



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4383

Introduced 1/4/2006, by Rep. Patricia R. Bellock - James H. Meyer

SYNOPSIS AS INTRODUCED:

750 ILCS 5/505.2

from Ch. 40, par. 505.2

750 ILCS 45/14

from Ch. 40, par. 2514

Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that the court shall order the obligor to reimburse the obligee for 50% of the premium for placing the child on his or her health insurance policy if: (i) a health insurance plan is not available to the obligor through an employer or labor union or trade union and the court does not order the obligor to cover the child as a beneficiary of any health insurance plan that is available to the obligor on a group basis or as a beneficiary of an independent health insurance plan to be obtained by the obligor; or (ii) the obligor does not obtain medical insurance for the child within 90 days of the date of the court order requiring the obligor to obtain insurance for the child. Permits the court to order the obligor to reimburse the obligee for 100% of the premium for placing the child on his or her health insurance policy. Amends the Illinois Parentage Act of 1984. Instructs the court to use the guidelines in the listed Sections of the Illinois Marriage and Dissolution of Marriage Act for purposes of child health insurance coverage.

LRB094 13813 LCT 48977 b

1 AN ACT concerning families.

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 505.2 as follows:

6 (750 ILCS 5/505.2) (from Ch. 40, par. 505.2)

7 Sec. 505.2. Health insurance.

8 (a) Definitions. As used in this Section:

9 (1) "Obligee" means the individual to whom the duty of
10 support is owed or the individual's legal representative.

11 (2) "Obligor" means the individual who owes a duty of
12 support pursuant to an order for support.

13 (3) "Public office" means any elected official or any
14 State or local agency which is or may become responsible by
15 law for enforcement of, or which is or may become
16 authorized to enforce, an order for support, including, but
17 not limited to: the Attorney General, the Illinois
18 Department of Public Aid, the Illinois Department of Human
19 Services, the Illinois Department of Children and Family
20 Services, and the various State's Attorneys, Clerks of the
21 Circuit Court and supervisors of general assistance.

22 (4) "Child" shall have the meaning ascribed to it in
23 Section 505.

24 (b) Order.

25 (1) Whenever the court establishes, modifies or
26 enforces an order for child support or for child support
27 and maintenance the court shall include in the order a
28 provision for the health care coverage of the child which
29 shall, upon request of the obligee or Public Office,
30 require that any child covered by the order be named as a
31 beneficiary of any health insurance plan that is available
32 to the obligor through an employer or labor union or trade

1 union. If the court finds that such a plan is not available
2 to the obligor, or that the plan is not accessible to the
3 obligee, the court may, upon request of the obligee or
4 Public Office, order the obligor to name the child covered
5 by the order as a beneficiary of any health insurance plan
6 that is available to the obligor on a group basis, or as a
7 beneficiary of an independent health insurance plan to be
8 obtained by the obligor, after considering the following
9 factors:

10 (A) the medical needs of the child;

11 (B) the availability of a plan to meet those needs;

12 and

13 (C) the cost of such a plan to the obligor.

14 (2) If the employer or labor union or trade union
15 offers more than one plan, the order shall require the
16 obligor to name the child as a beneficiary of the plan in
17 which the obligor is enrolled.

18 (3) Nothing in this Section shall be construed to limit
19 the authority of the court to establish or modify a support
20 order to provide for payment of expenses, including
21 deductibles, copayments and any other health expenses,
22 which are in addition to expenses covered by an insurance
23 plan of which a child is ordered to be named a beneficiary
24 pursuant to this Section.

25 (c) Implementation and enforcement.

26 (1) When the court order requires that a minor child be
27 named as a beneficiary of a health insurance plan, other
28 than a health insurance plan available through an employer
29 or labor union or trade union, the obligor shall provide
30 written proof to the obligee or Public Office that the
31 required insurance has been obtained, or that application
32 for insurability has been made, within 30 days of receiving
33 notice of the court order. Unless the obligor was present
34 in court when the order was issued, notice of the order
35 shall be given pursuant to Illinois Supreme Court Rules. If
36 an obligor fails to provide the required proof, he may be

1 held in contempt of court.

2 (2) When the court requires that a child be named as a
3 beneficiary of a health insurance plan available through an
4 employer or labor union or trade union, the court's order
5 shall be implemented in accordance with the Income
6 Withholding for Support Act.

7 (2.5) The court shall order the obligor to reimburse
8 the obligee for 50% of the premium for placing the child on
9 his or her health insurance policy if:

10 (i) a health insurance plan is not available to the
11 obligor through an employer or labor union or trade
12 union and the court does not order the obligor to cover
13 the child as a beneficiary of any health insurance plan
14 that is available to the obligor on a group basis or as
15 a beneficiary of an independent health insurance plan
16 to be obtained by the obligor; or

17 (ii) the obligor does not obtain medical insurance
18 for the child within 90 days of the date of the court
19 order requiring the obligor to obtain insurance for the
20 child.

21 The court may order the obligor to reimburse the
22 obligee for 100% of the premium for placing the child on
23 his or her health insurance policy.

