



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB1452

by Rep. Kelly Burke

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Alienation of Affections Act, the Breach of Promise Act, and the Criminal Conversation Act to abolish actions for alienation of affections, breach of promise to marry, and criminal conversation, changes the short titles of those Acts, amends the Code of Civil Procedure to make a conforming change, and contains findings. Amends the Illinois Marriage and Dissolution of Marriage Act by making changes regarding: construction of the Act; venue; pleadings; solemnization of marriage; offenses involving issuance of licenses; grounds for dissolution of marriage; judgments for legal separation; mediation; costs of educational sessions; hearings on default; filing of a praecipe for summons; time for entering judgments; simplified dissolution procedure; temporary relief; dissolution action stays; agreements; disposition of property and debts; child support; attorney's fees; modification of provisions of judgments; educational expenses; support for disabled children who have attained majority; custody proceedings, hearings, and orders; allocation and restriction of parental responsibilities; parenting plans; interviews and evaluations of children; enforcement of allocated parenting time; parental relocation; applicability; repeal of various provisions; and other matters. Amends the Intergovernmental Missing Child Recovery Act of 1984, the Code of Criminal Procedure of 1963, the Illinois Domestic Violence Act of 1986, and the Probate Act of 1975 to make conforming changes.

LRB098 02948 HEP 32963 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

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 ARTICLE 1. HEART BALM ACTIONS

5 Section 1-1. Findings. The majority of states have  
6 abolished heart balm actions. In Illinois, heart balm actions  
7 for alienation of affections, breach of promise to marry, and  
8 criminal conversation were permitted under the common law  
9 before the abolition of those causes of action by "An Act in  
10 relation to certain causes of action conducive to extortion and  
11 blackmail, and to declare illegal, contracts and Acts made and  
12 done in pursuance thereof", filed May 4, 1935, Laws 1935, p.  
13 716. The Illinois Supreme Court held, in Heck v. Schupp, 394  
14 Ill. 296 (1946), that the 1935 Act was unconstitutional and  
15 that the abolition of heart balm actions would infringe upon  
16 the rights of parties to remedies under Section 19 of Article  
17 II of the 1870 Constitution. (Section 12 of Article I of the  
18 1970 Constitution is similar to the relevant portion of Section  
19 19 of Article II of the 1870 Constitution.) Since 1947, heart  
20 balm actions have been permitted with limited damages under the  
21 Alienation of Affections Act, the Breach of Promise Act, and  
22 the Criminal Conversation Act.

23 Society has since recognized that the amicable settlement

1 of domestic relations disputes is beneficial. In 1977, the  
2 Illinois Marriage and Dissolution of Marriage Act became the  
3 law of this State. As stated in Section 102 of that Act, among  
4 its underlying purposes are: promoting the amicable settlement  
5 of disputes that have arisen between parties to a marriage;  
6 mitigating the potential harm to the spouses and their children  
7 caused by the process of legal dissolution of marriage; and  
8 eliminating the consideration of marital misconduct in the  
9 adjudication of rights and duties incident to the legal  
10 dissolution of marriage, legal separation and declaration of  
11 invalidity of marriage. Heart balm actions are inconsistent  
12 with these purposes.

13 Society has also realized that women and men should have  
14 equal rights under the law. Heart balm actions are rooted in  
15 the now-discredited notion that men and women are unequal.

16 Although the Alienation of Affections Act, the Breach of  
17 Promise Act, and the Criminal Conversation Act represent  
18 attempts to ameliorate some of the more odious consequences of  
19 heart balm actions, the General Assembly finds that actions for  
20 alienation of affections, breach of promise to marry, and  
21 criminal conversation are contrary to the public policy of this  
22 State and those causes of action should be abolished.

23 Section 1-5. The Code of Civil Procedure is amended by  
24 changing Section 13-202 as follows:

1 (735 ILCS 5/13-202) (from Ch. 110, par. 13-202)

2 Sec. 13-202. Personal injury - Penalty. Actions for damages  
3 for an injury to the person, or for false imprisonment, or  
4 malicious prosecution, or for a statutory penalty, or for  
5 abduction, or for seduction, or for criminal conversation that  
6 may proceed pursuant to subsection (a) of Section 7.1 of the  
7 Criminal Conversation Abolition Act, except damages resulting  
8 from first degree murder or the commission of a Class X felony  
9 and the perpetrator thereof is convicted of such crime, shall  
10 be commenced within 2 years next after the cause of action  
11 accrued but such an action against a defendant arising from a  
12 crime committed by the defendant in whose name an escrow  
13 account was established under the "Criminal Victims' Escrow  
14 Account Act" shall be commenced within 2 years after the  
15 establishment of such account. If the compelling of a  
16 confession or information by imminent bodily harm or threat of  
17 imminent bodily harm results in whole or in part in a criminal  
18 prosecution of the plaintiff, the 2-year period set out in this  
19 Section shall be tolled during the time in which the plaintiff  
20 is incarcerated, or until criminal prosecution has been finally  
21 adjudicated in favor of the above referred plaintiff, whichever  
22 is later. However, this provision relating to the compelling of  
23 a confession or information shall not apply to units of local  
24 government subject to the Local Governmental and Governmental  
25 Employees Tort Immunity Act.

26 (Source: P.A. 94-1113, eff. 1-1-08.)

1 Section 1-10. The Alienation of Affections Act is amended  
2 by changing the title of the Act and Section 0.01 and by adding  
3 Section 7.1 as follows:

4 (740 ILCS 5/Act title)

5 An Act relating to ~~the damages recoverable in~~ actions for  
6 alienation of affections.

7 (740 ILCS 5/0.01) (from Ch. 40, par. 1900)

8 Sec. 0.01. Short title. This Act may be cited as the  
9 Alienation of Affections Abolition Act.

10 (Source: P.A. 86-1324.)

11 (740 ILCS 5/7.1 new)

12 Sec. 7.1. Abolition; effect of repeal.

13 (a) This amendatory Act of the 98th General Assembly does  
14 not apply to any cause of action that accrued under Sections 1  
15 through 7 of this Act before their repeal, and a timely action  
16 brought under those Sections shall be decided in accordance  
17 with those Sections as they existed when the cause of action  
18 accrued.

19 (b) An action may not be brought for alienation of  
20 affections based on facts occurring on or after the effective  
21 date of this amendatory Act of the 98th General Assembly.

1 (740 ILCS 5/1 rep.)

2 (740 ILCS 5/2 rep.)

3 (740 ILCS 5/3 rep.)

4 (740 ILCS 5/4 rep.)

5 (740 ILCS 5/5 rep.)

6 (740 ILCS 5/6 rep.)

7 (740 ILCS 5/7 rep.)

8 Section 1-15. The Alienation of Affections Act is amended  
9 by repealing Sections 1, 2, 3, 4, 5, 6, and 7.

10 Section 1-20. The Breach of Promise Act is amended by  
11 changing Section 0.01 and by adding Section 10.1 as follows:

12 (740 ILCS 15/0.01) (from Ch. 40, par. 1800)

13 Sec. 0.01. Short title. This Act may be cited as the Breach  
14 of Promise Abolition Act.

15 (Source: P.A. 86-1324.)

16 (740 ILCS 15/10.1 new)

17 Sec. 10.1. Abolition; effect of repeal.

18 (a) This amendatory Act of the 98th General Assembly does  
19 not apply to any cause of action that accrued under Sections 1  
20 through 10 of this Act before their repeal, and a timely action  
21 brought under those Sections shall be decided in accordance  
22 with those Sections as they existed when the cause of action  
23 accrued.

1       (b) An action may not be brought for breach of promise or  
2       agreement to marry based on facts occurring on or after the  
3       effective date of this amendatory Act of the 98th General  
4       Assembly.

5           (740 ILCS 15/1 rep.)

6           (740 ILCS 15/2 rep.)

7           (740 ILCS 15/3 rep.)

8           (740 ILCS 15/4 rep.)

9           (740 ILCS 15/5 rep.)

10          (740 ILCS 15/6 rep.)

11          (740 ILCS 15/7 rep.)

12          (740 ILCS 15/8 rep.)

13          (740 ILCS 15/9 rep.)

14          (740 ILCS 15/10 rep.)

15           Section 1-25. The Breach of Promise Act is amended by  
16       repealing Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10.

17           Section 1-30. The Criminal Conversation Act is amended by  
18       changing the title of the Act and Section 0.01 and by adding  
19       Section 7.1 as follows:

20           (740 ILCS 50/Act title)

21           An Act relating to ~~the damages recoverable in~~ actions for  
22       criminal conversation.

1 (740 ILCS 50/0.01) (from Ch. 40, par. 1950)

2 Sec. 0.01. Short title. This Act may be cited as the  
3 Criminal Conversation Abolition Act.

4 (Source: P.A. 86-1324.)

5 (740 ILCS 50/7.1 new)

6 Sec. 7.1. Abolition; effect of repeal.

7 (a) This amendatory Act of the 98th General Assembly does  
8 not apply to any cause of action that accrued under Sections 1  
9 through 7 of this Act before their repeal, and a timely action  
10 brought under those Sections shall be decided in accordance  
11 with those Sections as they existed when the cause of action  
12 accrued.

13 (b) An action may not be brought for criminal conversation  
14 based on facts occurring on or after the effective date of this  
15 amendatory Act of the 98th General Assembly.

16 (740 ILCS 50/1 rep.)

17 (740 ILCS 50/2 rep.)

18 (740 ILCS 50/3 rep.)

19 (740 ILCS 50/4 rep.)

20 (740 ILCS 50/5 rep.)

21 (740 ILCS 50/6 rep.)

22 (740 ILCS 50/7 rep.)

23 Section 1-35. The Criminal Conversation Act is amended by  
24 repealing Sections 1, 2, 3, 4, 5, 6, and 7.



1                   ARTICLE 5. OTHER AMENDATORY PROVISIONS

2           Section 5-5. The Intergovernmental Missing Child Recovery  
3 Act of 1984 is amended by changing Section 7.1 as follows:

4           (325 ILCS 40/7.1) (from Ch. 23, par. 2257.1)

5           Sec. 7.1. In addition to any requirement of Section 601.2  
6 ~~601 or 611~~ of the Illinois Marriage and Dissolution of Marriage  
7 Act or applicable provisions of the Uniform Child-Custody  
8 Jurisdiction and Enforcement Act regarding a parental  
9 allocation ~~custody~~ proceeding of an out-of-state party, every  
10 court in this State, prior to granting or modifying a parental  
11 allocation ~~custody~~ judgment, shall inquire with LEADS and the  
12 National Crime Information Center to ascertain whether the  
13 child or children in question have been reported missing or  
14 have been involved in or are the victims of a parental or  
15 noncustodial abduction. Such inquiry may be conducted with any  
16 law enforcement agency in this State that maintains a LEADS  
17 terminal or has immediate access to one on a 24-hour-per-day,  
18 7-day-per-week basis through a written agreement with another  
19 law enforcement agency.

20           (Source: P.A. 93-108, eff. 1-1-04.)

21           Section 5-10. The Code of Criminal Procedure of 1963 is  
22 amended by changing Section 112A-23 as follows:

1 (725 ILCS 5/112A-23) (from Ch. 38, par. 112A-23)

2 Sec. 112A-23. Enforcement of orders of protection.

3 (a) When violation is crime. A violation of any order of  
4 protection, whether issued in a civil, quasi-criminal  
5 proceeding, shall be enforced by a criminal court when:

6 (1) The respondent commits the crime of violation of an  
7 order of protection pursuant to Section 12-3.4 or 12-30 of  
8 the Criminal Code of 1961, by having knowingly violated:

9 (i) remedies described in paragraphs (1), (2),  
10 (3), (14), or (14.5) of subsection (b) of Section  
11 112A-14,

12 (ii) a remedy, which is substantially similar to  
13 the remedies authorized under paragraphs (1), (2),  
14 (3), (14) or (14.5) of subsection (b) of Section 214 of  
15 the Illinois Domestic Violence Act of 1986, in a valid  
16 order of protection, which is authorized under the laws  
17 of another state, tribe or United States territory,

18 (iii) or any other remedy when the act constitutes  
19 a crime against the protected parties as defined by the  
20 Criminal Code of 1961.

21 Prosecution for a violation of an order of protection shall  
22 not bar concurrent prosecution for any other crime, including  
23 any crime that may have been committed at the time of the  
24 violation of the order of protection; or

25 (2) The respondent commits the crime of child abduction

1           pursuant to Section 10-5 of the Criminal Code of 1961, by  
2           having knowingly violated:

3                   (i) remedies described in paragraphs (5), (6) or  
4                   (8) of subsection (b) of Section 112A-14, or

5                   (ii) a remedy, which is substantially similar to  
6                   the remedies authorized under paragraphs (1), (5),  
7                   (6), or (8) of subsection (b) of Section 214 of the  
8                   Illinois Domestic Violence Act of 1986, in a valid  
9                   order of protection, which is authorized under the laws  
10                  of another state, tribe or United States territory.

11           (b) When violation is contempt of court. A violation of any  
12           valid order of protection, whether issued in a civil or  
13           criminal proceeding, may be enforced through civil or criminal  
14           contempt procedures, as appropriate, by any court with  
15           jurisdiction, regardless where the act or acts which violated  
16           the order of protection were committed, to the extent  
17           consistent with the venue provisions of this Article. Nothing  
18           in this Article shall preclude any Illinois court from  
19           enforcing any valid order of protection issued in another  
20           state. Illinois courts may enforce orders of protection through  
21           both criminal prosecution and contempt proceedings, unless the  
22           action which is second in time is barred by collateral estoppel  
23           or the constitutional prohibition against double jeopardy.

24                   (1) In a contempt proceeding where the petition for a  
25                   rule to show cause sets forth facts evidencing an immediate  
26                   danger that the respondent will flee the jurisdiction,

1           conceal a child, or inflict physical abuse on the  
2           petitioner or minor children or on dependent adults in  
3           petitioner's care, the court may order the attachment of  
4           the respondent without prior service of the rule to show  
5           cause or the petition for a rule to show cause. Bond shall  
6           be set unless specifically denied in writing.

7           (2) A petition for a rule to show cause for violation  
8           of an order of protection shall be treated as an expedited  
9           proceeding.

10          (c) Violation of custody, allocation of parental  
11 responsibility, or support orders. A violation of remedies  
12 described in paragraphs (5), (6), (8), or (9) of subsection (b)  
13 of Section 112A-14 may be enforced by any remedy provided by  
14 Section 607.5 ~~611~~ of the Illinois Marriage and Dissolution of  
15 Marriage Act. The court may enforce any order for support  
16 issued under paragraph (12) of subsection (b) of Section  
17 112A-14 in the manner provided for under Parts V and VII of the  
18 Illinois Marriage and Dissolution of Marriage Act.

19          (d) Actual knowledge. An order of protection may be  
20 enforced pursuant to this Section if the respondent violates  
21 the order after respondent has actual knowledge of its contents  
22 as shown through one of the following means:

23           (1) By service, delivery, or notice under Section  
24           112A-10.

25           (2) By notice under Section 112A-11.

26           (3) By service of an order of protection under Section

1 112A-22.

2 (4) By other means demonstrating actual knowledge of  
3 the contents of the order.

4 (e) The enforcement of an order of protection in civil or  
5 criminal court shall not be affected by either of the  
6 following:

7 (1) The existence of a separate, correlative order  
8 entered under Section 112A-15.

9 (2) Any finding or order entered in a conjoined  
10 criminal proceeding.

11 (f) Circumstances. The court, when determining whether or  
12 not a violation of an order of protection has occurred, shall  
13 not require physical manifestations of abuse on the person of  
14 the victim.

15 (g) Penalties.

16 (1) Except as provided in paragraph (3) of this  
17 subsection, where the court finds the commission of a crime  
18 or contempt of court under subsections (a) or (b) of this  
19 Section, the penalty shall be the penalty that generally  
20 applies in such criminal or contempt proceedings, and may  
21 include one or more of the following: incarceration,  
22 payment of restitution, a fine, payment of attorneys' fees  
23 and costs, or community service.

24 (2) The court shall hear and take into account evidence  
25 of any factors in aggravation or mitigation before deciding  
26 an appropriate penalty under paragraph (1) of this

1 subsection.

2 (3) To the extent permitted by law, the court is  
3 encouraged to:

4 (i) increase the penalty for the knowing violation  
5 of any order of protection over any penalty previously  
6 imposed by any court for respondent's violation of any  
7 order of protection or penal statute involving  
8 petitioner as victim and respondent as defendant;

9 (ii) impose a minimum penalty of 24 hours  
10 imprisonment for respondent's first violation of any  
11 order of protection; and

12 (iii) impose a minimum penalty of 48 hours  
13 imprisonment for respondent's second or subsequent  
14 violation of an order of protection

15 unless the court explicitly finds that an increased penalty  
16 or that period of imprisonment would be manifestly unjust.

17 (4) In addition to any other penalties imposed for a  
18 violation of an order of protection, a criminal court may  
19 consider evidence of any violations of an order of  
20 protection:

21 (i) to increase, revoke or modify the bail bond on  
22 an underlying criminal charge pursuant to Section  
23 110-6;

24 (ii) to revoke or modify an order of probation,  
25 conditional discharge or supervision, pursuant to  
26 Section 5-6-4 of the Unified Code of Corrections;

1 (iii) to revoke or modify a sentence of periodic  
2 imprisonment, pursuant to Section 5-7-2 of the Unified  
3 Code of Corrections.

4 (Source: P.A. 95-331, eff. 8-21-07; 96-1551, eff. 7-1-11.)

5 Section 5-15. The Illinois Marriage and Dissolution of  
6 Marriage Act is amended by changing Sections 102, 104, 105,  
7 107, 209, 219, 401, 402, 403, 404, 404.1, 405, 409, 411, 413,  
8 452, 453, 501, 501.1, 502, 503, 504, 505, 505.1, 508, 510, 512,  
9 and 513 and the heading of Part VI and by adding Sections  
10 513.5, 600, 601.2, 602.5, 602.7, 602.10, 603.5, 603.10, 604.10,  
11 606.5, 606.10, 607.5, 609.2, 610.5, and 612 as follows:

12 (750 ILCS 5/102) (from Ch. 40, par. 102)

13 Sec. 102. Purposes; Rules of Construction. This Act shall  
14 be liberally construed and applied to promote its underlying  
15 purposes, which are to:

16 (1) provide adequate procedures for the solemnization and  
17 registration of marriage;

18 (2) strengthen and preserve the integrity of marriage and  
19 safeguard family relationships;

20 (3) promote the amicable settlement of disputes that have  
21 arisen between parties to a marriage;

22 (4) mitigate the potential harm to ~~the~~ spouses and their  
23 children caused by the process of an action brought under this  
24 Act, and protect children from exposure to conflict and

1 violence legal dissolution of marriage;

2 (5) ensure predictable decision-making for the care of  
3 children and for the allocation of parenting time and other  
4 parental responsibilities, and avoid prolonged uncertainty by  
5 expeditiously resolving issues involving children;

6 (6) recognize the right of children to a healthy  
7 relationship with parents, and the responsibility of parents to  
8 ensure such a relationship;

9 (7) acknowledge that the determination of children's best  
10 interests, and the allocation of parenting time and significant  
11 decision-making responsibilities, are among the paramount  
12 responsibilities of our system of justice, and to that end:

13 (A) recognize children's right to a strong and healthy  
14 relationship with parents, and parents' concomitant right  
15 and responsibility to create and maintain such  
16 relationships;

17 (B) recognize that, in the absence of domestic violence  
18 or any other factor that the court expressly finds to be  
19 relevant, proximity to, and frequent contact with, both  
20 parents promotes healthy development of children;

21 (C) facilitate parental planning and agreement about  
22 the children's upbringing and allocation of parenting time  
23 and other parental responsibilities;

24 (D) continue existing parent-child relationships, and  
25 secure the maximum involvement and cooperation of parents  
26 regarding the physical, mental, moral, and emotional



1 well-being of the children during and after the litigation;

2 (E) recognize that the involvement of each parent for  
3 not less than 35% residential parenting time is  
4 presumptively in the children's best interest; and

5 (F) promote or order parents to participate in programs  
6 designed to educate parents to:

7 (i) minimize or eliminate rancor and the  
8 detrimental effect of litigation in any proceeding  
9 involving children; and

10 (ii) facilitate the maximum cooperation of parents  
11 in raising their children;

12 (8) ~~(5)~~ make reasonable provision for support spouses and  
13 ~~minor children~~ during and after an underlying action for  
14 dissolution of marriage litigation, including provision for  
15 timely advances awards of interim fees and costs to all  
16 attorneys, experts, and opinion witnesses including guardians  
17 ad litem and children's representatives, to achieve  
18 substantial parity in parties' access to funds for pre-judgment  
19 litigation costs in an action for dissolution of marriage;

20 (9) ~~(6)~~ eliminate the consideration of marital misconduct  
21 in the adjudication of rights and duties incident to ~~the legal~~  
22 dissolution of marriage, legal separation and declaration of  
23 invalidity of marriage; and

24 ~~(7) secure the maximum involvement and cooperation of both~~  
25 ~~parents regarding the physical, mental, moral and emotional~~  
26 ~~well being of the children during and after the litigation; and~~

1        (10) ~~(8)~~ make provision for the preservation and  
2 conservation of marital assets during the litigation.

