income) have
21 been paid or credited to the obligor.

22 After June 30, 2000, every payor that has 250 or more
23 employees shall use electronic funds transfer to pay all
24 amounts withheld under this Section. During the year 2001 and
25 during each year thereafter, every payor that has fewer than
26 250 employees and that withheld income under this Section
27 pursuant to 10 or more income withholding notices during
28 December of the preceding year shall use electronic funds
29 transfer to pay all amounts withheld under this Section.

30 Upon receipt of an income withholding notice requiring
31 that a minor child be named as a beneficiary of a health
32 insurance plan available through an employer or labor union
33 or trade union, the employer or labor union or trade union
34 shall immediately enroll the minor child as a beneficiary in

1 the health insurance plan designated by the income
2 withholding notice. The employer shall withhold any required
3 premiums and pay over any amounts so withheld and any
4 additional amounts the employer pays to the insurance carrier
5 in a timely manner. The employer or labor union or trade
6 union shall mail to the obligee, within 15 days of enrollment
7 or upon request, notice of the date of coverage, information
8 on the dependent coverage plan, and all forms necessary to
9 obtain reimbursement for covered health expenses, such as
10 would be made available to a new employee. When an order for
11 dependent coverage is in effect and the insurance coverage is
12 terminated or changed for any reason, the employer or labor
13 union or trade union shall notify the obligee within 10 days
14 of the termination or change date along with notice of
15 conversion privileges.

16 For withholding of income, the payor shall be entitled to
17 receive a fee not to exceed \$5 per month to be taken from the
18 income to be paid to the obligor.

19 (b) Whenever the obligor is no longer receiving income
20 from the payor, the payor shall return a copy of the income
21 withholding notice to the obligee or public office and shall
22 provide information for the purpose of enforcing this Act.

23 (c) Withholding of income under this Act shall be made
24 without regard to any prior or subsequent garnishments,
25 attachments, wage assignments, or any other claims of
26 creditors. Withholding of income under this Act shall not be
27 in excess of the maximum amounts permitted under the federal
28 Consumer Credit Protection Act. Income available for
29 withholding shall be applied first to the current support
30 obligation, then to any premium required for employer, labor
31 union, or trade union-related health insurance coverage
32 ordered under the order for support, and then to payments
33 required on past-due support obligations. If there is
34 insufficient available income remaining to pay the full

1 amount of the required health insurance premium after
2 withholding of income for the current support obligation,
3 then the remaining available income shall be applied to
4 payments required on past-due support obligations. If the
5 payor has been served with more than one income withholding
6 notice pertaining to the same obligor, the payor shall
7 allocate income available for withholding on a proportionate
8 share basis, giving priority to current support payments. A
9 payor who complies with an income withholding notice that is
10 regular on its face shall not be subject to civil liability
11 with respect to any individual, any agency, or any creditor
12 of the obligor for conduct in compliance with the notice.

13 (d) No payor shall discharge, discipline, refuse to hire
14 or otherwise penalize any obligor because of the duty to
15 withhold income.

16 (Source: P.A. 91-212, eff. 7-20-99; 91-677, eff. 1-5-00;
17 92-590, eff. 7-1-02.)