24 (d) Failure to maintain insurance. The dollar amount of the
25 premiums for court-ordered health insurance, or that portion of
26 the premiums for which the obligor is responsible in the case
27 of insurance provided under a group health insurance plan
28 through an employer or labor union or trade union where the
29 employer or labor union or trade union pays a portion of the
30 premiums, shall be considered an additional child support
31 obligation owed by the obligor. Whenever the obligor fails to
32 provide or maintain health insurance pursuant to an order for
33 support, the obligor shall be liable to the obligee for the
34 dollar amount of the premiums which were not paid, and shall
35 also be liable for all medical expenses incurred by the child
36 which would have been paid or reimbursed by the health

1 insurance which the obligor was ordered to provide or maintain.
2 In addition, the obligee may petition the court to modify the
3 order based solely on the obligor's failure to pay the premiums
4 for court-ordered health insurance.

5 (e) Authorization for payment. The signature of the obligee
6 is a valid authorization to the insurer to process a claim for
7 payment under the insurance plan to the provider of the health
8 care services or to the obligee.

9 (f) Disclosure of information. The obligor's employer or
10 labor union or trade union shall disclose to the obligee or
11 Public Office, upon request, information concerning any
12 dependent coverage plans which would be made available to a new
13 employee or labor union member or trade union member. The
14 employer or labor union or trade union shall disclose such
15 information whether or not a court order for medical support
16 has been entered.

17 (g) Employer obligations. If a parent is required by an
18 order for support to provide coverage for a child's health care
19 expenses and if that coverage is available to the parent
20 through an employer who does business in this State, the
21 employer must do all of the following upon receipt of a copy of
22 the order of support or order for withholding:

23 (1) The employer shall, upon the parent's request,
24 permit the parent to include in that coverage a child who
25 is otherwise eligible for that coverage, without regard to
26 any enrollment season restrictions that might otherwise be
27 applicable as to the time period within which the child may
28 be added to that coverage.

29 (2) If the parent has health care coverage through the
30 employer but fails to apply for coverage of the child, the
31 employer shall include the child in the parent's coverage
32 upon application by the child's other parent or the
33 Illinois Department of Public Aid.

34 (3) The employer may not eliminate any child from the
35 parent's health care coverage unless the employee is no
36 longer employed by the employer and no longer covered under

1 the employer's group health plan or unless the employer is
2 provided with satisfactory written evidence of either of
3 the following:

4 (A) The order for support is no longer in effect.

5 (B) The child is or will be included in a
6 comparable health care plan obtained by the parent
7 under such order that is currently in effect or will
8 take effect no later than the date the prior coverage
9 is terminated.

10 The employer may eliminate a child from a parent's
11 health care plan obtained by the parent under such order if
12 the employer has eliminated dependent health care coverage
13 for all of its employees.

14 (Source: P.A. 92-16, eff. 6-28-01; 92-876, eff. 6-1-03.)

15 Section 10. The Illinois Parentage Act of 1984 is amended
16 by changing Section 14 as follows:

17 (750 ILCS 45/14) (from Ch. 40, par. 2514)

18 Sec. 14. Judgment.

19 (a) (1) The judgment shall contain or explicitly reserve
20 provisions concerning any duty and amount of child support and
21 may contain provisions concerning the custody and guardianship
22 of the child, visitation privileges with the child, the
23 furnishing of bond or other security for the payment of the
24 judgment, which the court shall determine in accordance with
25 the relevant factors set forth in the Illinois Marriage and
26 Dissolution of Marriage Act and any other applicable law of
27 Illinois, to guide the court in a finding in the best interests
28 of the child. In determining custody, joint custody, removal,
29 or visitation, the court shall apply the relevant standards of
30 the Illinois Marriage and Dissolution of Marriage Act,
31 including Section 609. Specifically, in determining the amount
32 of any child support award or child health insurance coverage,
33 the court shall use the guidelines and standards set forth in
34 subsection (a) of Section 505 and in Section 505.2 of the

1 Illinois Marriage and Dissolution of Marriage Act. For purposes
2 of Section 505 of the Illinois Marriage and Dissolution of
3 Marriage Act, "net income" of the non-custodial parent shall
4 include any benefits available to that person under the
5 Illinois Public Aid Code or from other federal, State or local
6 government-funded programs. The court shall, in any event and
7 regardless of the amount of the non-custodial parent's net
8 income, in its judgment order the non-custodial parent to pay
9 child support to the custodial parent in a minimum amount of
10 not less than \$10 per month. In an action brought within 2
11 years after a child's birth, the judgment or order may direct
12 either parent to pay the reasonable expenses incurred by either
13 parent related to the mother's pregnancy and the delivery of
14 the child. The judgment or order shall contain the father's
15 social security number, which the father shall disclose to the
16 court; however, failure to include the father's social security
17 number on the judgment or order does not invalidate the
18 judgment or order.