3        (Source: P.A. 89-712, eff. 6-1-97.)

4            (750 ILCS 5/104) (from Ch. 40, par. 104)

5        Sec. 104. Venue.) The proceedings shall be had in the  
6 county where the plaintiff or defendant resides, except as  
7 otherwise provided herein, but process may be directed to any  
8 county in the State. Objection to venue is barred if not made  
9 within such time as the defendant's response is due. In no  
10 event shall venue be deemed jurisdictional.

11        In any case brought pursuant to this Act where neither the  
12 petitioner nor respondent resides in the county in which the  
13 initial pleading is filed, the petitioner shall file with the  
14 initial pleading a written motion, which shall be set for  
15 hearing and ruled upon before any other issue is taken up,  
16 advising that the forum selected is not one of proper venue and  
17 seeking an appropriate order from the court allowing a waiver  
18 of the venue requirements of this Section.

19        (Source: P.A. 82-716.)

20            (750 ILCS 5/105) (from Ch. 40, par. 105)

21        Sec. 105. Application of Civil Practice Law.) (a) The  
22 provisions of the Civil Practice Law shall apply to all  
23 proceedings under this Act, except as otherwise provided in  
24 this Act.

1 (b) A proceeding for dissolution of marriage, legal  
2 separation or declaration of invalidity of marriage shall be  
3 entitled "In re the Marriage of ... and ...". A custody or  
4 support proceeding shall be entitled "In re the (Custody)  
5 (Support) of ...".

6 (c) The initial pleading in all proceedings under this Act  
7 shall be denominated a petition. A responsive pleading shall be  
8 denominated a response. If new matter by way of defense is  
9 pleaded in the response, a reply may be filed by the  
10 petitioner, but the failure to reply is not an admission of the  
11 legal sufficiency of the new matter. All other pleadings under  
12 this Act shall be denominated as provided in the Civil Practice  
13 Law.

14 (Source: P.A. 82-783.)

15 (750 ILCS 5/107) (from Ch. 40, par. 107)

16 Sec. 107. Order of protection; status. Whenever relief is  
17 sought under Part V, Part VI or Part VII of this Act, the  
18 parties shall advise the court, before granting relief, shall  
19 ~~determine~~ whether any order of protection has previously been  
20 entered in the instant proceeding or any other proceeding in  
21 which any party, or a child of any party, or both, if relevant,  
22 has been designated as either a respondent or a protected  
23 person.

24 (Source: P.A. 87-743.)

1 (750 ILCS 5/209) (from Ch. 40, par. 209)

2 Sec. 209. Solemnization and Registration.)

3 (a) A marriage may be solemnized by a judge of a court of  
4 record, by a retired judge of a court of record, unless the  
5 retired judge was removed from office by the Judicial Inquiry  
6 Board, except that a retired judge shall not receive any  
7 compensation from the State, a county or any unit of local  
8 government in return for the solemnization of a marriage and  
9 there shall be no effect upon any pension benefits conferred by  
10 the Judges Retirement System of Illinois, by a judge of the  
11 Court of Claims, by a county clerk in counties having 2,000,000  
12 or more inhabitants, by a public official whose powers include  
13 solemnization of marriages, or in accordance with the  
14 prescriptions of any religious denomination, Indian Nation or  
15 Tribe or Native Group, provided that when such prescriptions  
16 require an officiant, the officiant be in good standing with  
17 his religious denomination, Indian Nation or Tribe or Native  
18 Group. Either the person solemnizing the marriage, or, if no  
19 individual acting alone solemnized the marriage, both parties  
20 to the marriage, shall complete the marriage certificate form  
21 and forward it to the county clerk within 10 days after such  
22 marriage is solemnized.

23 (b) The solemnization of the marriage is not invalidated:  
24 (1) by the fact that the person solemnizing the marriage was  
25 not legally qualified to solemnize it, if a reasonable person  
26 would believe the person solemnizing the marriage to be so

1 ~~qualified; if either party to the marriage believed him to be~~  
2 ~~so qualified~~ or (2) by the fact that the marriage was  
3 inadvertently solemnized in a county in Illinois other than the  
4 county where the license was issued and filed.

5 (c) Any marriage that meets the requirements of this  
6 Section shall be presumed valid.

7 (Source: P.A. 95-775, eff. 1-1-09.)

8 (750 ILCS 5/219) (from Ch. 40, par. 219)

9 Sec. 219. Offenses.) Any official issuing a license with  
10 knowledge that the parties are thus prohibited from marrying  
11 ~~intermarrying~~ and any person authorized to celebrate marriage  
12 who shall knowingly celebrate such a marriage shall be guilty  
13 of a Class B misdemeanor ~~petty offense~~.

14 (Source: P.A. 80-923.)

15 (750 ILCS 5/401) (from Ch. 40, par. 401)

16 Sec. 401. Dissolution of marriage.

17 (a) The court shall enter a judgment of dissolution of  
18 marriage when ~~if~~ at the time the action was commenced one of  
19 the spouses was a resident of this State or was stationed in  
20 this State while a member of the armed services, and the  
21 residence or military presence had been maintained for 90 days  
22 next preceding the commencement of the action or the making of  
23 the finding and the following have been proven:

24 Irreconcilable differences have caused the irretrievable

1 breakdown of the marriage and the court determines that efforts  
2 at reconciliation have failed or that future attempts at  
3 reconciliation would be impracticable and not in the best  
4 interests of the family.

5 (a-5) If the parties are separated for 6 consecutive  
6 months, which period may commence prior to or after the filing  
7 of an action for dissolution of marriage under this Act, there  
8 will be an irrefutable presumption that the requirement of  
9 irreconcilable differences exists.; ~~provided, however, that a~~  
10 ~~finding of residence of a party in any judgment entered under~~  
11 ~~this Act from January 1, 1982 through June 30, 1982 shall~~  
12 ~~satisfy the former domicile requirements of this Act; and if~~  
13 ~~one of the following grounds for dissolution has been proved:~~

14 ~~(1) That, without cause or provocation by the~~  
15 ~~petitioner: the respondent was at the time of such~~  
16 ~~marriage, and continues to be naturally impotent; the~~  
17 ~~respondent had a wife or husband living at the time of the~~  
18 ~~marriage; the respondent had committed adultery subsequent~~  
19 ~~to the marriage; the respondent has wilfully deserted or~~  
20 ~~absented himself or herself from the petitioner for the~~  
21 ~~space of one year, including any period during which~~  
22 ~~litigation may have pended between the spouses for~~  
23 ~~dissolution of marriage or legal separation; the~~  
24 ~~respondent has been guilty of habitual drunkenness for the~~  
25 ~~space of 2 years; the respondent has been guilty of gross~~  
26 ~~and confirmed habits caused by the excessive use of~~

1 ~~addictive drugs for the space of 2 years, or has attempted~~  
2 ~~the life of the other by poison or other means showing~~  
3 ~~malice, or has been guilty of extreme and repeated physical~~  
4 ~~or mental cruelty, or has been convicted of a felony or~~  
5 ~~other infamous crime; or the respondent has infected the~~  
6 ~~other with a sexually transmitted disease. "Excessive use~~  
7 ~~of addictive drugs", as used in this Section, refers to use~~  
8 ~~of an addictive drug by a person when using the drug~~  
9 ~~becomes a controlling or a dominant purpose of his life; or~~

10 ~~(2) That the spouses have lived separate and apart for~~  
11 ~~a continuous period in excess of 2 years and irreconcilable~~  
12 ~~differences have caused the irretrievable breakdown of the~~  
13 ~~marriage and the court determines that efforts at~~  
14 ~~reconciliation have failed or that future attempts at~~  
15 ~~reconciliation would be impracticable and not in the best~~  
16 ~~interests of the family. If the spouses have lived separate~~  
17 ~~and apart for a continuous period of not less than 6 months~~  
18 ~~next preceding the entry of the judgment dissolving the~~  
19 ~~marriage, as evidenced by testimony or affidavits of the~~  
20 ~~spouses, the requirement of living separate and apart for a~~  
21 ~~continuous period in excess of 2 years may be waived upon~~  
22 ~~written stipulation of both spouses filed with the court.~~  
23 ~~At any time after the parties cease to cohabit, the~~  
24 ~~following periods shall be included in the period of~~  
25 ~~separation:~~

26 ~~(A) any period of cohabitation during which the~~

1 ~~parties attempted in good faith to reconcile and~~  
2 ~~participated in marriage counseling under the guidance~~  
3 ~~of any of the following: a psychiatrist, a clinical~~  
4 ~~psychologist, a clinical social worker, a marriage and~~  
5 ~~family therapist, a person authorized to provide~~  
6 ~~counseling in accordance with the prescriptions of any~~  
7 ~~religious denomination, or a person regularly engaged~~  
8 ~~in providing family or marriage counseling; and~~

9 ~~(B) any period of cohabitation under written~~  
10 ~~agreement of the parties to attempt to reconcile.~~

11 ~~In computing the period during which the spouses have lived~~  
12 ~~separate and apart for purposes of this Section, periods during~~  
13 ~~which the spouses were living separate and apart prior to July~~  
14 ~~1, 1984 are included.~~

15 (b) Judgment shall not be entered unless, to the extent it  
16 has jurisdiction to do so, the court has considered, approved,  
17 reserved or made provision for child custody, the support of  
18 any child of the marriage entitled to support, the maintenance  
19 of either spouse and the disposition of property. The court  
20 shall ~~may~~ enter a judgment for dissolution that reserves any of  
21 these issues either upon (i) agreement of the parties, or (ii)  
22 motion of either party and a finding by the court that  
23 appropriate circumstances exist.

24 The death of a party subsequent to entry of a judgment for  
25 dissolution but before judgment on reserved issues shall not  
26 abate the proceedings.



1           If any provision of this Section or its application shall  
2 be adjudged unconstitutional or invalid for any reason by any  
3 court of competent jurisdiction, that judgment shall not  
4 impair, affect or invalidate any other provision or application  
5 of this Section, which shall remain in full force and effect.

6 (Source: P.A. 89-187, eff. 7-19-95.)

7           (750 ILCS 5/402) (from Ch. 40, par. 402)

8           Sec. 402. Legal Separation.) (a) Any person living separate  
9 and apart from his or her spouse without fault may have a  
10 remedy for reasonable support and maintenance while they so  
11 live apart.

12           (b) Such action shall be brought in the circuit court of  
13 the county in which the respondent resides or in which the  
14 parties last resided together as husband and wife. In the event  
15 the respondent cannot be found within the State, the action may  
16 be brought in the circuit court of the county in which the  
17 petitioner resides. Commencement of the action, temporary  
18 relief and trials shall be the same as in actions for  
19 dissolution of marriage, except that temporary relief in an  
20 action for legal separation shall be limited to the relief set  
21 forth in items (i), (ii), (iii), and (iv) of subdivision (a) (2)  
22 of Section 501. If the court deems it appropriate to enter a  
23 judgment for legal separation, the court shall consider the  
24 factors in Section 504 in awarding maintenance. If the court  
25 deems it appropriate to enter a judgment for legal separation,

1 the court may approve a property settlement agreement that the  
2 parties have requested the court to incorporate into the  
3 judgment, subject to the following provisions:

4 (1) the court may not value or allocate property in the  
5 absence of such an agreement;

6 (2) the court may disapprove such an agreement only if  
7 it finds that the agreement is unconscionable; and

8 (3) such an agreement is final and non-modifiable.

9 (c) A proceeding or judgment for legal separation shall not  
10 bar either party from instituting an action for dissolution of  
11 marriage, and if the party so moving has met the requirements  
12 of Section 401, a judgment for dissolution shall be granted.  
13 Absent an agreement set forth in a separation agreement that  
14 provides for non-modifiable permanent maintenance, if a party  
15 to a judgment for legal separation files an action for  
16 dissolution of marriage, the issues of temporary and permanent  
17 maintenance shall be decided de novo.

18 (Source: P.A. 82-716.)

19 (750 ILCS 5/403) (from Ch. 40, par. 403)

20 Sec. 403. Pleadings - Commencement - Abolition of Existing  
21 Defenses - Procedure.)

22 (a) The complaint or petition for dissolution of marriage  
23 or legal separation shall be verified and shall minimally set  
24 forth:

25 (1) the age, occupation and residence of each party and

1 his length of residence in this State;

2 (2) the date of the marriage and the place at which it  
3 was registered;

4 (2.5) whether a petition for dissolution of marriage is  
5 pending in any other county or state;

6 (3) that the jurisdictional requirements of subsection  
7 (a) of Section 401 have been met and that irreconcilable  
8 differences have caused the irretrievable breakdown of the  
9 marriage; ~~and that there exist grounds for dissolution of~~  
10 ~~marriage or legal separation. The petitioner need only~~  
11 ~~allege the name of the particular grounds relied upon,~~  
12 ~~which shall constitute a legally sufficient allegation of~~  
13 ~~the grounds; and the respondent shall be entitled to demand~~  
14 ~~a bill of particulars prior to trial setting forth the~~  
15 ~~facts constituting the grounds, if he so chooses. The~~  
16 ~~petition must also contain:~~

17 (4) the names, ages and addresses of all living  
18 children of the marriage, and whether the wife is pregnant,  
19 and, if the wife is pregnant, the name of the man whom the  
20 wife believes to be the father of the unborn child or  
21 children;

22 (5) any arrangements as to support, custody and  
23 visitation of the children and maintenance of a spouse; and

24 (6) the relief sought.

25 (b) Either or both parties to the marriage may initiate the  
26 proceeding.

1           (c) (Blank). ~~The previously existing defense of~~  
2 ~~recrimination is abolished. The defense of condonation is~~  
3 ~~abolished only as to condonations occurring after a proceeding~~  
4 ~~is filed under this Act and after the court has acquired~~  
5 ~~jurisdiction over the respondent.~~

6           (d) The court may join additional parties necessary and  
7 proper for the exercise of its authority under this Act.

8           (e) Contested trials shall be on a bifurcated basis with  
9 the issue of whether irreconcilable differences have caused the  
10 irretrievable breakdown of the marriage, as described in  
11 Section 401, grounds being tried first, regardless of whether  
12 that issue is contested or uncontested. Upon the court  
13 determining that irreconcilable differences have caused the  
14 irretrievable breakdown of the marriage ~~the grounds exist~~, the  
15 court may allow additional time for the parties to settle  
16 amicably the remaining issues before resuming the trial, or may  
17 proceed immediately to trial on the remaining issues. In cases  
18 where the requirements of Section 401 ~~the grounds~~ are  
19 uncontested and proved as in cases of default, the trial on all  
20 other remaining issues shall proceed immediately, if so ordered  
21 by the court or if the parties so stipulate, ~~issue on the~~  
22 ~~pleadings notwithstanding.~~ The court shall enter a judgment of  
23 dissolution of marriage, including an order dissolving the  
24 marriage, incorporation of a marital settlement agreement if  
25 applicable, and any other appropriate findings or orders, only  
26 at the conclusion of the case and not after hearing only the

1 testimony as to whether irreconcilable differences have caused  
2 the irretrievable breakdown of the marriage.

3 (f) (Blank). ~~Even if no bill of particulars shall have been~~  
4 ~~filed demanding the specification of the particular facts~~  
5 ~~underlying the allegation of the grounds, the court shall~~  
6 ~~nonetheless require proper and sufficient proof of the~~  
7 ~~existence of the grounds.~~

8 (Source: P.A. 90-174, eff. 10-1-97.)

9 (750 ILCS 5/404) (from Ch. 40, par. 404)

10 Sec. 404. Conciliation; mediation.

11 (a) If the court concludes that there is a prospect of  
12 reconciliation, the court, at the request of either party, or  
13 on its own motion, may order a conciliation conference. The  
14 conciliation conference and counseling shall take place at the  
15 established court conciliation service of that judicial  
16 district or at any similar service or facility where no court  
17 conciliation service has been established.

18 (b) The facts adduced at any conciliation conference  
19 resulting from a referral hereunder, shall not be considered in  
20 the adjudication of a pending or subsequent action, nor shall  
21 any report resulting from such conference become part of the  
22 record of the case unless the parties have stipulated in  
23 writing to the contrary.

24 The court, upon good cause shown, may prohibit  
25 conciliation, mediation or other process that requires the

1 parties to meet and confer without counsel.

2 (c) The fees or costs of mediation under this Section shall  
3 be borne by the parties and may be assessed by the court as it  
4 deems equitable without prejudice and are subject to  
5 reallocation at the conclusion of the case.

6 (Source: P.A. 87-1255.)

7 (750 ILCS 5/404.1) (from Ch. 40, par. 404.1)

8 Sec. 404.1. (a) In an action for dissolution of marriage  
9 involving minor children, or in a post-judgment proceeding  
10 involving minor children, the court may on its own motion order  
11 the parties, excluding the minor children, to attend an  
12 educational program concerning the effects of dissolution of  
13 marriage on the children, if the court finds that it would be  
14 in the best interests of the minor children. The program may be  
15 divided into sessions, which in the aggregate shall not exceed  
16 4 hours in duration. The program shall be educational in nature  
17 and not designed for individual therapy.

18 (b) The facts adduced at any educational session resulting  
19 from a referral under this Section shall not be considered in  
20 the adjudication of a pending or subsequent action, nor shall  
21 any report resulting from such educational session become part  
22 of the record of the case unless the parties have stipulated in  
23 writing to the contrary.

24 (c) The fees or costs of educational sessions under this  
25 Section shall be borne by the parties and may be assessed by

1 the court as it deems equitable without prejudice and are  
2 subject to reallocation at the conclusion of the case.

3 (Source: P.A. 86-288.)

4 (750 ILCS 5/405) (from Ch. 40, par. 405)

5 Sec. 405. Hearing on Default - Notice.) If the respondent  
6 is in default, the court shall proceed to hear the cause upon  
7 testimony of petitioner taken in open court, and in no case of  
8 default shall the court grant a dissolution of marriage or  
9 legal separation or declaration of invalidity of marriage,  
10 unless the judge is satisfied that all proper means have been  
11 taken to notify the respondent of the pendency of the suit.  
12 Whenever the judge is satisfied that the interests of the  
13 respondent require it, the court may order such additional  
14 notice as may be required. All of the provisions of the Code of  
15 Civil Procedure relating to default hearings are applicable to  
16 hearings on default.

17 (Source: P.A. 80-923.)

18 (750 ILCS 5/409) (from Ch. 40, par. 409)

19 Sec. 409. Proof of Foreign Marriage.) A marriage which may  
20 have been celebrated or had in any foreign state or country,  
21 may be proved by the acknowledgment of the parties, their  
22 cohabitation, and other evidence. Certified copies of records  
23 of a marriage performed in any foreign state or country  
24 obtained from an embassy or consulate may be admitted as an

1 exception to the hearsay rule ~~circumstantial testimony~~.

2 (Source: P.A. 80-923.)

3 (750 ILCS 5/411) (from Ch. 40, par. 411)

4 Sec. 411. Commencement of Action.) (a) Actions for  
5 dissolution of marriage or legal separation shall be commenced  
6 as in other civil cases or, at the option of petitioner, by  
7 filing a praecipe for summons with the clerk of the court and  
8 paying the regular filing fees, in which latter case, a  
9 petition shall be filed within 6 months thereafter, or any  
10 extension for good cause shown granted by the court.

11 (b) When a praecipe for summons is filed without the  
12 petition, the summons shall recite that petitioner has  
13 commenced suit for dissolution of marriage or legal separation  
14 and shall require the respondent to file his or her appearance  
15 not later than 30 days from the day the summons is served and  
16 to plead to the petitioner's petition within 30 days from the  
17 day the petition is filed.

18 Until a petition has been filed, the court, pursuant to  
19 subsections (c) and (d) herein, may dismiss the suit, order the  
20 filing of a petition, or grant leave to the respondent to file  
21 a petition in the nature of a counter petition.

22 After the filing of the petition, the party filing the same  
23 shall, within 2 days, serve a copy thereof upon the other  
24 party, in the manner provided by rule of the Supreme Court for  
25 service of notices in other civil cases.



1 (c) Unless a respondent voluntarily files an appearance, a  
2 praecipe for summons filed without the petition shall be served  
3 on the respondent not later than 30 days after its issuance,  
4 and upon failure to obtain service upon the respondent within  
5 the 30 day period, or any extension for good cause shown  
6 granted by the court, the court shall dismiss the suit.

7 (d) An action for dissolution of marriage or legal  
8 separation commenced by the filing a praecipe for summons  
9 without the petition ~~may shall~~ be dismissed unless a petition  
10 for dissolution of marriage or legal separation has been filed  
11 within 6 months after the commencement of the action.

12 (e) The filing of a praecipe for summons under this Section  
13 constitutes the commencement of an action that serves as  
14 grounds for involuntary dismissal under subdivision (a)(3) of  
15 Section 2-619 of the Code of Civil Procedure of a subsequently  
16 filed petition for dissolution of marriage or legal separation  
17 in another county.

18 (Source: P.A. 86-630.)

19 (750 ILCS 5/413) (from Ch. 40, par. 413)

20 Sec. 413. Judgment.)

21 (a) A judgment of dissolution of marriage or of legal  
22 separation or of declaration of invalidity of marriage shall be  
23 entered within 60 days of the closing of proofs; however, if  
24 the court enters an order specifying good cause as to why the  
25 court needs an addition 30 days, the judgment shall be entered

1 within 90 days of the closing of proofs. A judgment of  
2 dissolution of marriage or of legal separation or of  
3 declaration of invalidity of marriage is final when entered,  
4 subject to the right of appeal. An appeal from the judgment of  
5 dissolution of marriage that does not challenge the finding as  
6 to grounds does not delay the finality of that provision of the  
7 judgment which dissolves the marriage, beyond the time for  
8 appealing from that provision, and either of the parties may  
9 remarry pending appeal. An order requiring maintenance or  
10 support of a spouse or a minor child or children entered under  
11 this Act or any other law of this State shall not be suspended  
12 or the enforcement thereof stayed pending the filing and  
13 resolution of post-judgment motions or an appeal.

14 (b) The clerk of the court shall give notice of the entry  
15 of a judgment of dissolution of marriage or legal separation or  
16 a declaration of invalidity of marriage:

17 (1) if the marriage is registered in this State, to the  
18 county clerk of the county where the marriage is  
19 registered, who shall enter the fact of dissolution of  
20 marriage or legal separation or declaration of invalidity  
21 of marriage in the marriage registry; and within 45 days  
22 after the close of the month in which the judgment is  
23 entered, the clerk shall forward the certificate to the  
24 Department of Public Health on a form furnished by the  
25 Department; or

26 (2) if the marriage is registered in another

1 jurisdiction, to the appropriate official of that  
2 jurisdiction, with the request that he enter the fact of  
3 dissolution of marriage or legal separation or declaration  
4 of invalidity of marriage in the appropriate record.

5 (c) Upon request by a wife whose marriage is dissolved or  
6 declared invalid, the court shall order her maiden name or a  
7 former name restored.

8 (d) A judgment of dissolution of marriage or legal  
9 separation, if made, shall be awarded to both of the parties,  
10 and shall provide that it affects the status previously  
11 existing between the parties in the manner adjudged.

12 (Source: P.A. 96-1072, eff. 1-1-11.)

13 (750 ILCS 5/452)

14 Sec. 452. Petition. The parties to a dissolution proceeding  
15 may file a joint petition for simplified dissolution if they  
16 certify that all of the following conditions exist when the  
17 proceeding is commenced:

18 (a) Neither party is dependent on the other party for  
19 support or each party is willing to waive the right to  
20 support; and the parties understand that consultation with  
21 attorneys may help them determine eligibility for spousal  
22 support.

23 (b) Either party has met the residency requirement of  
24 Section 401 of this Act.

25 (c) The requirements of Section 401 regarding

1 residence or military presence and proof of irreconcilable  
2 differences have been met. ~~Irreconcilable differences have~~  
3 ~~caused the irretrievable breakdown of the marriage and the~~  
4 ~~parties have been separated 6 months or more and efforts at~~  
5 ~~reconciliation have failed or future attempts at~~  
6 ~~reconciliation would be impracticable and not in the best~~  
7 ~~interests of the family.~~

8 (d) No children were born of the relationship of the  
9 parties or adopted by the parties during the marriage, and  
10 the wife, to her knowledge, is not pregnant by the husband.

11 (e) The duration of the marriage does not exceed 8  
12 years.

13 (f) Neither party has any interest in real property or  
14 retirement benefits.

15 (g) The parties waive any rights to maintenance.

16 (h) The total fair market value of all marital  
17 property, after deducting all encumbrances, is less than  
18 \$50,000 ~~\$10,000~~, the combined gross annualized income from  
19 all sources is less than \$60,000 ~~\$35,000~~, and neither party  
20 has a gross annualized income from all sources in excess of  
21 \$30,000 ~~\$20,000~~.

22 (i) The parties have disclosed to each other all assets  
23 and liabilities and their tax returns for all years of the  
24 marriage.

25 (j) The parties have executed a written agreement  
26 dividing all assets in excess of \$100 in value and

1 allocating responsibility for debts and liabilities  
2 between the parties.

3 (Source: P.A. 90-731, eff. 7-1-99.)

4 (750 ILCS 5/453)

5 Sec. 453. Procedure; Judgment. The parties shall use the  
6 forms, including a form for the affidavit required under  
7 Section 454, provided by the circuit court clerk, and the clerk  
8 shall submit the petition to the court. The court shall  
9 expeditiously consider the cause. Both parties shall appear in  
10 person before the court and, if the court so directs, testify.  
11 The court, after examination of the petition and the parties  
12 and finding the agreement of the parties not unconscionable,  
13 shall enter a judgment granting the dissolution if the  
14 requirements of this Part IV-A have been met and the parties  
15 have submitted the affidavit required under Section 454. No  
16 transcript of proceedings shall be required.

17 (Source: P.A. 88-39.)

18 (750 ILCS 5/501) (from Ch. 40, par. 501)

19 Sec. 501. Temporary Relief.) In all proceedings under this  
20 Act, temporary relief shall be as follows:

21 (a) Either party may petition or move for:

22 (1) temporary maintenance or temporary support of a  
23 child of the marriage entitled to support, accompanied by  
24 an affidavit as to the factual basis for the relief

1       requested. One form of financial affidavit shall be used  
2       statewide. The financial affidavit shall be supported by  
3       documentary evidence including, but not limited to, income  
4       tax returns, pay stubs, and banking statements. The  
5       financial affidavit shall include a space for a party to  
6       declare whether he or she is receiving any federal or State  
7       financial subsidies, and any such subsidies shall be  
8       included in that party's income. Upon motion of a party, a  
9       court may hold a hearing to determine whether and why there  
10       is a disparity between a party's sworn affidavit and the  
11       supporting documentation. If a party intentionally or  
12       recklessly files an inaccurate or misleading financial  
13       affidavit, the court shall impose significant penalties  
14       and sanctions including, but not limited to, costs and  
15       attorney's fees;

16           (2) a temporary restraining order or preliminary  
17       injunction, accompanied by affidavit showing a factual  
18       basis for any of the following relief:

19           (i) restraining any person from transferring,  
20       encumbering, concealing or otherwise disposing of any  
21       property except in the usual course of business or for  
22       the necessities of life, and, if so restrained,  
23       requiring him to notify the moving party and his  
24       attorney of any proposed extraordinary expenditures  
25       made after the order is issued; however, an order need  
26       not include an exception for transferring,

1           encumbering, or otherwise disposing of property in the  
2           usual course of business or for the necessities of life  
3           if the court enters appropriate orders that enable the  
4           parties to pay their necessary personal and business  
5           expenses including, but not limited to, appropriate  
6           professionals to assist the court pursuant to  
7           subsection (1) of Section 503 to administer the payment  
8           and accounting of such living and business expenses;

9           (ii) enjoining a party from removing a child from  
10          the jurisdiction of the court;

11          (iii) enjoining a party from striking or  
12          interfering with the personal liberty of the other  
13          party or of any child; or

14          (iv) providing other injunctive relief proper in  
15          the circumstances; or

16          (3) other appropriate temporary relief including, in  
17          the discretion of the court, ordering the purchase or sale  
18          of assets and requiring that a party or parties borrow  
19          funds in the appropriate circumstances.

20          The relief available under this Section is available under  
21          subsection (b) of Section 513. The relief available under this  
22          Section is available under subsection (a) of Section 513 after  
23          the court makes a prima facie finding that, based on the  
24          affidavits before it, it appears that there would be a  
25          likelihood of success on the merits. This relief should be done  
26          on an expedited basis, but should not include temporary

1 maintenance or injunctive relief as to assets.

2 Issues concerning temporary maintenance or temporary  
3 support of a child of the marriage entitled to support shall be  
4 dealt with on a summary basis based on financial affidavits,  
5 tax returns, pay stubs, banking statements, and other relevant  
6 documentation. The recipient shall account for the use of his  
7 or her funds in the same manner the recipient is required to  
8 justify his or her use of marital funds. If a party  
9 intentionally or recklessly files an inaccurate or misleading  
10 financial affidavit, the court shall impose significant  
11 penalties and sanctions including, but not limited to, costs  
12 and attorney's fees resulting from the improper  
13 representation.

14 (b) The court may issue a temporary restraining order  
15 without requiring notice to the other party only if it finds,  
16 on the basis of the moving affidavit or other evidence, that  
17 irreparable injury will result to the moving party if no order  
18 is issued until the time for responding has elapsed.

19 (c) A response hereunder may be filed within 21 days after  
20 service of notice of motion or at the time specified in the  
21 temporary restraining order.

22 (c-1) As used in this subsection (c-1), "interim attorney's  
23 fees and costs" means attorney's fees and costs assessed from  
24 time to time while a case is pending, in favor of the  
25 petitioning party's current counsel, for reasonable fees and  
26 costs either already incurred, but not paid, or to be incurred,



1 and "interim award" means an award of interim attorney's fees  
2 and costs. "Interim award" includes an award on a final fee  
3 petition filed by an attorney no longer involved in the matter.

4 Interim awards shall be governed by the following:

5 (1) Except for good cause shown, a proceeding for (or  
6 relating to) interim attorney's fees and costs in a  
7 pre-judgment dissolution proceeding shall be  
8 nonevidentiary and summary in nature. All hearings for or  
9 relating to interim attorney's fees and costs under this  
10 subsection shall be scheduled expeditiously by the court.  
11 When a party files a petition for interim attorney's fees  
12 and costs supported by one or more affidavits that  
13 delineate relevant factors, the court (or a hearing  
14 officer) shall assess an interim award after affording the  
15 opposing party a reasonable opportunity to file a  
16 responsive pleading. A responsive pleading shall set out  
17 the amount of each retainer or other payment or payments,  
18 or both, previously paid to the responding party's counsel  
19 by or on behalf of the responding party. Either party or a  
20 party's attorney may seek interim fees from the marital  
21 estate. In assessing an interim award, the court shall  
22 consider all relevant factors, as presented, that appear  
23 reasonable and necessary, including to the extent  
24 applicable:

25 (A) the income and property of each party,  
26 including alleged marital property within the sole

1 control of one party and alleged non-marital property  
2 within access to a party;

3 (B) the needs of each party;

4 (C) the realistic earning capacity of each party;

5 (D) any impairment to present earning capacity of  
6 either party, including age and physical and emotional  
7 health;

8 (E) the standard of living established during the  
9 marriage;

10 (F) the degree of complexity of the issues,  
11 including custody, valuation or division (or both) of  
12 closely held businesses, and tax planning, as well as  
13 reasonable needs for expert investigations or expert  
14 witnesses, or both;

15 (G) each party's access to relevant information;

16 (H) the amount of the payment or payments made or  
17 reasonably expected to be made to the attorney for the  
18 other party; and

19 (I) any other factor that the court expressly finds  
20 to be just and equitable.

21 (2) Any assessment of an interim award (including one  
22 pursuant to an agreed order) shall be without prejudice to  
23 any final allocation and without prejudice as to any claim  
24 or right of either party or any counsel of record at the  
25 time of the award. Any such claim or right may be presented  
26 by the appropriate party or counsel at a hearing on

1 contribution under subsection (j) of Section 503 or a  
2 hearing on counsel's fees under subsection (c) of Section  
3 508. Unless otherwise ordered by the court at the final  
4 hearing between the parties or in a hearing under  
5 subsection (j) of Section 503 or subsection (c) of Section  
6 508, interim awards, as well as the aggregate of all other  
7 payments by each party to counsel and related payments to  
8 third parties, shall be deemed to have been advances from  
9 the parties' marital estate. Any portion of any interim  
10 award constituting an overpayment shall be remitted back to  
11 the appropriate party or parties, or, alternatively, to  
12 successor counsel, as the court determines and directs,  
13 after notice. An order for the award of interim attorney's  
14 fees shall be form in nature.

15 (3) In any proceeding under this subsection (c-1), the  
16 court (or hearing officer) shall assess an interim award  
17 against an opposing party in an amount necessary to enable  
18 the petitioning party to participate adequately in the  
19 litigation, upon findings that the party from whom  
20 attorney's fees and costs are sought has the financial  
21 ability to pay reasonable amounts and that the party  
22 seeking attorney's fees and costs lacks sufficient access  
23 to assets or income to pay reasonable amounts. In  
24 determining an award, the court shall consider whether  
25 adequate participation in the litigation requires  
26 expenditure of more fees and costs for a party that is not

1 in control of assets or relevant information. Except for  
2 good cause shown, an interim award shall not be less than  
3 payments made or reasonably expected to be made to the  
4 counsel for the other party. If the court finds that both  
5 parties lack financial ability or access to assets or  
6 income for reasonable attorney's fees and costs, the court  
7 (or hearing officer) shall enter an order that allocates  
8 available funds for each party's counsel, including  
9 retainers or interim payments, or both, previously paid, in  
10 a manner that achieves substantial parity between the  
11 parties.

12 (4) The changes to this Section 501 made by this  
13 amendatory Act of 1996 apply to cases pending on or after  
14 June 1, 1997, except as otherwise provided in Section 508.

15 (c-2) Allocation of use of marital residence. Use of the  
16 marital residence shall be determined upon an objective  
17 standard. Where there is on file a verified complaint or  
18 verified petition seeking temporary eviction from the marital  
19 residence, the court may, during the pendency of the  
20 proceeding, only in cases where the physical or mental well  
21 being of either spouse or their children is jeopardized by  
22 occupancy of the marital residence by both spouses, and only  
23 upon due notice and full hearing, unless waived by the court on  
24 good cause shown, enter orders granting the exclusive  
25 possession of the marital residence to either spouse, by  
26 eviction from, or restoration of, the marital residence, until

1 the final determination of the cause. The order may also  
2 provide for the nesting of children with the children having  
3 exclusive possession of the residence and the spouses  
4 alternating occupancy. No such order shall in any manner affect  
5 any estate in homestead property of either party. In entering  
6 orders under this subsection (c-2), the court shall balance  
7 hardships to the parties.

8 (d) A temporary order entered under this Section:

9 (1) does not prejudice the rights of the parties or the  
10 child which are to be adjudicated at subsequent hearings in  
11 the proceeding;

12 (2) may be revoked or modified before final judgment,  
13 on a showing by affidavit and upon hearing; and

14 (3) terminates when the final judgment is entered or  
15 when the petition for dissolution of marriage or legal  
16 separation or declaration of invalidity of marriage is  
17 dismissed.

18 (Source: P.A. 96-583, eff. 1-1-10.)

19 (750 ILCS 5/501.1) (from Ch. 40, par. 501.1)

20 Sec. 501.1. Dissolution action stay.

21 (a) Upon service of a summons and petition or praecipe  
22 filed under the Illinois Marriage and Dissolution of Marriage  
23 Act or upon the filing of the respondent's appearance in the  
24 proceeding, whichever first occurs, a dissolution action stay  
25 shall be in effect against both parties ~~and their agents and~~

1 ~~employees,~~ without bond or further notice, until a final  
2 judgement is entered, the proceeding is dismissed, or until  
3 further order of the court, ~~÷~~

4 ~~(1) restraining both parties from transferring,~~  
5 ~~encumbering, concealing, destroying, spending, damaging, or in~~  
6 ~~any way disposing of any property, without the consent of the~~  
7 ~~other party or an order of the court, except in the usual~~  
8 ~~course of business, for the necessities of life, or for~~  
9 ~~reasonable costs, expenses, and attorney's fees arising from~~  
10 ~~the proceeding, as well as requiring each party to provide~~  
11 ~~written notice to the other party and his or her attorney of~~  
12 ~~any proposed extraordinary expenditure or transaction;~~

13 ~~(2) restraining both parties from physically abusing,~~  
14 ~~harassing, intimidating, striking, or interfering with the~~  
15 ~~personal liberty of the other party or the minor children of~~  
16 ~~either party. ÷ and~~

17 ~~(3) restraining both parties from removing any minor~~  
18 ~~child of either party from the State of Illinois or from~~  
19 ~~concealing any such child from the other party, without the~~  
20 ~~consent of the other party or an order of the court.~~

21 The restraint provided in this subsection (a) does not  
22 operate to make unavailable any of the remedies provided in the  
23 Illinois Domestic Violence Act of 1986.

24 ~~A restraint of the parties' actions under this Section does~~  
25 ~~not affect the rights of a bona fide purchaser or mortgagee~~  
26 ~~whose interest in real property or whose beneficial interest in~~

1 ~~real property under an Illinois land trust was acquired before~~  
2 ~~the filing of a lis pendens notice under Section 2-1901 of the~~  
3 ~~Code of Civil Procedure.~~

4 (b) (Blank). ~~Notice of any proposed extraordinary~~  
5 ~~expenditure or transaction, as required by subsection (a),~~  
6 ~~shall be given as soon as practicable, but not less than 7 days~~  
7 ~~before the proposed date for the carrying out or commencement~~  
8 ~~of the carrying out of the extraordinary expenditure or~~  
9 ~~transaction, except in an emergency, in which event notice~~  
10 ~~shall be given as soon as practicable under the circumstances.~~  
11 ~~If proper notice is given and if the party receiving the notice~~  
12 ~~does not object by filing a petition for injunctive relief~~  
13 ~~under the Code of Civil Procedure within 7 days of receipt of~~  
14 ~~the notice, the carrying out of the proposed extraordinary~~  
15 ~~expenditure or transaction is not a violation of the~~  
16 ~~dissolution action stay. The dissolution action stay shall~~  
17 ~~remain in full force and effect against both parties for 14~~  
18 ~~days after the date of filing of a petition for injunctive~~  
19 ~~relief by the objecting party (or a shorter period if the court~~  
20 ~~so orders); and no extension beyond that 14 day period shall be~~  
21 ~~granted by the court. For good cause shown, a party may file a~~  
22 ~~petition for a reduction in time with respect to any 7 day~~  
23 ~~notice requirement under this subsection.~~

24 (c) (Blank). ~~A party making any extraordinary expenditure~~  
25 ~~or carrying out any extraordinary transaction after a~~  
26 ~~dissolution action stay is in effect shall account promptly to~~

1 ~~the court and to the other party for all of those expenditures~~  
2 ~~and transactions. This obligation to account applies~~  
3 ~~throughout the pendency of the proceeding, irrespective of (i)~~  
4 ~~any notice given by any party as to any proposed extraordinary~~  
5 ~~expenditure or transaction, (ii) any filing of an objection and~~  
6 ~~petition under this Section or the absence of any such filing,~~  
7 ~~or (iii) any court ruling as to an issue presented to it by~~  
8 ~~either party.~~

9 (d) (Blank). ~~If the party making an extraordinary~~  
10 ~~expenditure or transaction fails to provide proper notice or if~~  
11 ~~despite proper notice the other party filed a petition and~~  
12 ~~prevailed on that petition, and the extraordinary expenditure~~  
13 ~~or transaction results in a loss of income or reduction in the~~  
14 ~~amount or in the value of property, there is a presumption of~~  
15 ~~dissipation of property, equal to the amount of the loss or~~  
16 ~~reduction, charged against the party for purposes of property~~  
17 ~~distribution under Section 503.~~

18 (e) In a proceeding filed under this Act, the summons shall  
19 provide notice of the entry of the automatic dissolution action  
20 stay in a form as required by applicable rules.

21 (Source: P.A. 87-881; 88-24.)

22 (750 ILCS 5/502) (from Ch. 40, par. 502)

23 Sec. 502. Agreement. (a) To promote amicable settlement of  
24 disputes between parties to a marriage attendant upon the  
25 dissolution of their marriage, the parties may enter into an a



1 ~~written or oral~~ agreement containing provisions for  
2 disposition of any property owned by either of them,  
3 maintenance of either of them, ~~and~~ support, custody and  
4 visitation of their children, and support of their children as  
5 provided in Section 513 after the children attain majority. Any  
6 agreement made pursuant to this Section must be in writing.

7 (b) The terms of the agreement, except those providing for  
8 the support, custody and visitation of children, are binding  
9 upon the court unless it finds, after considering the economic  
10 circumstances of the parties and any other relevant evidence  
11 produced by the parties, on their own motion or on request of  
12 the court, that the agreement is unconscionable. The terms of  
13 the agreement incorporated into the judgment are binding if  
14 there is any conflict between any prove-up testimony and the  
15 terms of the agreement.

16 (c) If the court finds the agreement unconscionable, it may  
17 request the parties to submit a revised agreement or upon  
18 hearing, may make orders for the disposition of property,  
19 maintenance, child support and other matters.

20 (d) Unless the agreement provides to the contrary, its  
21 terms shall be set forth in the judgment, and the parties shall  
22 be ordered to perform under such terms, or if the agreement  
23 provides that its terms shall not be set forth in the judgment,  
24 the judgment shall identify the agreement and state that the  
25 court has approved its terms.

26 (e) Terms of the agreement set forth in the judgment are

1 enforceable by all remedies available for enforcement of a  
2 judgment, including contempt, and are enforceable as contract  
3 terms.