19 (2) If a judgment of parentage contains no explicit award
20 of custody, the establishment of a support obligation or of
21 visitation rights in one parent shall be considered a judgment
22 granting custody to the other parent. If the parentage judgment
23 contains no such provisions, custody shall be presumed to be
24 with the mother; however, the presumption shall not apply if
25 the father has had physical custody for at least 6 months prior
26 to the date that the mother seeks to enforce custodial rights.

27 (b) The court shall order all child support payments,
28 determined in accordance with such guidelines, to commence with
29 the date summons is served. The level of current periodic
30 support payments shall not be reduced because of payments set
31 for the period prior to the date of entry of the support order.
32 The Court may order any child support payments to be made for a
33 period prior to the commencement of the action. In determining
34 whether and the extent to which the payments shall be made for
35 any prior period, the court shall consider all relevant facts,
36 including the factors for determining the amount of support

1 specified in the Illinois Marriage and Dissolution of Marriage
2 Act and other equitable factors including but not limited to:

3 (1) The father's prior knowledge of the fact and
4 circumstances of the child's birth.

5 (2) The father's prior willingness or refusal to help
6 raise or support the child.

7 (3) The extent to which the mother or the public agency
8 bringing the action previously informed the father of the
9 child's needs or attempted to seek or require his help in
10 raising or supporting the child.

11 (4) The reasons the mother or the public agency did not
12 file the action earlier.

13 (5) The extent to which the father would be prejudiced
14 by the delay in bringing the action.

15 For purposes of determining the amount of child support to
16 be paid for any period before the date the order for current
17 child support is entered, there is a rebuttable presumption
18 that the father's net income for the prior period was the same
19 as his net income at the time the order for current child
20 support is entered.

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

33 (c) Any new or existing support order entered by the court
34 under this Section shall be deemed to be a series of judgments
35 against the person obligated to pay support thereunder, each
36 judgment to be in the amount of each payment or installment of

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

9 (d) If the judgment or order of the court is at variance
10 with the child's birth certificate, the court shall order that
11 a new birth certificate be issued under the Vital Records Act.

12 (e) On request of the mother and the father, the court
13 shall order a change in the child's name. After hearing
14 evidence the court may stay payment of support during the
15 period of the father's minority or period of disability.

16 (f) If, upon a showing of proper service, the father fails
17 to appear in court, or otherwise appear as provided by law, the
18 court may proceed to hear the cause upon testimony of the
19 mother or other parties taken in open court and shall enter a
20 judgment by default. The court may reserve any order as to the
21 amount of child support until the father has received notice,
22 by regular mail, of a hearing on the matter.

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

29 (h) All orders for support, when entered or modified, shall
30 include a provision requiring the non-custodial parent to
31 notify the court and, in cases in which party is receiving
32 child support enforcement services under Article X of the
33 Illinois Public Aid Code, the Illinois Department of Public
34 Aid, within 7 days, (i) of the name and address of any new
35 employer of the non-custodial parent, (ii) whether the
36 non-custodial parent has access to health insurance coverage

1 through the employer or other group coverage and, if so, the
2 policy name and number and the names of persons covered under
3 the policy, and (iii) of any new residential or mailing address
4 or telephone number of the non-custodial parent. In any
5 subsequent action to enforce a support order, upon a sufficient
6 showing that a diligent effort has been made to ascertain the
7 location of the non-custodial parent, service of process or
8 provision of notice necessary in the case may be made at the
9 last known address of the non-custodial parent in any manner
10 expressly provided by the Code of Civil Procedure or this Act,
11 which service shall be sufficient for purposes of due process.

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

25 (i-5) If there is an unpaid arrearage or delinquency (as
26 those terms are defined in the Income Withholding for Support
27 Act) equal to at least one month's support obligation on the
28 termination date stated in the order for support or, if there
29 is no termination date stated in the order, on the date the
30 child attains the age of majority or is otherwise emancipated,
31 the periodic amount required to be paid for current support of
32 that child immediately prior to that date shall automatically
33 continue to be an obligation, not as current support but as
34 periodic payment toward satisfaction of the unpaid arrearage or
35 delinquency. That periodic payment shall be in addition to any
36 periodic payment previously required for satisfaction of the

1 arrearage or delinquency. The total periodic amount to be paid
2 toward satisfaction of the arrearage or delinquency may be
3 enforced and collected by any method provided by law for
4 enforcement and collection of child support, including but not
5 limited to income withholding under the Income Withholding for
6 Support Act. Each order for support entered or modified on or
7 after the effective date of this amendatory Act of the 93rd
8 General Assembly must contain a statement notifying the parties
9 of the requirements of this subsection. Failure to include the
10 statement in the order for support does not affect the validity
11 of the order or the operation of the provisions of this
12 subsection with regard to the order. This subsection shall not
13 be construed to prevent or affect the establishment or
14 modification of an order for support of a minor child or the
15 establishment or modification of an order for support of a
16 non-minor child or educational expenses under Section 513 of
17 the Illinois Marriage and Dissolution of Marriage Act.

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

1 (Source: P.A. 92-590, eff. 7-1-02; 92-876, eff. 6-1-03; 93-139,
2 eff. 7-10-03; 93-1061, eff. 1-1-05.)