4 (f) Child ~~Except for terms concerning the support, support~~  
5 of children as provided in Section 513 after the children  
6 attain majority, and custody and ~~or~~ visitation of children may  
7 be modified upon a showing of a substantial change in  
8 circumstances. The parties may provide that maintenance is  
9 non-modifiable in amount, duration, or both. If the parties do  
10 not provide that maintenance is non-modifiable in amount,  
11 duration, or both, then those terms are modifiable upon a  
12 substantial change of circumstances. Property provisions of an  
13 agreement are never modifiable. The, ~~the~~ judgment may expressly  
14 preclude or limit modification of other terms set forth in the  
15 judgment if the agreement so provides. Otherwise, terms of an  
16 agreement set forth in the judgment are automatically modified  
17 by modification of the judgment.

18 (g) An agreement made pursuant to this Section is not valid  
19 unless the agreement is in writing and signed by the parties to  
20 the agreement.

21 (Source: P.A. 83-216.)

22 (750 ILCS 5/503) (from Ch. 40, par. 503)

23 Sec. 503. Disposition of property and debts.

24 (a) For purposes of this Act, "marital property" means all  
25 property, including debts and other obligations, acquired by

1 either spouse subsequent to the marriage, except the following,  
2 which is known as "non-marital property":

3 (1) property acquired by gift, legacy or descent or  
4 property acquired in exchange for such property;

5 (2) property acquired in exchange for property  
6 acquired before the marriage ~~or in exchange for property~~  
7 ~~acquired by gift, legacy or descent;~~

8 (3) property acquired by a spouse after a judgment of  
9 legal separation;

10 (4) property excluded by valid agreement of the  
11 parties, including a premarital agreement or a postnuptial  
12 agreement;

13 (5) any judgment or property obtained by judgment  
14 awarded to a spouse from the other spouse except, however,  
15 when a spouse is required to sue the other spouse in order  
16 to obtain insurance coverage or otherwise recover from a  
17 third party and the recovery is directly related to amounts  
18 advanced by the marital estate, the judgment shall be  
19 considered marital property;

20 (6) property acquired, in whole or in part, before the  
21 marriage. The equitable portion acquired prior to the  
22 marriage shall be considered non-marital;

23 (6.5) all property acquired by a spouse by the sole use  
24 of non-marital property as collateral for a loan that then  
25 is used to acquire property during the marriage, provided  
26 the spouse proves by clear and convincing evidence that

1 only non-marital funds were used to pay back the loan;

2 (7) the increase in value of non-marital property  
3 ~~acquired by a method listed in paragraphs (1) through (6)~~  
4 ~~of this subsection~~, irrespective of whether the increase  
5 results from a contribution of marital property,  
6 non-marital property, the personal effort of a spouse, or  
7 otherwise, subject to the right of reimbursement provided  
8 in subsection (c) of this Section; and

9 (8) income from property acquired by a method listed in  
10 paragraphs (1) through (7) of this subsection if the income  
11 is not attributable to the personal effort of a spouse.

12 Property acquired prior to a marriage that would otherwise  
13 be non-marital property shall not be deemed to be marital  
14 property solely because the property was acquired in  
15 contemplation of marriage.

16 (b) (1) For purposes of distribution of property ~~pursuant to~~  
17 ~~this Section~~, all property acquired by either spouse after the  
18 marriage and before a judgment of dissolution of marriage or  
19 declaration of invalidity of marriage is presumed marital  
20 property. This presumption includes, ~~including~~ non-marital  
21 property transferred into some form of co-ownership between the  
22 spouses, ~~is presumed to be marital property,~~ regardless of  
23 whether title is held individually or by the spouses in some  
24 form of co-ownership such as joint tenancy, tenancy in common,  
25 tenancy by the entirety, or community property. A spouse may  
26 overcome the ~~The~~ presumption of marital property ~~is overcome~~ by

1 showing through clear and convincing evidence ~~a showing~~ that  
2 the property was acquired by a method listed in subsection (a)  
3 of this Section.

4 (2) For purposes of distribution of property pursuant to  
5 this Section, all pension benefits (including pension benefits  
6 under the Illinois Pension Code, defined benefit plans, defined  
7 contribution plans and accounts, individual retirement  
8 accounts, and non-qualified plans) acquired by or participated  
9 in by either spouse after the marriage and before a judgment of  
10 dissolution of marriage or declaration of invalidity of the  
11 marriage are presumed to be marital property, ~~regardless of~~  
12 ~~which spouse participates in the pension plan.~~ A spouse may  
13 overcome the ~~The~~ presumption that these pension benefits are  
14 marital property ~~is overcome~~ by a showing through clear and  
15 convincing evidence that the pension benefits were acquired by  
16 a method listed in subsection (a) of this Section. The right to  
17 a division of pension benefits in just proportions under this  
18 Section is enforceable under Section 1-119 of the Illinois  
19 Pension Code.

20 The value of pension benefits in a retirement system  
21 subject to the Illinois Pension Code shall be determined in  
22 accordance with the valuation procedures established by the  
23 retirement system.

24 The recognition of pension benefits as marital property and  
25 the division of those benefits pursuant to a Qualified Illinois  
26 Domestic Relations Order shall not be deemed to be a

1     diminishment, alienation, or impairment of those benefits. The  
2     division of pension benefits is an allocation of property in  
3     which each spouse has a species of common ownership.

4           (3) For purposes of distribution of property under this  
5     Section, all stock options and restricted stock granted to  
6     either spouse after the marriage and before a judgment of  
7     dissolution of marriage or declaration of invalidity of  
8     marriage, ~~whether~~ vested or non-vested or whether their value  
9     is ascertainable, are presumed to be marital property. This  
10    presumption of marital property is overcome by a showing that  
11    the stock options were acquired by a method listed in  
12    subsection (a) of this Section. The court shall allocate stock  
13    options between the parties at the time of the judgment of  
14    dissolution of marriage or declaration of invalidity of  
15    marriage recognizing that the value of the stock options may  
16    not be then determinable and that the actual division of the  
17    options may not occur until a future date. In making the  
18    allocation between the parties, the court shall consider, in  
19    addition to the factors set forth in subsection (d) of this  
20    Section, the following:

21           (i) All circumstances underlying the grant of the stock  
22    option including but not limited to the vesting schedule,  
23    whether the grant was for past, present, or future efforts,  
24    whether the grant is designed to promote future  
25    performance, or any combination thereof.

26           (ii) The length of time from the grant of the option to

1 the time the option is exercisable.

2 (b-5) As to any policy of life insurance insuring the life  
3 of either spouse, or any interest in such policy, that  
4 constitutes marital property, whether whole life, term life,  
5 group term life, universal life, or other form of life  
6 insurance policy, and whether or not the value is  
7 ascertainable, the court shall allocate ownership, death  
8 benefits or the right to assign death benefits, and the  
9 obligation for premium payments, if any, equitably between the  
10 parties at the time of the judgment for dissolution or  
11 declaration of invalidity of marriage.

12 (c) Commingled marital and non-marital property shall be  
13 treated in the following manner, unless otherwise agreed by the  
14 spouses:

15 (1) (A) If marital and non-marital property are  
16 commingled by one estate being contributed into the other,  
17 the following shall apply:

18 (i) If the contributed property loses its  
19 identity, the contributed property transmutes to the  
20 estate receiving the property, subject to the  
21 provisions of paragraph (2) of this subsection (c).

22 (ii) If the contributed property retains its  
23 identity, it does not transmute and remains property of  
24 the contributing estate.

25 (B) If marital and non-marital property are commingled  
26 into newly acquired property resulting in a loss of

1 identity of the contributing estates, the commingled  
2 property shall be deemed transmuted to marital property,  
3 subject to the provisions of paragraph (2) of this  
4 subsection (c).

5 (2) (A) When one estate of property makes a contribution  
6 to another estate of property, the contributing estate  
7 shall be reimbursed from the estate receiving the  
8 contribution notwithstanding any transmutation. No such  
9 reimbursement shall be made with respect to a contribution  
10 that is not retraceable by clear and convincing evidence or  
11 that was a gift. The court may provide for reimbursement  
12 out of the marital property to be divided or by imposing a  
13 lien against the non-marital property that received the  
14 contribution.

15 (B) When a spouse contributes personal effort to  
16 non-marital property, it shall be deemed a contribution by  
17 the marital estate, which shall receive a reimbursements  
18 for said efforts if the efforts are significant and result  
19 in substantial appreciation to the non-marital property.  
20 The court may provide for reimbursement out of the marital  
21 property to be divided or by imposing a lien against the  
22 non-marital property which received the contribution.

23 ~~(1) When marital and non marital property are~~  
24 ~~commingled by contributing one estate of property into~~  
25 ~~another resulting in a loss of identity of the contributed~~  
26 ~~property, the classification of the contributed property~~



1 ~~is transmuted to the estate receiving the contribution,~~  
2 ~~subject to the provisions of paragraph (2) of this~~  
3 ~~subsection; provided that if marital and non-marital~~  
4 ~~property are commingled into newly acquired property~~  
5 ~~resulting in a loss of identity of the contributing~~  
6 ~~estates, the commingled property shall be deemed~~  
7 ~~transmuted to marital property, subject to the provisions~~  
8 ~~of paragraph (2) of this subsection.~~

9 ~~(2) When one estate of property makes a contribution to~~  
10 ~~another estate of property, or when a spouse contributes~~  
11 ~~personal effort to non-marital property, the contributing~~  
12 ~~estate shall be reimbursed from the estate receiving the~~  
13 ~~contribution notwithstanding any transmutation; provided,~~  
14 ~~that no such reimbursement shall be made with respect to a~~  
15 ~~contribution which is not retraceable by clear and~~  
16 ~~convincing evidence, or was a gift, or, in the case of a~~  
17 ~~contribution of personal effort of a spouse to non-marital~~  
18 ~~property, unless the effort is significant and results in~~  
19 ~~substantial appreciation of the non-marital property.~~  
20 ~~Personal effort of a spouse shall be deemed a contribution~~  
21 ~~by the marital estate. The court may provide for~~  
22 ~~reimbursement out of the marital property to be divided or~~  
23 ~~by imposing a lien against the non-marital property which~~  
24 ~~received the contribution.~~

25 (d) In a proceeding for dissolution of marriage or  
26 declaration of invalidity of marriage, or in a proceeding for

1 disposition of property following dissolution of marriage by a  
2 court that ~~which~~ lacked personal jurisdiction over the absent  
3 spouse or lacked jurisdiction to dispose of the property, the  
4 court shall assign each spouse's non-marital property to that  
5 spouse. It also shall divide the marital property without  
6 regard to marital misconduct in just proportions considering  
7 all relevant factors, including:

8 (1) each party's ~~the~~ contribution ~~of each party~~ to the  
9 acquisition, preservation, or increase or decrease in  
10 value of the marital or non-marital property, including (i)  
11 any ~~such~~ decrease attributable to a ~~payment deemed to have~~  
12 ~~been~~ an advance from the parties' marital estate under  
13 subsection (c-1)(2) of Section 501; ~~and~~ (ii) the  
14 contribution of a spouse as a homemaker or to the family  
15 unit; and (iii) whether the contribution is after the  
16 commencement of a dissolution of marriage or declaration of  
17 invalidity proceeding;

18 (2) the dissipation by each party of the marital or  
19 non-marital property, provided that a party's claim of  
20 dissipation is subject to the following conditions:

21 (i) a notice of intent to claim dissipation shall  
22 be given no later than 60 days before trial or 30 days  
23 after discovery closes, whichever is later;

24 (ii) the notice of intent to claim dissipation  
25 shall contain, at a minimum, a date or period of time  
26 during which the marriage began undergoing an

1           irretrievable breakdown, an identification of the  
2           property dissipated, and a date or period of time  
3           during which the dissipation occurred;

4           (iii) the notice of intent to claim dissipation  
5           shall be filed with the clerk of the court and be  
6           served pursuant to applicable rules;

7           (iv) no dissipation shall be deemed to have  
8           occurred prior to 5 years before the filing of the  
9           petition for dissolution of marriage, or 3 years after  
10          the party claiming dissipation knew or should have  
11          known of the dissipation. +

12          As used in this subdivision (2), "dissipation" means  
13          either party's use of assets or income for a purpose  
14          unrelated to the marriage, during a period that the  
15          marriage is undergoing an irretrievable breakdown, not to  
16          exceed 3 years prior to the date of the commencement of a  
17          dissolution proceeding or declaration of invalidity unless  
18          a party fraudulently conceals or affirmatively misleads  
19          his or her spouse about any material fact relating to when  
20          the marriage was irretrievably broken down, then to the  
21          extent such evidence was fraudulently concealed or  
22          affirmatively misrepresented by the dissipating spouse;

23          (3) the value of the property assigned to each spouse;

24          (4) the duration of the marriage;

25          (5) the relevant economic circumstances of each spouse  
26          when the division of property is to become effective,

1 including the desirability of awarding the family home, or  
2 the right to live therein for reasonable periods, to the  
3 spouse having the primary residence ~~custody~~ of the  
4 children;

5 (6) any obligations and rights arising from a prior  
6 marriage of either party;

7 (7) any prenuptial or postnuptial ~~antenuptial~~  
8 agreement of the parties;

9 (8) the age, health, station, occupation, amount and  
10 sources of income, vocational skills, employability,  
11 estate, liabilities, and needs of each of the parties;

12 (9) the custodial provisions for any children;

13 (10) whether the apportionment is in lieu of or in  
14 addition to maintenance;

15 (11) the reasonable opportunity of each spouse for  
16 future acquisition of capital assets and income; and

17 (12) the tax consequences of the property division upon  
18 the respective economic circumstances of the parties.

19 When the court does not divide the property on a 50% basis,  
20 the court shall make specific findings of fact as to the basis  
21 for deviating therefrom.

22 (e) Each spouse has a species of common ownership in the  
23 marital property which vests at the time dissolution  
24 proceedings are commenced and continues only during the  
25 pendency of the action. Any such interest in marital property  
26 shall not encumber that property so as to restrict its

1 transfer, assignment or conveyance by the title holder unless  
2 such title holder is specifically enjoined from making such  
3 transfer, assignment or conveyance.

4 (f) In a proceeding for dissolution of marriage or  
5 declaration of invalidity of marriage or in a proceeding for  
6 disposition of property following dissolution of marriage by a  
7 court that lacked personal jurisdiction over the absent spouse  
8 or lacked jurisdiction to dispose of the property, the court,  
9 in determining the value of the marital and non-marital  
10 property for purposes of dividing the property, shall value the  
11 property as of the date of trial or some other date as close to  
12 the date of trial as is practicable.

13 (g) The court if necessary to protect and promote the best  
14 interests of the children may set aside a portion of the  
15 jointly or separately held estates of the parties in a separate  
16 fund or trust for the support, maintenance, education, physical  
17 and mental health, and general welfare of any minor, dependent,  
18 or incompetent child of the parties. In making a determination  
19 under this subsection, the court may consider, among other  
20 things, the conviction of a party of any of the offenses set  
21 forth in Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60,  
22 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-13, 12-14, 12-14.1,  
23 12-15, or 12-16, or Section 12-3.05 except for subdivision  
24 (a) (4) or (g) (1), of the Criminal Code of 1961 if the victim is  
25 a child of one or both of the parties, and there is a need for,  
26 and cost of, care, healing and counseling for the child who is

1 the victim of the crime.

2 (h) Unless specifically directed by a reviewing court, or  
3 upon good cause shown, the court shall not on remand consider  
4 any increase or decrease in the value of any "marital" or  
5 "non-marital" property occurring since the assessment of such  
6 property at the original trial or hearing, but shall use only  
7 that assessment made at the original trial or hearing.

8 (i) The court may make such judgments affecting the marital  
9 property as may be just and may enforce such judgments by  
10 ordering a sale of marital property, with proceeds therefrom to  
11 be applied as determined by the court.

12 (j) After proofs have closed in the final hearing on all  
13 other issues between the parties (or in conjunction with the  
14 final hearing, if all parties so stipulate) and before judgment  
15 is entered, a party's petition for contribution to fees and  
16 costs incurred in the proceeding shall be heard and decided, in  
17 accordance with the following provisions:

18 (1) A petition for contribution, if not filed before  
19 the final hearing on other issues between the parties,  
20 shall be filed no later than 30 days after the closing of  
21 proofs in the final hearing or within such other period as  
22 the court orders.

23 (2) Any award of contribution to one party from the  
24 other party shall be based on the criteria for division of  
25 marital property under this Section 503 and, if maintenance  
26 has been awarded, on the criteria for an award of

1 maintenance under Section 504.

2 (3) The filing of a petition for contribution shall not  
3 be deemed to constitute a waiver of the attorney-client  
4 privilege between the petitioning party and current or  
5 former counsel; and such a waiver shall not constitute a  
6 prerequisite to a hearing for contribution. If either  
7 party's presentation on contribution, however, includes  
8 evidence within the scope of the attorney-client  
9 privilege, the disclosure or disclosures shall be narrowly  
10 construed and shall not be deemed by the court to  
11 constitute a general waiver of the privilege as to matters  
12 beyond the scope of the presentation.

13 (4) No finding on which a contribution award is based  
14 or denied shall be asserted against counsel or former  
15 counsel for purposes of any hearing under subsection (c) or  
16 (e) of Section 508.

17 (5) A contribution award (payable to either the  
18 petitioning party or the party's counsel, or jointly, as  
19 the court determines) may be in the form of either a set  
20 dollar amount or a percentage of fees and costs (or a  
21 portion of fees and costs) to be subsequently agreed upon  
22 by the petitioning party and counsel or, alternatively,  
23 thereafter determined in a hearing pursuant to subsection  
24 (c) of Section 508 or previously or thereafter determined  
25 in an independent proceeding under subsection (e) of  
26 Section 508.

1           (6) The changes to this Section 503 made by this  
2           amendatory Act of 1996 apply to cases pending on or after  
3           June 1, 1997, except as otherwise provided in Section 508.

4           (k) In determining the value of assets or property under  
5           this Section, the court shall employ a fair market value  
6           standard. The date of valuation for the purposes of division of  
7           assets shall be the date of trial or such other date as agreed  
8           by the parties or ordered by the court, within its discretion.

9           (l) The court may seek the advice of financial experts or  
10           other professionals, whether or not employed by the court on a  
11           regular basis. The advice given shall be in writing and made  
12           available by the court to counsel. Counsel may examine as a  
13           witness any professional consulted by the court designated as  
14           the court's witness. Costs of a professional shall be allocated  
15           by the court between the parties.

16           The changes made to this Section by this amendatory Act of  
17           the 97th General Assembly apply only to petitions for  
18           dissolution of marriage filed on or after the effective date of  
19           this amendatory Act of the 97th General Assembly.

20           (Source: P.A. 96-583, eff. 1-1-10; 96-1551, Article 1, Section  
21           985, eff. 7-1-11; 96-1551, Article 2, Section 1100, eff.  
22           7-1-11; 97-608, eff. 1-1-12; 97-941, eff. 1-1-13; 97-1109, eff.  
23           1-1-13.)

24           (750 ILCS 5/504) (from Ch. 40, par. 504)  
25           Sec. 504. Maintenance.



1           (a) In a proceeding for dissolution of marriage or legal  
2 separation or declaration of invalidity of marriage, or a  
3 proceeding for maintenance following dissolution of the  
4 marriage by a court which lacked personal jurisdiction over the  
5 absent spouse, the court may grant a ~~temporary or permanent~~  
6 maintenance award for either spouse in amounts and for periods  
7 of time as the court deems just, without regard to marital  
8 misconduct, ~~in gross or for fixed or indefinite periods of~~  
9 ~~time,~~ and the maintenance may be paid from the income or  
10 property of the other spouse after consideration of all  
11 relevant factors, including:

12           (1) the income and property of each party, including  
13 marital property apportioned and non-marital property  
14 assigned to the party seeking maintenance as well as all  
15 financial obligations imposed on the parties as a result of  
16 the dissolution of marriage;

17           (2) the needs of each party;

18           (3) the realistic present and the realistic future  
19 earning capacity of each party;

20           (4) any impairment of the present and future earning  
21 capacity of the party seeking maintenance due to that party  
22 devoting time to domestic duties or having forgone or  
23 delayed education, training, employment, or career  
24 opportunities due to the marriage. The court shall consider  
25 any impairment of the realistic present or the realistic  
26 future earning capacity of the party against whom

1 maintenance is sought as a result of the marriage and the  
2 ultimate provisions of the judgment;

3 (5) the time necessary to enable the party seeking  
4 maintenance to acquire appropriate education, training,  
5 and employment, and whether that party is able to support  
6 himself or herself through appropriate employment or is the  
7 custodian of a child making it appropriate that the  
8 custodian not seek employment;

9 (6) the standard of living established during the  
10 marriage;

11 (7) the duration of the marriage;

12 (8) the age, health, station, occupation, amount and  
13 sources of income, vocational skills, employability,  
14 estate, liabilities, and needs of each of the parties ~~the~~  
15 ~~age and the physical and emotional condition of both~~  
16 ~~parties;~~

17 (8.5) any custodial arrangements;

18 (9) the tax consequences of the property division upon  
19 the respective economic circumstances of the parties;

20 (9.5) whether maintenance is in lieu of or in addition  
21 to the property allocation;

22 (10) contributions and services by the party seeking  
23 maintenance to the education, training, career or career  
24 potential, or license of the other spouse;

25 (10.5) contributions made to the marriage, including,  
26 without limitation, domestic duties, homemaker

1 contributions, and other financial and non-financial  
2 contribution to the marriage;

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

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

6 (b) (Blank).

7 (b-1) The court may order that maintenance be paid in the  
8 following manner:

9 (1) temporary maintenance under Section 501;

10 (2) rehabilitative maintenance for a period of time,  
11 subject to a review;

12 (3) maintenance in gross;

13 (4) permanent maintenance for an indefinite period.

14 (b-2) An order for unallocated maintenance and child  
15 support may not be entered on or after the effective date of  
16 this amendatory Act of the 98th General Assembly. This  
17 subsection (b-2) does not affect an order for unallocated  
18 maintenance and child support that was entered before the  
19 effective date of this amendatory Act of the 98th General  
20 Assembly.

21 (b-5) Any maintenance obligation including any unallocated  
22 maintenance and child support obligation, or any portion of any  
23 support obligation, that becomes due and remains unpaid shall  
24 accrue simple interest as set forth in Section 505 of this Act.

25 (b-6) The trial court may secure any maintenance award with  
26 an order requiring the spouse paying maintenance to provide an

1 appropriate amount of life insurance, naming the recipient  
2 spouse as the beneficiary.

3 (b-7) Any ~~new or existing~~ maintenance order including any  
4 unallocated maintenance and child support order entered by the  
5 court under this Section shall be deemed to be a series of  
6 judgments against the person obligated to pay support  
7 thereunder. Each such judgment to be in the amount of each  
8 payment or installment of support and each such judgment to be  
9 deemed entered as of the date the corresponding payment or  
10 installment becomes due under the terms of the support order,  
11 except no judgment shall arise as to any installment coming due  
12 after the termination of maintenance as provided by Section 510  
13 of the Illinois Marriage and Dissolution of Marriage Act or the  
14 provisions of any order for maintenance. Each such judgment  
15 shall have the full force, effect and attributes of any other  
16 judgment of this State, including the ability to be enforced.  
17 Notwithstanding any other State or local law to the contrary, a  
18 lien arises by operation of law against the real and personal  
19 property of the obligor for each installment of overdue support  
20 owed by the obligor.

21 (c) The court may grant and enforce the payment of  
22 maintenance during the pendency of an appeal as the court shall  
23 deem reasonable and proper.

24 (d) No maintenance shall accrue during the period in which  
25 a party is imprisoned for failure to comply with the court's  
26 order for the payment of such maintenance.

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

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

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

24           (2) To the extent the court determines that its award  
25 should be secured, in whole or in part, by new life  
26 insurance on the payor's life, the court may only order:

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

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

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

20           (3) A judgment shall expressly set forth that all death  
21 benefits paid under life insurance on a payor's life  
22 maintained or obtained pursuant to this subsection to  
23 secure maintenance are designated as excludable from the  
24 gross income of the maintenance payee under Section  
25 71(b)(1)(B) of the Internal Revenue Code, unless an  
26 agreement or stipulation of the parties otherwise

1 provides.

2 (4) Life insurance may be awarded only at the time of  
3 the initial judgment.

4 (5) The payor shall have the sole obligation to pay the  
5 premiums.

6 (6) All applications shall be made at the time of the  
7 initial judgment and the court shall be limited to an in  
8 camera review of the application in determining whether the  
9 application was made in good faith as to avoid discovery  
10 abuse.

11 (7) The court must consider the ability of the insured  
12 spouse to obtain additional insurance.

13 (Source: P.A. 97-186, eff. 7-22-11; 97-608, eff. 1-1-12;  
14 97-813, eff. 7-13-12.)

15 (750 ILCS 5/505) (from Ch. 40, par. 505)

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

17 (a) In a proceeding for dissolution of marriage, legal  
18 separation, declaration of invalidity of marriage, a  
19 proceeding for child support following dissolution of the  
20 marriage by a court that lacked personal jurisdiction over the  
21 absent spouse, a proceeding for modification of a previous  
22 order for child support under Section 510 of this Act, or any  
23 proceeding authorized under Section 501 or 601 of this Act, the  
24 court may order either or both parents owing a duty of support  
25 to a child of the marriage to pay an amount reasonable and

1 necessary for the support of the child, without regard to  
 2 marital misconduct. The duty of support owed to a child  
 3 includes the obligation to provide for the reasonable and  
 4 necessary educational, physical, mental and emotional health  
 5 needs of the child. For purposes of this Section, the term  
 6 "child" shall include any child under age 18 and any child  
 7 under age 19 who is still attending high school. For purposes  
 8 of this Section, the term "supporting parent" means the parent  
 9 obligated to pay support to the other parent.

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

Number of Children	Percent of Supporting Party's Net Income
1	20%
2	28%
3	32%
4	40%
5	45%
6 or more	50%

20 (2) The above guidelines shall be applied in each case  
 21 unless the court finds that a deviation from the guidelines  
 22 is appropriate after considering the best interest of the  
 23 child in light of the evidence, including, but not limited  
 24 to, one or more of the following relevant factors:

- (a) the financial resources and needs of the child;
- (b) the financial resources and needs of the



1           custodial parent;

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

4           (d) the physical, mental, and emotional needs of  
5           the child;

6           (d-5) the educational needs of the child; and

7           (e) the financial resources and needs of the  
8           non-custodial parent.

9           If the court deviates from the guidelines, the court's  
10          finding shall state the amount of support that would have  
11          been required under the guidelines, if determinable. The  
12          court shall include the reason or reasons for the variance  
13          from the guidelines.

14          (2.5) The court, in its discretion, in addition to  
15          setting child support pursuant to the guidelines and  
16          factors, may order either or both parents owing a duty of  
17          support to a child of the marriage to contribute to the  
18          following expenses, if determined by the court to be  
19          reasonable:

20                 (a) health needs not covered by insurance;

21                 (b) child care;

22                 (c) education; and

23                 (d) extracurricular activities.

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

26                 (a) Federal income tax (properly calculated

1 withholding or estimated payments);

2 (b) State income tax (properly calculated  
3 withholding or estimated payments);

4 (c) Social Security (FICA payments);

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

7 (e) Union dues;

8 (f) Dependent and individual  
9 health/hospitalization insurance premiums and premiums  
10 for life insurance ordered by the court to reasonably  
11 secure payment of ordered child support;

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

14 (h) Expenditures for repayment of debts that  
15 represent reasonable and necessary expenses for the  
16 production of income, medical expenditures necessary  
17 to preserve life or health, reasonable expenditures  
18 for the benefit of the child and the other parent,  
19 exclusive of gifts. The court shall reduce net income  
20 in determining the minimum amount of support to be  
21 ordered only for the period that such payments are due  
22 and shall enter an order containing provisions for its  
23 self-executing modification upon termination of such  
24 payment period;

25 (i) Foster care payments paid by the Department of  
26 Children and Family Services for providing licensed

1 foster care to a foster child.

2 (4) In cases where the court order provides for  
3 health/hospitalization insurance coverage pursuant to  
4 Section 505.2 of this Act, the premiums for that insurance,  
5 or that portion of the premiums for which the supporting  
6 party is responsible in the case of insurance provided  
7 through an employer's health insurance plan where the  
8 employer pays a portion of the premiums, shall be  
9 subtracted from net income in determining the minimum  
10 amount of support to be ordered.

11 (4.5) In a proceeding for child support following  
12 dissolution of the marriage by a court that lacked personal  
13 jurisdiction over the absent spouse, and in which the court  
14 is requiring payment of support for the period before the  
15 date an order for current support is entered, there is a  
16 rebuttable presumption that the supporting party's net  
17 income for the prior period was the same as his or her net  
18 income at the time the order for current support is  
19 entered.

20 (5) If the net income cannot be determined because of  
21 default or any other reason, the court shall order support  
22 in an amount considered reasonable in the particular case.  
23 The final order in all cases shall state the support level  
24 in dollar amounts. However, if the court finds that the  
25 child support amount cannot be expressed exclusively as a  
26 dollar amount because all or a portion of the payor's net

1 income is uncertain as to source, time of payment, or  
2 amount, the court may order a percentage amount of support  
3 in addition to a specific dollar amount and enter such  
4 other orders as may be necessary to determine and enforce,  
5 on a timely basis, the applicable support ordered.

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

20 (a-5) In an action to enforce an order for support based on  
21 the respondent's failure to make support payments as required  
22 by the order, notice of proceedings to hold the respondent in  
23 contempt for that failure may be served on the respondent by  
24 personal service or by regular mail addressed to the  
25 respondent's last known address. The respondent's last known  
26 address may be determined from records of the clerk of the

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

3 (b) Failure of either parent to comply with an order to pay  
4 support shall be punishable as in other cases of contempt. In  
5 addition to other penalties provided by law the Court may,  
6 after finding the parent guilty of contempt, order that the  
7 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 not  
11 to exceed 6 months; provided, however, that the Court may  
12 permit the parent to be released for periods of time during  
13 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 earnings  
18 of a parent during a sentence of periodic imprisonment paid to  
19 the Clerk of the Circuit Court or to the parent having the  
20 majority of residential responsibility ~~custody~~ or to the  
21 guardian having the majority of residential responsibility  
22 ~~custody of~~ the children of the sentenced parent for the support  
23 of said children until further order of the Court.

24 If a parent who is found guilty of contempt for failure to  
25 comply with an order to pay support is a person who conducts a  
26 business or who is self-employed, the court in addition to

1 other penalties provided by law may order that the parent do  
2 one or more of the following: (i) provide to the court monthly  
3 financial statements showing income and expenses from the  
4 business or the self-employment; (ii) seek employment and  
5 report periodically to the court with a diary, listing, or  
6 other memorandum of his or her employment search efforts; or  
7 (iii) report to the Department of Employment Security for job  
8 search services to find employment that will be subject to  
9 withholding for child support.

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

21 (1) the supporting ~~non-custodial~~ parent and the  
22 person, persons, or business entity maintain records  
23 together.

24 (2) the supporting ~~non-custodial~~ parent and the  
25 person, persons, or business entity fail to maintain an  
26 arm's length relationship between themselves with regard

1 to any assets.

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

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

14 The court may also order in cases where the parent is 90  
15 days or more delinquent in payment of support or has been  
16 adjudicated in arrears in an amount equal to 90 days obligation  
17 or more, that the parent's Illinois driving privileges be  
18 suspended until the court determines that the parent is in  
19 compliance with the order of support. The court may also order  
20 that the parent be issued a family financial responsibility  
21 driving permit that would allow limited driving privileges for  
22 employment and medical purposes in accordance with Section  
23 7-702.1 of the Illinois Vehicle Code. The clerk of the circuit  
24 court shall certify the order suspending the driving privileges  
25 of the parent or granting the issuance of a family financial  
26 responsibility driving permit to the Secretary of State on

1 forms prescribed by the Secretary. Upon receipt of the  
2 authenticated documents, the Secretary of State shall suspend  
3 the parent's driving privileges until further order of the  
4 court and shall, if ordered by the court, subject to the  
5 provisions of Section 7-702.1 of the Illinois Vehicle Code,  
6 issue a family financial responsibility driving permit to the  
7 parent.

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

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



1 that a support obligation required under the order, or any  
2 portion of a support obligation required under the order, that  
3 becomes due and remains unpaid as of the end of each month,  
4 excluding the child support that was due for that month to the  
5 extent that it was not paid in that month, shall accrue simple  
6 interest as set forth in Section 12-109 of the Code of Civil  
7 Procedure. Failure to include the statement in the order for  
8 support does not affect the validity of the order or the  
9 accrual of interest as provided in this Section.

10 (c) A one-time charge of 20% is imposable upon the amount  
11 of past-due child support owed on July 1, 1988 which has  
12 accrued under a support order entered by the court. The charge  
13 shall be imposed in accordance with the provisions of Section  
14 10-21 of the Illinois Public Aid Code and shall be enforced by  
15 the court upon petition.

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

1 and personal property of the supporting ~~noncustodial~~ parent for  
2 each installment of overdue support owed by the supporting  
3 ~~noncustodial~~ parent.

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

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

1 parent, service of process or provision of notice necessary in  
2 the case may be made at the last known address of the  
3 supporting ~~non-custodial~~ parent 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 graduation  
13 will occur or the date on which the child will attain the age  
14 of 19. The order for support shall state that the termination  
15 date does not apply to any arrearage that may remain unpaid on  
16 that date. Nothing in this subsection shall be construed to  
17 prevent the court from modifying the order or terminating the  
18 order in the event the child is otherwise emancipated.

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

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

22 (h) An order entered under this Section shall include a  
23 provision requiring the obligor to report to the obligee and to  
24 the clerk of court within 10 days each time the obligor obtains  
25 new employment, and each time the obligor's employment is  
26 terminated for any reason. The report shall be in writing and

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

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

20 (Source: P.A. 96-1134, eff. 7-21-10; 97-186, eff. 7-22-11;  
21 97-608, eff. 1-1-12; 97-813, eff. 7-13-12; 97-878, eff. 8-2-12;  
22 97-941, eff. 1-1-13; 97-1029, eff. 1-1-13; revised 8-23-12.)

23 (750 ILCS 5/505.1) (from Ch. 40, par. 505.1)

24 Sec. 505.1. (a) Whenever it is determined in a proceeding  
25 to establish or enforce a child support or maintenance

1 obligation that the person owing a duty of support is  
2 unemployed, the court may order the person to seek employment  
3 and report periodically to the court with a diary, listing or  
4 other memorandum of his or her efforts in accordance with such  
5 order. Additionally, the court may order the unemployed person  
6 to report to the Department of Employment Security for job  
7 search services or to make application with the local Job  
8 Training Partnership Act provider for participation in job  
9 search, training or work programs and where the duty of support  
10 is owed to a child receiving child support enforcement services  
11 under Article X of the Illinois Public Aid Code, as amended,  
12 the court may order the unemployed person to report to the  
13 Department of Healthcare and Family Services for participation  
14 in job search, training or work programs established under  
15 Section 9-6 and Article IXA of that Code.

16 (b) Whenever it is determined that a person owes past-due  
17 support for a child or for a child and the parent with whom the  
18 child is living, and the child is receiving assistance under  
19 the Illinois Public Aid Code, the court shall order at the  
20 request of the Department of Healthcare and Family Services:

21 (1) that the person pay the past-due support in  
22 accordance with a plan approved by the court; or

23 (2) if the person owing past-due support is unemployed,  
24 is subject to such a plan, and is not incapacitated, that  
25 the person participate in such job search, training, or  
26 work programs established under Section 9-6 and Article IXA

1 of the Illinois Public Aid Code as the court deems  
2 appropriate.

3 (c) The court may construe the overall facts and  
4 circumstances of the case at hand.

5 (Source: P.A. 95-331, eff. 8-21-07.)

6 (750 ILCS 5/508) (from Ch. 40, par. 508)

7 Sec. 508. Attorney's Fees; Client's Rights and  
8 Responsibilities Respecting Fees and Costs.

9 (a) The court from time to time, after due notice and  
10 hearing, and after considering the financial resources of the  
11 parties, may order any party to pay a reasonable amount for his  
12 own or the other party's costs and attorney's fees. Interim  
13 attorney's fees and costs may be awarded from the opposing  
14 party, in a pre-judgment dissolution proceeding in accordance  
15 with subsection (c-1) of Section 501 and in any other  
16 proceeding under this subsection. At the conclusion of any  
17 pre-judgment dissolution proceeding under this subsection,  
18 contribution to attorney's fees and costs may be awarded from  
19 the opposing party in accordance with subsection (j) of Section  
20 503 and in any other proceeding under this subsection. Fees and  
21 costs may be awarded in any proceeding to counsel from a former  
22 client in accordance with subsection (c) of this Section.  
23 Awards may be made in connection with the following:

24 (1) The maintenance or defense of any proceeding under  
25 this Act.

1           (2) The enforcement or modification of any order or  
2 judgment under this Act.

3           (3) The defense of an appeal of any order or judgment  
4 under this Act, including the defense of appeals of  
5 post-judgment orders.

6           (3.1) The prosecution of any claim on appeal (if the  
7 prosecuting party has substantially prevailed).

8           (4) The maintenance or defense of a petition brought  
9 under Section 2-1401 of the Code of Civil Procedure seeking  
10 relief from a final order or judgment under this Act. Fees  
11 incurred with respect to motions under Section 2-1401 of  
12 the Code of Civil Procedure maybe granted only if the  
13 underlying motion is granted.

14           (5) The costs and legal services of an attorney  
15 rendered in preparation of the commencement of the  
16 proceeding brought under this Act.

17           (6) Ancillary litigation incident to, or reasonably  
18 connected with, a proceeding under this Act.

19           (7) Costs and attorney's fees incurred in an action  
20 under the Hague Convention on the Civil Aspects of  
21 International Child Abduction.

22 All petitions for or relating to interim fees and costs  
23 under this subsection shall be accompanied by an affidavit as  
24 to the factual basis for the relief requested and all hearings  
25 relative to any such petition shall be scheduled expeditiously  
26 by the court. All provisions for contribution under this



1 subsection shall also be subject to paragraphs (3), (4), and  
2 (5) of subsection (j) of Section 503.

3 The court may order that the award of attorney's fees and  
4 costs (including an interim or contribution award) shall be  
5 paid directly to the attorney, who may enforce the order in his  
6 or her name, or that it shall be paid to the appropriate party.  
7 Judgment may be entered and enforcement had accordingly. Except  
8 as otherwise provided in subdivision (e)(1) of this Section,  
9 subsection (c) of this Section is exclusive as to the right of  
10 any counsel (or former counsel) of record to petition a court  
11 for an award and judgment for final fees and costs during the  
12 pendency of a proceeding under this Act.

13 A petition for temporary attorney's fees in a post-judgment  
14 case shall be heard on a non-evidentiary, summary basis.

15 (b) In every proceeding for the enforcement of an order or  
16 judgment when the court finds that the failure to comply with  
17 the order or judgment was without compelling cause or  
18 justification, the court shall order the party against whom the  
19 proceeding is brought to pay promptly the costs and reasonable  
20 attorney's fees of the prevailing party. If non-compliance is  
21 with respect to a discovery order, the non-compliance is  
22 presumptively without compelling cause or justification, and  
23 the presumption may only be rebutted by clear and convincing  
24 evidence. If at any time a court finds that a hearing under  
25 this Act was precipitated or conducted for any improper  
26 purpose, the court shall allocate fees and costs of all parties

1 for the hearing to the party or counsel found to have acted  
2 improperly. Improper purposes include, but are not limited to,  
3 harassment, unnecessary delay, or other acts needlessly  
4 increasing the cost of litigation.

5 (c) Final hearings for attorney's fees and costs against an  
6 attorney's own client, pursuant to a Petition for Setting Final  
7 Fees and Costs of either a counsel or a client, shall be  
8 governed by the following:

9 (1) No petition of a counsel of record may be filed  
10 against a client unless the filing counsel previously has  
11 been granted leave to withdraw as counsel of record or has  
12 filed a motion for leave to withdraw as counsel. On receipt  
13 of a petition of a client under this subsection (c), the  
14 counsel of record shall promptly file a motion for leave to  
15 withdraw as counsel. If the client and the counsel of  
16 record agree, however, a hearing on the motion for leave to  
17 withdraw as counsel filed pursuant to this subdivision  
18 (c)(1) may be deferred until completion of any alternative  
19 dispute resolution procedure under subdivision (c)(4). As  
20 to any Petition for Setting Final Fees and Costs against a  
21 client or counsel over whom the court has not obtained  
22 jurisdiction, a separate summons shall issue. Whenever a  
23 separate summons is not required, original notice as to a  
24 Petition for Setting Final Fees and Costs may be given, and  
25 documents served, in accordance with Illinois Supreme  
26 Court Rules 11 and 12.

1           (2) No final hearing under this subsection (c) is  
2 permitted unless: (i) the counsel and the client had  
3 entered into a written engagement agreement at the time the  
4 client retained the counsel (or reasonably soon  
5 thereafter) and the agreement meets the requirements of  
6 subsection (f); (ii) the written engagement agreement is  
7 attached to an affidavit of counsel that is filed with the  
8 petition or with the counsel's response to a client's  
9 petition; (iii) judgment in any contribution hearing on  
10 behalf of the client has been entered or the right to a  
11 contribution hearing under subsection (j) of Section 503  
12 has been waived; (iv) the counsel has withdrawn as counsel  
13 of record; and (v) the petition seeks adjudication of all  
14 unresolved claims for fees and costs between the counsel  
15 and the client. Irrespective of a Petition for Setting  
16 Final Fees and Costs being heard in conjunction with an  
17 original proceeding under this Act, the relief requested  
18 under a Petition for Setting Final Fees and Costs  
19 constitutes a distinct cause of action. A pending but  
20 undetermined Petition for Setting Final Fees and Costs  
21 shall not affect appealability of any judgment or other  
22 adjudication in the original proceeding.

23           (3) The determination of reasonable attorney's fees  
24 and costs either under this subsection (c), whether  
25 initiated by a counsel or a client, or in an independent  
26 proceeding for services within the scope of subdivisions

1 (1) through (5) of subsection (a), is within the sound  
2 discretion of the trial court. The court shall first  
3 consider the written engagement agreement and, if the court  
4 finds that the former client and the filing counsel,  
5 pursuant to their written engagement agreement, entered  
6 into a contract which meets applicable requirements of  
7 court rules and addresses all material terms, then the  
8 contract shall be enforceable in accordance with its terms,  
9 subject to the further requirements of this subdivision  
10 (c)(3). Before ordering enforcement, however, the court  
11 shall consider the performance pursuant to the contract.  
12 Any amount awarded by the court must be found to be fair  
13 compensation for the services, pursuant to the contract,  
14 that the court finds were reasonable and necessary. Quantum  
15 meruit principles shall govern any award for legal services  
16 performed that is not based on the terms of the written  
17 engagement agreement (except that, if a court expressly  
18 finds in a particular case that aggregate billings to a  
19 client were unconscionably excessive, the court in its  
20 discretion may reduce the award otherwise determined  
21 appropriate or deny fees altogether).

22 (4) No final hearing under this subsection (c) is  
23 permitted unless any controversy over fees and costs (that  
24 is not otherwise subject to some form of alternative  
25 dispute resolution) has first been submitted to mediation,  
26 arbitration, or any other court approved alternative

1 dispute resolution procedure, except as follows:

2 (A) In any circuit court for a single county with a  
3 population in excess of 1,000,000, the requirement of  
4 the controversy being submitted to an alternative  
5 dispute resolution procedure is mandatory unless the  
6 client and the counsel both affirmatively opt out of  
7 such procedures; or

8 (B) In any other circuit court, the requirement of  
9 the controversy being submitted to an alternative  
10 dispute resolution procedure is mandatory only if  
11 neither the client nor the counsel affirmatively opts  
12 out of such procedures.

13 After completion of any such procedure (or after one or  
14 both sides has opted out of such procedures), if the  
15 dispute is unresolved, any pending motion for leave to  
16 withdraw as counsel shall be promptly granted and a final  
17 hearing under this subsection (c) shall be expeditiously  
18 set and completed.

19 (5) A petition (or a praecipe for fee hearing without  
20 the petition) shall be filed no later than the end of the  
21 period in which it is permissible to file a motion pursuant  
22 to Section 2-1203 of the Code of Civil Procedure. A  
23 praecipe for fee hearing shall be dismissed if a Petition  
24 for Setting Final Fees and Costs is not filed within 60  
25 days after the filing of the praecipe. A counsel who  
26 becomes a party by filing a Petition for Setting Final Fees

1 and Costs, or as a result of the client filing a Petition  
2 for Setting Final Fees and Costs, shall not be entitled to  
3 exercise the right to a substitution of a judge without  
4 cause under subdivision (a)(2) of Section 2-1001 of the  
5 Code of Civil Procedure. Each of the foregoing deadlines  
6 for the filing of a praecipe or a petition shall be:

7 (A) tolled if a motion is filed under Section 2-1203 of  
8 the Code of Civil Procedure, in which instance a petition  
9 (or a praecipe) shall be filed no later than 30 days  
10 following disposition of all Section 2-1203 motions; or

11 (B) tolled if a notice of appeal is filed, in which  
12 instance a petition (or praecipe) shall be filed no later  
13 than 30 days following the date jurisdiction on the issue  
14 appealed is returned to the trial court.

15 If a praecipe has been timely filed, then by timely filed  
16 written stipulation between counsel and client (or former  
17 client), the deadline for the filing of a petition may be  
18 extended for a period of up to one year.

19 (c-5) Counsel that has either withdrawn or been discharged  
20 may file and have heard a petition to be paid from the marital  
21 estate during the pendency of the case. The court shall review  
22 the records and any hearing shall be conducted between the  
23 petitioning counsel and the former client with the  
24 determination of reasonableness of the claim based upon the  
25 terms of the attorney-client relationship. Any award shall be  
26 paid from the marital estate and be considered an advance

1 against the client's share of the marital estate.

2 (d) A consent judgment, in favor of a current counsel of  
3 record against his or her own client for a specific amount in a  
4 marital settlement agreement, dissolution judgment, or any  
5 other instrument involving the other litigant, is prohibited. A  
6 consent judgment between client and counsel, however, is  
7 permissible if it is entered pursuant to a verified petition  
8 for entry of consent judgment, supported by an affidavit of the  
9 counsel of record that includes the counsel's representation  
10 that the client has been provided an itemization of the billing  
11 or billings to the client, detailing hourly costs, time spent,  
12 and tasks performed, and by an affidavit of the client  
13 acknowledging receipt of that documentation, awareness of the  
14 right to a hearing, the right to be represented by counsel  
15 (other than counsel to whom the consent judgment is in favor),  
16 and the right to be present at the time of presentation of the  
17 petition, and agreement to the terms of the judgment. The  
18 petition may be filed at any time during which it is  
19 permissible for counsel of record to file a petition (or a  
20 praecipe) for a final fee hearing, except that no such petition  
21 for entry of consent judgment may be filed before adjudication  
22 (or waiver) of the client's right to contribution under  
23 subsection (j) of Section 503 or filed after the filing of a  
24 petition (or a praecipe) by counsel of record for a fee hearing  
25 under subsection (c) if the petition (or praecipe) remains  
26 pending. No consent security arrangement between a client and a

1 counsel of record, pursuant to which assets of a client are  
2 collateralized to secure payment of legal fees or costs, is  
3 permissible unless approved in advance by the court as being  
4 reasonable under the circumstances.

5 (e) Counsel may pursue an award and judgment against a  
6 former client for legal fees and costs in an independent  
7 proceeding in the following circumstances:

8 (1) While a case under this Act is still pending, a  
9 former counsel may pursue such an award and judgment at any  
10 time subsequent to 90 days after the entry of an order  
11 granting counsel leave to withdraw; and

12 (2) After the close of the period during which a  
13 petition (or praecipe) may be filed under subdivision  
14 (c) (5), if no such petition (or praecipe) for the counsel  
15 remains pending, any counsel or former counsel may pursue  
16 such an award and judgment in an independent proceeding.

17 In an independent proceeding, the prior applicability of this  
18 Section shall in no way be deemed to have diminished any other  
19 right of any counsel (or former counsel) to pursue an award and  
20 judgment for legal fees and costs on the basis of remedies that  
21 may otherwise exist under applicable law; and the limitations  
22 period for breach of contract shall apply. In an independent  
23 proceeding under subdivision (e) (1) in which the former counsel  
24 had represented a former client in a dissolution case that is  
25 still pending, the former client may bring in his or her spouse  
26 as a third-party defendant, provided on or before the final



1 date for filing a petition (or praecipe) under subsection (c),  
2 the party files an appropriate third-party complaint under  
3 Section 2-406 of the Code of Civil Procedure. In any such case,  
4 any judgment later obtained by the former counsel shall be  
5 against both spouses or ex-spouses, jointly and severally  
6 (except that, if a hearing under subsection (j) of Section 503  
7 has already been concluded and the court hearing the  
8 contribution issue has imposed a percentage allocation between  
9 the parties as to fees and costs otherwise being adjudicated in  
10 the independent proceeding, the allocation shall be applied  
11 without deviation by the court in the independent proceeding  
12 and a separate judgment shall be entered against each spouse  
13 for the appropriate amount). After the period for the  
14 commencement of a proceeding under subsection (c), the  
15 provisions of this Section (other than the standard set forth  
16 in subdivision (c) (3) and the terms respecting consent security  
17 arrangements in subsection (d) of this Section 508) shall be  
18 inapplicable.

19 The changes made by this amendatory Act of the 94th General  
20 Assembly are declarative of existing law.

21 (f) Unless the Supreme Court by rule addresses the matters  
22 set out in this subsection (f), a written engagement agreement  
23 within the scope of subdivision (c) (2) shall have appended to  
24 it verbatim the following Statement:

25 "STATEMENT OF CLIENT'S RIGHTS AND RESPONSIBILITIES

1           (1) WRITTEN ENGAGEMENT AGREEMENT. The written engagement  
2 agreement, prepared by the counsel, shall clearly address the  
3 objectives of representation and detail the fee arrangement,  
4 including all material terms. If fees are to be based on  
5 criteria apart from, or in addition to, hourly rates, such  
6 criteria (e.g., unique time demands and/or utilization of  
7 unique expertise) shall be delineated. The client shall receive  
8 a copy of the written engagement agreement and any additional  
9 clarification requested and is advised not to sign any such  
10 agreement which the client finds to be unsatisfactory or does  
11 not understand.

12           (2) REPRESENTATION. Representation will commence upon the  
13 signing of the written engagement agreement. The counsel will  
14 provide competent representation, which requires legal  
15 knowledge, skill, thoroughness and preparation to handle those  
16 matters set forth in the written engagement agreement. Once  
17 employed, the counsel will act with reasonable diligence and  
18 promptness, as well as use his best efforts on behalf of the  
19 client, but he cannot guarantee results. The counsel will abide  
20 by the client's decision concerning the objectives of  
21 representation, including whether or not to accept an offer of  
22 settlement, and will endeavor to explain any matter to the  
23 extent reasonably necessary to permit the client to make  
24 informed decisions regarding representation. During the course  
25 of representation and afterwards, the counsel may not use or  
26 reveal a client's confidence or secrets, except as required or

1 permitted by law.

2 (3) COMMUNICATION. The counsel will keep the client  
3 reasonably informed about the status of representation and will  
4 promptly respond to reasonable requests for information,  
5 including any reasonable request for an estimate respecting  
6 future costs of the representation or an appropriate portion of  
7 it. The client shall be truthful in all discussions with the  
8 counsel and provide all information or documentation required  
9 to enable the counsel to provide competent representation.  
10 During representation, the client is entitled to receive all  
11 pleadings and substantive documents prepared on behalf of the  
12 client and every document received from any other counsel of  
13 record. At the end of the representation and on written request  
14 from the client, the counsel will return to the client all  
15 original documents and exhibits. In the event that the counsel  
16 withdraws from representation, or is discharged by the client,  
17 the counsel will turn over to the substituting counsel (or, if  
18 no substitutions, to the client) all original documents and  
19 exhibits together with complete copies of all pleadings and  
20 discovery within thirty (30) days of the counsel's withdrawal  
21 or discharge.

22 (4) ETHICAL CONDUCT. The counsel cannot be required to  
23 engage in conduct which is illegal, unethical, or fraudulent.  
24 In matters involving minor children, the counsel may refuse to  
25 engage in conduct which, in the counsel's professional  
26 judgment, would be contrary to the best interest of the

1 client's minor child or children. A counsel who cannot  
2 ethically abide by his client's directions shall be allowed to  
3 withdraw from representation.

4 (5) FEES. The counsel's fee for services may not be  
5 contingent upon the securing of a dissolution of marriage, upon  
6 obtaining custody, or be based upon the amount of maintenance,  
7 child support, or property settlement received, except as  
8 specifically permitted under Supreme Court rules. The counsel  
9 may not require a non-refundable retainer fee, but must remit  
10 back any overpayment at the end of the representation. The  
11 counsel may enter into a consensual security arrangement with  
12 the client whereby assets of the client are pledged to secure  
13 payment of legal fees or costs, but only if the counsel first  
14 obtains approval of the Court. The counsel will prepare and  
15 provide the client with an itemized billing statement detailing  
16 hourly rates (and/or other criteria), time spent, tasks  
17 performed, and costs incurred on a regular basis, at least  
18 quarterly. The client should review each billing statement  
19 promptly and address any objection or error in a timely manner.  
20 The client will not be billed for time spent to explain or  
21 correct a billing statement. If an appropriately detailed  
22 written estimate is submitted to a client as to future costs  
23 for a counsel's representation or a portion of the contemplated  
24 services (i.e., relative to specific steps recommended by the  
25 counsel in the estimate) and, without objection from the  
26 client, the counsel then performs the contemplated services,

1 all such services are presumptively reasonable and necessary,  
2 as well as to be deemed pursuant to the client's direction. In  
3 an appropriate case, the client may pursue contribution to his  
4 or her fees and costs from the other party.

5 (6) DISPUTES. The counsel-client relationship is regulated  
6 by the Illinois Rules of Professional Conduct (Article VIII of  
7 the Illinois Supreme Court Rules), and any dispute shall be  
8 reviewed under the terms of such Rules."

9 (g) The changes to this Section 508 made by this amendatory  
10 Act of 1996 apply to cases pending on or after June 1, 1997,  
11 except as follows:

12 (1) Subdivisions (c) (1) and (c) (2) of this Section 508,  
13 as well as provisions of subdivision (c) (3) of this Section  
14 508 pertaining to written engagement agreements, apply  
15 only to cases filed on or after June 1, 1997.

16 (2) The following do not apply in the case of a hearing  
17 under this Section that began before June 1, 1997:

18 (A) Subsection (c-1) of Section 501.

19 (B) Subsection (j) of Section 503.

20 (C) The changes to this Section 508 made by this  
21 amendatory Act of 1996 pertaining to the final setting  
22 of fees.

23 (Source: P.A. 96-583, eff. 1-1-10.)

24 (750 ILCS 5/510) (from Ch. 40, par. 510)

25 Sec. 510. Modification and termination of provisions for

1 maintenance, support, educational expenses, and property  
2 disposition.

3 (a) Except as otherwise provided in paragraph (f) of  
4 Section 502 and in subsection (b), clause (3) of Section 505.2,  
5 the provisions of any judgment respecting maintenance or  
6 support may be modified only as to installments accruing  
7 subsequent to due notice by the moving party of the filing of  
8 the motion for modification. An order for child support may be  
9 modified as follows:

10 (1) upon a showing of a substantial change in  
11 circumstances; and

12 (2) without the necessity of showing a substantial  
13 change in circumstances, as follows:

14 (A) upon a showing of an inconsistency of at least  
15 20%, but no less than \$10 per month, between the amount  
16 of the existing order and the amount of child support  
17 that results from application of the guidelines  
18 specified in Section 505 of this Act unless the  
19 inconsistency is due to the fact that the amount of the  
20 existing order resulted from a deviation from the  
21 guideline amount and there has not been a change in the  
22 circumstances that resulted in that deviation; or

23 (B) upon a showing of a need to provide for the  
24 health care needs of the child under the order through  
25 health insurance or other means. In no event shall the  
26 eligibility for or receipt of medical assistance be

1           considered to meet the need to provide for the child's  
2           health care needs.

3           The provisions of subparagraph (a)(2)(A) shall apply only  
4           in cases in which a party is receiving child support  
5           enforcement services from the Department of Healthcare and  
6           Family Services under Article X of the Illinois Public Aid  
7           Code, and only when at least 36 months have elapsed since the  
8           order for child support was entered or last modified.

9           (a-5) An order for maintenance may be modified or  
10          terminated only upon a showing of a substantial change in  
11          circumstances. In all such proceedings, as well as in  
12          proceedings in which maintenance is being reviewed, the court  
13          shall consider the applicable factors set forth in subsection  
14          (a) of Section 504 and the following factors:

15                 (1) any change in the employment status of either party  
16                 and whether the change has been made in good faith;

17                 (2) the efforts, if any, made by the party receiving  
18                 maintenance to become self-supporting, and the  
19                 reasonableness of the efforts where they are appropriate;

20                 (3) any impairment of the present and future earning  
21                 capacity of either party;

22                 (4) the tax consequences of the maintenance payments  
23                 upon the respective economic circumstances of the parties;

24                 (5) the duration of the maintenance payments  
25                 previously paid (and remaining to be paid) relative to the  
26                 length of the marriage;

1           (6) the property, including retirement benefits,  
2           awarded to each party under the judgment of dissolution of  
3           marriage, judgment of legal separation, or judgment of  
4           declaration of invalidity of marriage and the present  
5           status of the property;

6           (7) the increase or decrease in each party's income  
7           since the prior judgment or order from which a review,  
8           modification, or termination is being sought;

9           (8) the property acquired and currently owned by each  
10          party after the entry of the judgment of dissolution of  
11          marriage, judgment of legal separation, or judgment of  
12          declaration of invalidity of marriage; and

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

15          (b) The provisions as to property disposition may not be  
16          revoked or modified, unless the court finds the existence of  
17          conditions that justify the reopening of a judgment under the  
18          laws of this State.

19          (c) Unless otherwise agreed by the parties in a written  
20          agreement set forth in the judgment or otherwise approved by  
21          the court, the obligation to pay future maintenance is  
22          terminated upon the death of either party, ~~or~~ the remarriage of  
23          the party receiving maintenance, entry by the party receiving  
24          maintenance into a civil union, or if the party receiving  
25          maintenance cohabits with another person on a resident,  
26          continuing conjugal basis. Any obligation of a payor party for



1 premium payments respecting insurance on such party's life  
2 imposed under subsection (f) of Section 504 is also terminated  
3 on the occurrence of any of the foregoing events, unless  
4 otherwise agreed by the parties. Any termination of an  
5 obligation for maintenance as a result of the death of the  
6 payor party, however, shall be inapplicable to any right of the  
7 other party or such other party's designee to receive a death  
8 benefit under such insurance on the payor party's life. A party  
9 receiving maintenance must advise the payor of his or her  
10 intention to marry or enter into a civil union at least 30 days  
11 before the remarriage or entry into the civil union, unless the  
12 decision is made within said time period. In that event, he or  
13 she must notify the other party within 72 hours of getting  
14 married or entering into a civil union.

15 (d) Unless otherwise provided in this Act, or as agreed in  
16 writing or expressly provided in the judgment, provisions for  
17 the support of a child are terminated by emancipation of the  
18 child, or if the child has attained the age of 18 and is still  
19 attending high school, provisions for the support of the child  
20 are terminated upon the date that the child graduates from high  
21 school or the date the child attains the age of 19, whichever  
22 is earlier, but not by the death of a parent obligated to  
23 support or educate the child. An existing obligation to pay for  
24 support or educational expenses, or both, is not terminated by  
25 the death of a parent. When a parent obligated to pay support  
26 or educational expenses, or both, dies, the amount of support

1 or educational expenses, or both, may be enforced, modified,  
2 revoked or commuted to a lump sum payment, as equity may  
3 require, and that determination may be provided for at the time  
4 of the dissolution of the marriage or thereafter.

5 (e) The right to petition for support or educational  
6 expenses, or both, under Sections 505 and 513 is not  
7 extinguished by the death of a parent. Upon a petition filed  
8 before or after a parent's death, the court may award sums of  
9 money out of the decedent's estate for the child's support or  
10 educational expenses, or both, as equity may require. The time  
11 within which a claim may be filed against the estate of a  
12 decedent under Sections 505 and 513 and subsection (d) and this  
13 subsection shall be governed by the provisions of the Probate  
14 Act of 1975, as a barrable, noncontingent claim.

15 (f) A petition to modify or terminate child support,  
16 custody, or visitation shall not delay any child support  
17 enforcement litigation or supplementary proceeding on behalf  
18 of the obligee, including, but not limited to, a petition for a  
19 rule to show cause, for non-wage garnishment, or for a  
20 restraining order.

21 (g) Whenever there is a change in an order of maintenance,  
22 the court shall make and enter upon the record the specific  
23 factual findings that support the change in the maintenance  
24 award.

25 (Source: P.A. 97-608, eff. 1-1-12.)

1 (750 ILCS 5/512) (from Ch. 40, par. 512)

2 Sec. 512. Post-Judgment Venue.) After 30 days from the  
3 entry of a judgment of dissolution of marriage or the last  
4 modification thereof, any further proceedings to enforce or  
5 modify the judgment shall be as follows:

6 (a) If the respondent does not then reside within this  
7 State, further proceedings shall be had either in the judicial  
8 circuit wherein the moving party resides or where the judgment  
9 was entered or last modified.

10 (b) If one or both of the parties then resides in the  
11 judicial circuit wherein the judgment was entered or last  
12 modified, further proceedings shall be had in the judicial  
13 circuit that last exercised jurisdiction in the matter;  
14 provided, however, that the court may in its discretion,  
15 transfer matters involving a change in child custody to the  
16 judicial circuit where the minor or dependent child resides.

17 (c) If neither party then resides in the judicial circuit  
18 wherein the judgment was entered or last modified, further  
19 proceedings shall be had in that circuit or in the judicial  
20 circuit wherein either party resides ~~or where the respondent is~~  
21 ~~actively employed~~; provided, however, that the court may, in  
22 its discretion, transfer matters involving a change in child  
23 custody to the judicial circuit where the minor or dependent  
24 child resides.

25 (d) Objection to venue is waived if not made within such  
26 time as the respondent's answer is due. Counter relief shall be

1 heard and determined by the court hearing any matter already  
2 pending.

3 (Source: P.A. 80-923.)

4 (750 ILCS 5/513) (from Ch. 40, par. 513)

5 Sec. 513. Educational expenses ~~Support~~ for a Non-minor  
6 Child Children and Educational Expenses.

7 (a) The court may award sums of money out of the property  
8 and income of either or both parties or the estate of a  
9 deceased parent, as equity may require, for the educational  
10 expenses support of any the child or children of the parties.  
11 Unless otherwise agreed to by the parties, all educational  
12 expenses which are the subject of a petition brought pursuant  
13 to this Section shall be incurred no later than the student's  
14 23rd birthday.

15 (b) Regardless of whether an award has been made under  
16 subsection (a), the court may require both parties and the  
17 child to complete the Free Application for Federal Student Aid  
18 (FAFSA) and other financial aid forms and to submit any form of  
19 that type prior to the designated submission deadline for the  
20 form. The court may require either or both parties to provide  
21 funds for the child so as to pay for the cost of up to 5 college  
22 applications, the cost of 2 standardized college entrance  
23 examinations, and the cost of one standardized college entrance  
24 examination preparatory course.

25 (c) The authority under this Section to make provision for

1 educational expenses extends not only to periods of college  
2 education or vocational or professional or other training after  
3 graduation from high school, but also to any period during  
4 which the child of the parties is still attending high school,  
5 even though he or she attained the age of 19.

6 (d) Educational expenses may include, but shall not be  
7 limited to, the following:

8 (1) the actual cost of the child's post-secondary  
9 expenses, including tuition and fees, provided that the  
10 cost for tuition and fees does not exceed the amount of  
11 tuition and fees paid by a student at the University of  
12 Illinois at Urbana-Champaign for the same academic year;

13 (2) the actual costs of the child's housing expenses,  
14 whether on-campus and off-campus, provided that the  
15 housing expenses do not exceed the cost for the same  
16 academic year of a double-occupancy student room, with a  
17 standard meal plan, in a residence hall operated by the  
18 University of Illinois at Urbana-Champaign;

19 (3) the actual costs of the child's medical expenses,  
20 including medical insurance, and dental expenses; and

21 (4) the reasonable living expenses of the child during  
22 the academic year and periods of recess:

23 (A) if the child is a resident student attending a  
24 post-secondary educational program; or

25 (B) if the child is living with one party at that  
26 party's home and attending a post-secondary

1           educational program as a non-resident student, in  
2           which case the living expenses include an amount that  
3           pays for the reasonable cost of the child's food,  
4           utilities, and transportation.

5           (e) Sums may be ordered payable to the child, to either  
6           party, or to the educational institution, directly or through a  
7           special account or trust created for that purpose, as the court  
8           sees fit.

9           (f) If educational expenses are ordered payable, each party  
10          and the child shall sign any consents necessary for the  
11          educational institution to provide a supporting party with  
12          access to the child's academic transcripts, records, and grade  
13          reports. The consents shall not apply to any non-academic  
14          records. Failure to execute the required consent may be a basis  
15          for a modification or termination of any order entered under  
16          this Section. Unless the court specifically finds that the  
17          child's safety would be jeopardized, each party is entitled to  
18          know the name of the educational institution the child attends.

19          (g) The authority under this Section to make provision for  
20          educational expenses terminates when the child: fails to  
21          maintain a "C" grade point average, except in the event of  
22          illness or another extenuating circumstance; attains the age of  
23          23; receives a baccalaureate degree; or marries or becomes a  
24          party to a civil union. A child's enlisting in the armed  
25          forces, being incarcerated, or becoming pregnant do not  
26          terminate the court's authority to make provisions for the

1 educational expenses for the child.

2 (h) An account established prior to the dissolution that is  
3 to be used for the child's post-secondary education, that is an  
4 account in a state tuition program under Section 529 of the  
5 Internal Revenue Code, or that is some other college savings  
6 plan, is to be considered by the court to be a resource of the  
7 child, provided that any post-judgment contribution made by a  
8 party to such an account is to be considered a contribution  
9 from that party.

10 (i) If the parties have a marital settlement agreement or a  
11 civil union settlement agreement that does not include language  
12 specifically describing an agreement as to how the child's  
13 educational expenses will be paid, the child is not a third  
14 party beneficiary to the parties' agreement and is not entitled  
15 to file a petition for contribution. If the parties' settlement  
16 agreement describes the manner in which a child's educational  
17 expenses will be paid, or if the court makes an award pursuant  
18 to this Section, then the parties are responsible pursuant to  
19 that agreement or award for the child's educational expenses,  
20 but in no event shall the court consider the child a third  
21 party beneficiary of that provision.

22 ~~who have attained majority in the following instances:~~

23 ~~(1) When the child is mentally or physically disabled~~  
24 ~~and not otherwise emancipated, an application for support~~  
25 ~~may be made before or after the child has attained~~  
26 ~~majority.~~

1           ~~(2) The court may also make provision for the~~  
2           ~~educational expenses of the child or children of the~~  
3           ~~parties, whether of minor or majority age, and an~~  
4           ~~application for educational expenses may be made before or~~  
5           ~~after the child has attained majority, or after the death~~  
6           ~~of either parent. The authority under this Section to make~~  
7           ~~provision for educational expenses extends not only to~~  
8           ~~periods of college education or professional or other~~  
9           ~~training after graduation from high school, but also to any~~  
10           ~~period during which the child of the parties is still~~  
11           ~~attending high school, even though he or she attained the~~  
12           ~~age of 19. The educational expenses may include, but shall~~  
13           ~~not be limited to, room, board, dues, tuition,~~  
14           ~~transportation, books, fees, registration and application~~  
15           ~~costs, medical expenses including medical insurance,~~  
16           ~~dental expenses, and living expenses during the school year~~  
17           ~~and periods of recess, which sums may be ordered payable to~~  
18           ~~the child, to either parent, or to the educational~~  
19           ~~institution, directly or through a special account or trust~~  
20           ~~created for that purpose, as the court sees fit.~~

21           ~~If educational expenses are ordered payable, each~~  
22           ~~parent and the child shall sign any consents necessary for~~  
23           ~~the educational institution to provide the supporting~~  
24           ~~parent with access to the child's academic transcripts,~~  
25           ~~records, and grade reports. The consents shall not apply to~~  
26           ~~any non academic records. Failure to execute the required~~



1 ~~consent may be a basis for a modification or termination of~~  
2 ~~any order entered under this Section. Unless the court~~  
3 ~~specifically finds that the child's safety would be~~  
4 ~~jeopardized, each parent is entitled to know the name of~~  
5 ~~the educational institution the child attends. This~~  
6 ~~amendatory Act of the 95th General Assembly applies to all~~  
7 ~~orders entered under this paragraph (2) on or after the~~  
8 ~~effective date of this amendatory Act of the 95th General~~  
9 ~~Assembly.~~

10 ~~The authority under this Section to make provision for~~  
11 ~~educational expenses, except where the child is mentally or~~  
12 ~~physically disabled and not otherwise emancipated,~~  
13 ~~terminates when the child receives a baccalaureate degree.~~

14 (j) ~~(b)~~ In making awards under this Section ~~paragraph (1)~~  
15 ~~or (2) of subsection (a)~~, or pursuant to a petition or motion  
16 to decrease, modify, or terminate any such award, the court  
17 shall consider all relevant factors that appear reasonable and  
18 necessary, including:

19 (1) The present and future financial resources of both  
20 parties to meet their needs, including, but not limited to,  
21 savings for retirement ~~The financial resources of both~~  
22 ~~parents.~~

23 (2) The standard of living the child would have enjoyed  
24 had the marriage or civil union not been dissolved. The  
25 court may consider factors beyond the pure financial  
26 circumstances of the parties.

1 (3) The financial resources of the child.

2 (4) The child's academic performance.

3 (k) Relief under this Section is retroactive only to the  
4 date of filing of a petition.

5 (Source: P.A. 95-954, eff. 8-29-08.)

6 (750 ILCS 5/513.5 new)

7 Sec. 513.5. Support for a non-minor disabled child.

8 (a) The court may award sums of money out of the property  
9 and income of either or both parties or the estate of a  
10 deceased parent, as equity may require, for the support of a  
11 child of the parties who has attained majority when the child  
12 is mentally or physically disabled and not otherwise  
13 emancipated. An application for support for a non-minor  
14 disabled child may be made before or after the child has  
15 attained majority. Unless an application for educational  
16 expenses is made for a mentally or physically disabled child  
17 under Section 513, the disability that is the basis for the  
18 application for support must have arisen before the child  
19 attained majority.

20 (b) In making awards under this Section, or pursuant to a  
21 petition or motion to decrease, modify, or terminate any such  
22 award, the court shall consider all relevant factors that  
23 appear reasonable and necessary, including:

24 (1) the present and future financial resources of both  
25 parties to meet their needs, including, but not limited to,

1 savings for retirement;

2 (2) the standard of living the child would have enjoyed  
3 had the marriage or civil union not been dissolved. The  
4 court may consider factors beyond the pure financial  
5 circumstances of the parties;

6 (3) the financial resources of the child; and

7 (4) any financial or other resource provided to or for  
8 the child including, but not limited to, any Supplemental  
9 Security Income, any home-based support provided pursuant  
10 to the Home-Based Support Services Law for Mentally  
11 Disabled Adults, and any other State, federal, or local  
12 benefit available to the non-minor disabled child.

13 (c) As used in this Section:

14 A "disabled" individual means an individual who has a  
15 physical or mental impairment that substantially limits a major  
16 life activity, has a record of such an impairment, or is  
17 regarded as having such an impairment.

18 "Disability" means a mental or physical impairment that  
19 substantially limits a major life activity.

20 (750 ILCS 5/Pt. VI heading)

21 PART VI

22 ALLOCATION OF PARENTAL RESPONSIBILITIES ~~CUSTODY~~

23 (750 ILCS 5/600 new)

24 Sec. 600. Definitions. For purposes of this Part VI:

1       "Abuse" has the meaning ascribed to that term in Section  
2       103 of the Illinois Domestic Violence Act of 1986.

3       "Allocation judgment" means a judgment allocating parental  
4       responsibilities.

5       "Caretaking functions" means tasks that involve  
6       interaction with a child or that direct, arrange, and supervise  
7       the interaction with and care of a child provided by others, or  
8       for obtaining the resources allowing for the provision of these  
9       functions. The term includes, but is not limited to, the  
10       following:

11           (1) satisfying a child's nutritional needs; managing a  
12           child's bedtime and wake-up routines; caring for a child  
13           when the child is sick or injured; being attentive to a  
14           child's personal hygiene needs, including washing,  
15           grooming, and dressing; playing with a child and arranging  
16           for recreation; protecting a child's physical safety; and  
17           providing transportation for a child;

18           (2) directing a child's various developmental needs,  
19           including the acquisition of motor and language skills,  
20           toilet training, self-confidence, and maturation;

21           (3) providing discipline, giving instruction in  
22           manners, assigning and supervising chores, and performing  
23           other tasks that attend to a child's needs for behavioral  
24           control and self-restraint;

25           (4) arranging for a child's education, including  
26           arranging for remedial or special services appropriate to

1 the child's needs and interests, communicating with  
2 teachers and counselors, and supervising homework;

3 (5) helping a child develop and maintain appropriate  
4 interpersonal relationships with peers, siblings, and  
5 other family members;

6 (6) arranging for health-care providers, medical  
7 follow-up, and home health care for a child;

8 (7) providing moral and ethical guidance for a child;  
9 and

10 (8) arranging alternative care for a child by a family  
11 member, babysitter, or other child-care provider or  
12 facility, including investigating such alternatives,  
13 communicating with providers, and supervising such care.

14 "Equitable parent" means a person who, though not a legal  
15 parent of a child:

16 (1) is obligated by a court order to pay child support  
17 for the child; or

18 (2) is the child's stepparent; or

19 (3) lived with the child for at least 2 years and:

20 (A) during that time (i) had a reasonable,  
21 good-faith belief that he or she was the child's  
22 biological parent, based on marriage to the child's  
23 legal parent or on the actions or representations of  
24 the legal parent, and (ii) performed or contributed to  
25 the performance of caretaking functions consistent  
26 with that belief; and

1           (B) continued to make reasonable, good-faith  
2           efforts to accept parental responsibilities with  
3           respect to the child if thereafter that belief no  
4           longer existed; or

5           (4) lived with the child since the child's birth or for  
6           at least 2 years, and held himself out as the child's  
7           parent while accepting parental responsibilities, under an  
8           agreement with the child's legal parent (or, if there are 2  
9           legal parents, both parents) to rear the child together,  
10           each with allocated parental rights and responsibilities,  
11           provided that a court finds that recognition of the person  
12           as a parent is in the child's best interests.

13           "Legal parent" means a biological or adoptive parent of a  
14           child.

15           "Parent" means a legal parent or an equitable parent.

16           "Parental responsibilities" means both parenting time and  
17           significant decision-making responsibilities with respect to a  
18           child.

19           "Parenting time" means the time during which a parent is  
20           physically with a child and exercises caretaking functions and  
21           non-significant decision-making responsibilities with respect  
22           to the child.

23           "Parenting plan" means a written agreement that allocates  
24           significant decision-making responsibilities, parenting time,  
25           or both.

26           "Relocation" means a change of residence of more than 25

1 miles for more than 90 days that significantly impairs a  
2 parent's ability to exercise the parental responsibilities  
3 that the parent has been exercising or is entitled to exercise  
4 under a parenting plan or allocation judgment.

5 "Religious upbringing" means the choice of religion or  
6 denomination of a religion, religious schooling, religious  
7 training, or participation in religious customs or practices.

8 "Residential responsibility" means the amount of time a  
9 child spends in a parent's care.

10 "Restriction of parenting time" means any limitation or  
11 condition placed on parenting time, including supervision.

12 "Significant decision-making" means deciding issues of  
13 long-term importance in the life of a child.

14 "Stepparent" means a person, other than a biological or  
15 adoptive parent, who is or was married to a legal parent.

16 "Supervision" means the presence of a third party during a  
17 parent's exercise of parenting time.

18 (750 ILCS 5/601.2 new)

19 Sec. 601.2. Jurisdiction; commencement of proceeding.

20 (a) A court of this State that is competent to allocate  
21 parental responsibilities has jurisdiction to make such an  
22 allocation in original or modification proceedings as provided  
23 in Section 201 of the Uniform Child-Custody Jurisdiction and  
24 Enforcement Act as adopted by this State.

25 (b) A proceeding for allocation of parental

1 responsibilities with respect to a child is commenced in the  
2 court:

3 (1) By a legal parent, by filing a petition for:

4 (A) dissolution of marriage or legal separation or  
5 declaration of invalidity of marriage; or

6 (B) allocation of parental responsibilities with  
7 respect to the child in the county in which the child  
8 resides.

9 (2) By an equitable parent, as defined in Section 600,  
10 by filing a petition for allocation of parental  
11 responsibilities, if all of the following circumstances  
12 are met:

13 (A) a legal parent is deceased or disabled and  
14 cannot perform caretaking functions with respect to  
15 the child; and

16 (B) it is alleged to be in the child's best  
17 interests for the equitable parent to assume or  
18 continue exercising parental responsibilities, as  
19 provided in Sections 602.5 and 602.7.

20 (3) By an equitable parent, as defined in Section 600,  
21 seeking only an allocation of parenting time:

22 (A) if the legal parent and the equitable parent  
23 have terminated their relationship; or

24 (B) if the legal parent and the equitable parent  
25 are opposing parties in a pending action for  
26 dissolution of marriage, legal separation, declaration



1 of invalidity of marriage, or parentage.

2 For purposes of subdivision (b) (3) (A), the  
3 relationship between a legal parent and an equitable parent  
4 is presumed to have terminated if those parents are  
5 residing in separate residences.

6 (c) When a proceeding for allocation of parental  
7 responsibilities is commenced, the parent commencing the  
8 action must, at least 30 days before any hearing on the  
9 petition, serve a written notice and a copy of the petition on  
10 the child's parent and on any party previously appearing in any  
11 prior proceeding for allocation of parental responsibilities  
12 with respect to the child. Nothing in this Section shall  
13 preclude a party in a proceeding for allocation of parental  
14 responsibilities from moving for a temporary order under  
15 Section 602.5.

16 (750 ILCS 5/602.5 new)

17 Sec. 602.5. Allocation of parental responsibilities:  
18 decision-making.

19 (a) Generally. The court shall allocate decision-making  
20 responsibilities according to the child's best interests.  
21 Nothing in this Act requires that every parent be allocated  
22 decision-making responsibilities.

23 (b) Allocation of significant decision-making  
24 responsibilities. If a legal parent is exercising parental  
25 responsibilities with respect to the child, the court shall not

1 allocate significant decision-making responsibilities to an  
2 equitable parent as defined in Section 600. Unless the parents  
3 otherwise agree in writing on an allocation of significant  
4 decision-making responsibilities, the court shall make the  
5 determination. The court shall allocate to one or more of the  
6 parents the significant decision-making responsibility for  
7 each significant issue affecting the child. Those significant  
8 issues shall include, without limitation, the following:

9 (1) Education, including the choice of schools and  
10 tutors.

11 (2) Health, including all decisions relating to the  
12 medical, dental, and psychological needs of the child and  
13 to the treatments arising or resulting from those needs.

14 (3) Religion, subject to the following provisions:

15 (A) The court shall allocate parental  
16 responsibility for the child's religious upbringing in  
17 accordance with any express or implied agreement  
18 between the parents.

19 (B) The court shall consider evidence of the  
20 parents' past conduct as to the child's religious  
21 upbringing in allocating parental responsibilities  
22 consistent with demonstrated past conduct in the  
23 absence of an express or implied agreement between the  
24 parents.

25 (C) The court shall not allocate any aspect of the  
26 child's religious upbringing if it determines that the

1 parents do not or did not have an express or implied  
2 agreement for such religious upbringing or that there  
3 is insufficient evidence to demonstrate a course of  
4 conduct regarding the child's religious upbringing  
5 that could serve as a basis for any such order.

6 (4) Extracurricular activities.

7 (c) Determination of child's best interests. In  
8 determining the child's best interests for purposes of  
9 allocating significant decision-making responsibilities, the  
10 court shall consider all relevant factors, including, without  
11 limitation, the following:

12 (1) the wishes of a child who is sufficiently mature to  
13 express reasoned and independent preferences as to  
14 significant decisions;

15 (2) the child's adjustment to his or her home, school,  
16 and community;

17 (3) the mental and physical health of all individuals  
18 involved;

19 (4) the ability of the parents to cooperate to make  
20 decisions, or the level of conflict between the parties  
21 that may affect their ability to share decision-making;

22 (5) the level of each parent's participation in past  
23 significant decision-making with respect to the child;

24 (6) any prior agreement or course of conduct between  
25 the parents relating to decision-making with respect to the  
26 child;

- 1           (7) the wishes of the parents;  
2           (8) the child's needs in light of economic, physical,  
3           or other circumstances;  
4           (9) the distance between the parents' residences, the  
5           cost and difficulty of transporting the child, each  
6           parent's and the child's daily schedules, and the ability  
7           of the parents to cooperate in the arrangement;  
8           (10) whether a restriction on decision-making is  
9           appropriate under Section 603.10;  
10           (11) the willingness and ability of each parent to  
11           facilitate and encourage a close and continuing  
12           relationship between the other parent and the child; and  
13           (12) any other factor that the court expressly finds to  
14           be relevant.
- 15           (d) If, over the prior 24 months preceding the filing of  
16           the petition, or, if the child is under age 2, since the  
17           child's birth, each parent has been exercising significant  
18           decision-making responsibilities with respect to the child,  
19           the court shall presume that it is in the child's best  
20           interests to allocate significant decision-making  
21           responsibilities to each parent. The presumption shall be  
22           overcome if there has been a history of domestic violence or  
23           abuse, or if it is shown that an allocation of any significant  
24           decision-making responsibilities to one of the parents is not  
25           in the child's best interests.
- 26           (e) A parent shall have sole responsibility for making

1 routine decisions with respect to the child and for emergency  
2 decisions affecting the child's health and safety during that  
3 parent's parenting time.

4 (f) In allocating significant decision-making  
5 responsibilities, the court shall not consider conduct of a  
6 parent that does not affect that parent's relationship to the  
7 child.

8 (g) An equitable parent who is allocated significant  
9 decision-making responsibilities is not entitled to access to  
10 the child's school or health care records unless a court finds  
11 that it is in the child's best interests to provide those  
12 records to the parent.

13 (750 ILCS 5/602.7 new)

14 Sec. 602.7. Parenting time.

15 (a) Best interests. The court shall allocate parenting time  
16 according to the child's best interests.

17 (b) Allocation of parenting time. Unless the parents  
18 present a mutually agreed written and notarized parenting plan  
19 and that plan is approved by the court, the court shall  
20 allocate parenting time. It is presumed both parents are fit  
21 and the court shall not place any restrictions on parenting  
22 time as defined in Section 600 and described in Section 603.10,  
23 unless it finds by a preponderance of the evidence that a  
24 parent's exercise of parenting time would seriously endanger  
25 the child's physical, mental, moral, or emotional health.

1       In determining the child's best interests for purposes of  
2 allocating parenting time, the court shall consider all  
3 relevant factors, including, without limitation, the  
4 following:

5           (1) the wishes of each parent seeking parenting time;

6           (2) the wishes of a child who is sufficiently mature to  
7 express reasoned and independent preferences as to  
8 parenting time;

9           (3) the amount of time each parent spent performing  
10 caretaking functions with respect to the child in the 24  
11 months preceding the filing of any petition for allocation  
12 of parental responsibilities or, if the child is under 2  
13 years of age, since the child's birth;

14           (4) any prior agreement or course of conduct between  
15 the parents relating to caretaking functions with respect  
16 to the child;

17           (5) the interaction and interrelationship of the child  
18 with his or her parents and siblings and with any other  
19 person who may significantly affect the child's best  
20 interests;

21           (6) the child's adjustment to his or her home, school,  
22 and community;

23           (7) the mental and physical health of all individuals  
24 involved;

25           (8) the child's needs in light of economic, physical,  
26 or other circumstances;

1           (9) the distance between the parents' residences, the  
2           cost and difficulty of transporting the child, each  
3           parent's and the child's daily schedules, and the ability  
4           of the parents to cooperate in the arrangement;

5           (10) the occurrence of abuse, whether directed against  
6           the child or directed against another person;

7           (11) whether a restriction on parenting time is  
8           appropriate;

9           (12) the physical violence or threat of physical  
10           violence by a parent, whether directed against the child or  
11           directed against another person;

12           (13) the willingness and ability of each parent to  
13           place the needs of the child ahead of his or her own needs;

14           (14) the willingness and ability of each parent to  
15           facilitate and encourage a close and continuing  
16           relationship between the other parent and the child; and

17           (15) any other factor that the court expressly finds to  
18           be relevant.

19           (c) In allocating parenting time, the court shall not  
20           consider conduct of a parent that does not affect that parent's  
21           relationship to the child.

22           (d) A parent, other than a legal parent, who is allocated  
23           parenting time is not entitled to access to the child's school  
24           or health care records unless a court finds that it is in the  
25           child's best interests to provide those records to the parent.

1 (750 ILCS 5/602.10 new)

2 Sec. 602.10. Parenting plan.

3 (a) Filing of parenting plan. All parents, within 90 days  
4 after service or filing of any petition for allocation of  
5 parental responsibilities, must file with the court, either  
6 jointly or separately, a proposed parenting plan supported by  
7 an affidavit or affidavits that comply with subsection (g).

8 (b) No parenting plan filed. In the absence of filing of  
9 one or more parenting plans with supporting affidavits, the  
10 court must conduct an evidentiary hearing to allocate parental  
11 responsibilities.

12 (c) Mediation. The court may order mediation to assist the  
13 parents in formulating or modifying a parenting plan or in  
14 implementing a parenting plan. The court may allocate the cost  
15 of such mediation between the parties.

16 (d) Parents' agreement on parenting plan. The parents may  
17 agree on a parenting plan at any time. The parenting plan must  
18 be in writing and signed by all parents. The parents must  
19 submit the parenting plan to the court for approval within 90  
20 days after service of a petition for allocation of parental  
21 responsibilities or the filing of an appearance. The parenting  
22 plan must be accompanied by a joint affidavit that complies  
23 with subsection (g), unless the filing of such an affidavit is  
24 excused by the court. If the court does not approve the  
25 parenting plan, the court shall make express findings of the  
26 reason or reasons for its refusal to approve the plan. The



1 court, on its own motion, may conduct an evidentiary hearing to  
2 determine whether the parenting plan is in the child's best  
3 interests.

4 (e) Parents cannot agree on parenting plan. When parents  
5 fail to submit an agreed parenting plan, there shall be a  
6 rebuttable presumption that the child's best interests are  
7 served by awarding a time sharing arrangement consisting of an  
8 allocation of not less than 35% residential time for each  
9 parent. Each parent must file and submit a written, signed  
10 parenting plan to the court within 90 days after service of a  
11 petition for allocation of parental responsibilities or the  
12 filing of an appearance. The plan must be accompanied by a  
13 separate affidavit that complies with subsection (g). The  
14 filing of the plan and affidavit may be excused by the court  
15 if:

16 (1) the parties have commenced mediation for the  
17 purpose of formulating a parenting plan; or

18 (2) the parents have agreed in writing to extend the  
19 time for filing a proposed plan and supporting affidavit  
20 and the court has approved such an extension; or

21 (3) the court orders otherwise for good cause shown.

22 (f) Parenting plan contents. At a minimum, a parenting plan  
23 must set forth the following:

24 (1) an allocation of significant decision-making  
25 responsibilities;

26 (2) provisions for the child's living arrangements and

1 for each parent's parenting time, including either:

2 (A) a schedule that designates in which parent's  
3 home the minor child will reside on given days; or

4 (B) a formula or method for determining such a  
5 schedule in sufficient detail to be enforced in a  
6 subsequent proceeding;

7 (3) a mediation provision addressing any proposed  
8 revisions or disputes, except that this provision is not  
9 required if one parent is allocated all significant  
10 decision-making responsibilities;

11 (4) each parent's right of access to medical, dental,  
12 and psychological records (subject to the Mental Health and  
13 Developmental Disabilities Confidentiality Act), child  
14 care records, and school and extracurricular records,  
15 reports, and schedules, unless expressly denied by a court  
16 order or denied under subsection (g) of Section 602.5;

17 (5) a designation of the parent who will be denominated  
18 as the parent with the majority of the residential  
19 responsibility for purposes of Section 606.10;

20 (6) the child's residential address for school  
21 enrollment purposes only;

22 (7) each parent's residence address and phone number,  
23 and each parent's place of employment and employment  
24 address and phone number;

25 (8) a requirement that a parent changing his or her  
26 residence provide at least 60 days prior written notice of

1 the change to any other parent under the parenting plan or  
2 allocation judgment, unless such notice is impracticable  
3 or unless otherwise ordered by the court. If such notice is  
4 impracticable, written notice shall be given at the  
5 earliest date practicable. At a minimum, the notice shall  
6 set forth the following:

7 (A) the intended date of the change of residence;

8 and

9 (B) The address of the new residence;

10 (9) provisions requiring each parent to notify the  
11 other of emergencies, health care, travel plans, or other  
12 significant child-related issues;

13 (10) transportation arrangements between the parents;

14 (11) provisions for communications with the child  
15 during the other parent's parenting time;

16 (12) provisions for resolving issues arising from a  
17 parent's future relocation;

18 (13) provisions for future modifications of the  
19 parenting plan, if specified events occur; and

20 (14) any other provision that addresses the child's  
21 best interests or that will otherwise facilitate  
22 cooperation between the parents.

23 (g) Affidavit. The affidavit supporting a proposed  
24 parenting plan must contain, to the best of the affiant's  
25 knowledge, all of the following:

26 (1) the name and address of the child, every parent,

1 and any other person previously appearing in any prior  
2 allocation proceeding;

3 (2) the name and address of every person with whom the  
4 child has lived for one year or more, and the period of  
5 time during which the child and each such person lived  
6 together. If the child is less than one year old, the  
7 affidavit must contain the name and address of any person  
8 with whom the child lived for more than 60 days;

9 (3) a summary of the caretaking functions performed by  
10 each person identified under paragraph (2), including such  
11 functions performed during at least the 24 months preceding  
12 the filing of the action for allocation of parental  
13 responsibilities;

14 (4) a schedule of each parent's current hours of  
15 employment, availability to perform caretaking functions  
16 with respect to the child, existing child care  
17 arrangements, and any anticipated changes;

18 (5) a summary schedule of the child's school and  
19 extracurricular activities;

20 (6) A summary of any relevant existing risk factors,  
21 including orders arising from allegations of abuse and the  
22 case number and issuing court; and

23 (7) a summary of the known areas of agreement and  
24 disagreement between the parents concerning a proposed  
25 parenting plan.

26 (h) The court shall select the plan which maximizes the

1 child's relationship and access to both parents. The court  
2 retains discretion to determine exceptions to this directive  
3 warranted by the individual facts and circumstances. The court  
4 shall provide written findings of fact and conclusions of law  
5 when making such exceptions.

6 (750 ILCS 5/603.5 new)

7 Sec. 603.5. Temporary orders.

8 (a) A court may order a temporary allocation of parental  
9 responsibilities in the child's best interests before the entry  
10 of a final allocation judgment. Any temporary allocation shall  
11 be made in accordance with the standards set forth in Sections  
12 602.5 and 602.7 (i) after a hearing; or (ii) if there is no  
13 objection, on the basis of affidavits that, at a minimum,  
14 comply with subsection (e) of Section 602.10.

15 (b) A temporary order allocating parental responsibilities  
16 shall be deemed vacated when the action in which it was granted  
17 is dismissed, unless a parent moves to continue the action for  
18 allocation of parental responsibilities filed under Section  
19 601.5.

20 (c) A temporary order allocating parental responsibilities  
21 does not preclude access to the child by a parent who has been  
22 exercising a reasonable share of caretaking functions with  
23 respect to the child, unless a denial of such access is in the  
24 child's best interests as determined in accordance with Section  
25 602.5.

1 (750 ILCS 5/603.10 new)

2 Sec. 603.10. Restriction of parental responsibilities.

3 (a) After hearing, if the court finds by a preponderance of  
4 the evidence that a parent engaged in any conduct that  
5 seriously endangered the child's mental, moral, or physical  
6 health or that significantly impaired the child's emotional  
7 development, the court shall enter orders as necessary to  
8 protect the child. Such orders may include, but are not limited  
9 to, orders for one or more of the following:

10 (1) a reduction, elimination, or other adjustment of  
11 the parent's decision-making responsibilities or parenting  
12 time, or both decision-making responsibilities and  
13 parenting time;

14 (2) supervision, including ordering the Department of  
15 Children and Family Services to exercise continuing  
16 supervision under Section 5 of the Children and Family  
17 Services Act to ensure compliance with the allocation  
18 judgment;

19 (3) requiring the exchange of the child between the  
20 parents through an intermediary or in a protected setting;

21 (4) restraining a parent's communication with or  
22 proximity to the other parent or the child;

23 (5) requiring a parent to abstain from possessing or  
24 consuming alcohol or non-prescribed drugs while exercising  
25 parenting time with the child and within a specified period

1 immediately preceding the exercise of parenting time;

2 (6) restricting the presence of specific persons while  
3 a parent is exercising parenting time with the child;

4 (7) requiring a parent to post a bond to secure the  
5 return of the child following the parent's exercise of  
6 parenting time or to secure other performance required by  
7 the court;

8 (8) requiring a parent to complete a treatment program  
9 for perpetrators of abuse, for drug or alcohol abuse, or  
10 for other behavior that is the basis for restricting  
11 parental responsibilities under this Section; and

12 (9) any other constraints or conditions that the court  
13 deems necessary to provide for the child's safety or  
14 welfare.

15 (b) The court may modify an order restricting parental  
16 responsibilities if, after hearing, the court finds by a  
17 preponderance of the evidence that a modification is in the  
18 child's best interests based on (i) a change of circumstances  
19 that occurred after the entry of an order restricting parental  
20 responsibilities; or (ii) conduct of which the court was  
21 previously unaware that seriously endangers the child. In  
22 determining whether to modify an order under this subsection,  
23 the court must consider factors that include, but need not be  
24 limited to, the following:

25 (1) abuse, neglect, or abandonment of the child;

26 (2) abusing or allowing abuse of another person that

1 had an impact upon the child;

2 (3) use of drugs, alcohol, or any other substance in a  
3 way that interferes with the parent's ability to perform  
4 caretaking functions with respect to the child; and

5 (4) persistent continuing interference with the other  
6 parent's access to the child, except for actions taken with  
7 a reasonable, good-faith belief that they are necessary to  
8 protect the child's safety pending adjudication of the  
9 facts underlying that belief, provided that the  
10 interfering parent initiates a proceeding to determine  
11 those facts as soon as practicable.

12 (c) An order granting parenting time to a parent may be  
13 revoked by the court if that parent is found to have knowingly  
14 used his or her parenting time to facilitate contact between  
15 the child and a parent who has been barred from contact with  
16 the child or to have knowingly used his or her parenting time  
17 to facilitate contact with the child that violates any  
18 restrictions imposed on the parent's parenting time by a court  
19 of competent jurisdiction. Nothing in this subsection limits a  
20 court's authority to enforce its orders in any other manner  
21 authorized by law.

22 (d) An order granting parenting time with a child whose  
23 parent is prohibited from contact with the child, or whose  
24 parenting time is restricted, shall contain the following  
25 provision:

26 "If a parent granted parenting time under this Order



1 uses that time to facilitate contact between the child and  
2 a parent whose parenting time is restricted, or if such a  
3 parent violates any restrictions placed on his or her  
4 parenting time by the court, the parenting time granted  
5 under this Order shall be revoked until further order of  
6 court."

7 (e) A parent who has been convicted of any offense  
8 involving an illegal sex act perpetrated upon a victim less  
9 than 18 years of age, including but not limited to an offense  
10 under Article 12 of the Criminal Code of 2012, is not entitled  
11 to parenting time while incarcerated or while on parole,  
12 probation, conditional discharge, periodic imprisonment, or  
13 mandatory supervised release for a felony offense, until the  
14 parent complies with such terms and conditions as the court  
15 determines are in the child's best interests.

16 (f) A parent may not, while the child is present, visit any  
17 other parent of the child who has been convicted of first  
18 degree murder, unless the court finds, after considering all  
19 relevant factors, including those set forth in subsection (c)  
20 of Section 602.5, that it would be in the child's best  
21 interests to allow the child to be present during such a visit.

22 (750 ILCS 5/604.10 new)

23 Sec. 604.10. Interviews; evaluations; investigation.

24 (a) Court's interview of child. The court may interview the  
25 child in chambers to ascertain the child's wishes as to the

1 allocation of parental responsibilities. Counsel shall be  
2 present at the interview unless otherwise agreed upon by the  
3 parties. The entire interview shall be recorded by a court  
4 reporter. The transcript of the interview shall be filed under  
5 seal and released only upon order of the court. The cost of the  
6 court reporter and transcript shall be paid by the court.

7 (b) Court's professional. The court may seek the advice of  
8 any professional, whether or not regularly employed by the  
9 court, to assist the court in determining the child's best  
10 interests. The advice to the court shall be in writing and sent  
11 by the professional to counsel for the parties and to the  
12 court, under seal. The writing may be admitted into evidence  
13 without testimony from its author, unless a party objects. A  
14 professional consulted by the court shall testify as the  
15 court's witness. The court shall order all costs and fees of  
16 the professional to be paid by one or more of the parties,  
17 subject to reallocation in accordance with subsection (a) of  
18 Section 508.

19 (c) Evaluation by a party's retained professional. In a  
20 proceeding to allocate parental responsibilities or to  
21 relocate a child from this State, upon notice and motion made  
22 by a parent or any party to the litigation within a reasonable  
23 time before trial, the court shall order an evaluation to  
24 assist the court in determining the child's best interests. The  
25 evaluation may be in place of or in addition to any advice  
26 given to the court by a professional under subsection (b). A

1 motion for an evaluation under this subsection must, at a  
2 minimum, identify the proposed evaluator and the evaluator's  
3 specialty or discipline. An order for an evaluation under this  
4 subsection must set forth the evaluator's name, address, and  
5 telephone number and the time, place, conditions, and scope of  
6 the evaluation. No person shall be required to travel an  
7 unreasonable distance for the evaluation. The party requesting  
8 the evaluation shall pay the evaluator's fees and costs unless  
9 otherwise ordered by the court.

10 The evaluator's report must, at a minimum, set forth the  
11 following:

12 (1) a description of the procedures employed during the  
13 evaluation;

14 (2) a report of the data collected;

15 (3) all test results;

16 (4) any conclusions of the evaluator relating to the  
17 allocation of parental responsibilities under Sections  
18 602.5 and 602.7;

19 (5) any recommendations of the evaluator concerning  
20 the allocation of parental responsibilities or the child's  
21 relocation from this State; and

22 (6) an explanation of any limitations in the evaluation  
23 or any reservations of the evaluator regarding the  
24 resulting recommendations.

25 A party who retains a professional to conduct an evaluation  
26 under this subsection shall cause the evaluator's written

1 report to be sent to the attorneys of record no less than 60  
2 days before the hearing on the allocation of parental  
3 responsibilities, unless otherwise ordered by the court; if a  
4 party fails to comply with this provision, the court may not  
5 admit the evaluator's report into evidence and may not allow  
6 the evaluator to testify.

7 The party calling an evaluator to testify at trial shall  
8 disclose the evaluator as a controlled expert witness in  
9 accordance with the Supreme Court Rules.

10 Any party to the litigation may call the evaluator as a  
11 witness. That party shall pay the evaluator's fees and costs  
12 for testifying, unless otherwise ordered by the court.

13 (d) Investigation. Upon notice and a motion by a parent or  
14 any party to the litigation, or upon the court's own motion,  
15 the court may order an investigation and report to assist the  
16 court in allocating parental responsibilities. The  
17 investigation may be made by any child welfare agency approved  
18 by the Department of Children and Family Services, but shall  
19 not be made by that Department unless the court determines  
20 either that there is no child welfare agency available or that  
21 no party is financially able to pay for the investigation. The  
22 court shall specify the purpose and scope of the investigation.

23 The investigator shall send his or her report to all  
24 attorneys of record, and to any party not represented, at least  
25 60 days before the hearing on the allocation of parental  
26 responsibilities. The court shall examine and consider the

1 investigator's report only after it has been admitted into  
2 evidence or after the parties have waived their right to  
3 cross-examine the investigator.

4 The investigator shall make available to all attorneys of  
5 record, and to any party not represented, the investigator's  
6 file, and the names and addresses of all persons whom the  
7 investigator has consulted. Any party to the proceeding may  
8 call the investigator, or any person consulted by the  
9 investigator as a court's witness, for cross-examination. No  
10 fees shall be paid for any investigation by a governmental  
11 agency. The fees incurred by any other investigator shall be  
12 allocated in accordance with Section 508.

13 (e) The Supreme Court of Illinois, through its  
14 Administrative Office of the Illinois Courts, shall approve not  
15 less than 3 hours of training for all of the following:

16 (1) any professional whose advice the court seeks under  
17 subsection (b) of this Section;

18 (2) any professional who conducts an evaluation under  
19 subsection (c) of this Section;

20 (3) any individual who conducts an investigation under  
21 subsection (d) of this Section; and

22 (4) any guardian ad litem or other individual appointed  
23 by the court to represent a child in a proceeding  
24 concerning the allocation of parental responsibilities  
25 with respect to the child.

26 The training shall include a component on the dynamics of

1 domestic violence and its effect on parents and children.

2 (750 ILCS 5/606.5 new)

3 Sec. 606.5. Hearings.

4 (a) Proceedings to allocate parental responsibilities  
5 shall receive priority in being set for hearing.

6 (b) The court, without a jury, shall determine questions of  
7 law and fact.

8 (c) Previous statements made by the child relating to any  
9 allegations that the child is an abused or neglected child  
10 within the meaning of the Abused and Neglected Child Reporting  
11 Act, or an abused or neglected minor within the meaning of the  
12 Juvenile Court Act of 1987, shall be admissible in evidence in  
13 a hearing concerning allocation of parental responsibilities.  
14 No such statement, however, if uncorroborated and not subject  
15 to cross examination, shall be sufficient in itself to support  
16 a finding of abuse or neglect.

17 (d) If the court finds that a public hearing may be  
18 detrimental to the child's best interests, the court shall  
19 exclude the public from the hearing, but the court may admit  
20 any person having:

21 (1) a direct and legitimate interest in the case; or

22 (2) a legitimate educational or research interest in  
23 the work of the court, but only with the permission of both  
24 parties and subject to court approval.

25 (e) The court may make an appropriate order sealing the

1 records of any interview, report, investigation, or testimony.

2 (750 ILCS 5/606.10 new)

3 Sec. 606.10. Designation of custodian for purposes of other  
4 statutes. Solely for the purposes of all State and federal  
5 statutes that require a designation or determination of custody  
6 or a custodian, a parenting plan shall designate the parent who  
7 is allocated the majority of residential responsibility. This  
8 designation shall not affect parents' rights and  
9 responsibilities under the parenting plan.

10 (750 ILCS 5/607.5 new)

11 Sec. 607.5. Abuse of allocated parenting time.

12 (a) The court shall provide an expedited procedure for the  
13 enforcement of allocated parenting time.

14 (b) An action for the enforcement of allocated parenting  
15 time may be commenced by a parent or a person appointed under  
16 Section 506 by filing a petition setting forth: (i) the  
17 petitioner's name and residence address or mailing address,  
18 except that if the petition states that disclosure of  
19 petitioner's address would risk abuse of petitioner or any  
20 member of petitioner's family or household or reveal the  
21 confidential address of a shelter for domestic violence  
22 victims, that address may be omitted from the petition; (ii)  
23 the respondent's name and place of residence, place of  
24 employment, or mailing address; (iii) the terms of the

1 parenting plan or allocation judgment then in effect; (iv) the  
2 nature of the violation of the allocation of parenting time,  
3 giving dates and other relevant information; and (v) that a  
4 reasonable attempt was made to resolve the dispute.

5 (c) If the court finds by a preponderance of the evidence  
6 that a parent has not complied with allocated parenting time  
7 according to an approved parenting plan or a court order, the  
8 court, in the child's best interests, shall issue an order that  
9 may include one or more of the following:

10 (1) an imposition of additional terms and conditions  
11 consistent with the court's previous allocation of  
12 parenting time or other order;

13 (2) a requirement that either or both of the parties  
14 attend a parental education program at the expense of the  
15 non-complying parent;

16 (3) a requirement that the parties participate in  
17 family counseling at the expense of the non-complying  
18 parent;

19 (4) a requirement that the non-complying parent post a  
20 cash bond or other security to ensure future compliance,  
21 including a provision that the bond or other security may  
22 be forfeited to the other parent for payment of expenses on  
23 behalf of the child as the court shall direct;

24 (5) a requirement that makeup parenting time be  
25 provided for the aggrieved parent or child under the  
26 following conditions:



1           (A) that the parenting time is of the same type and  
2           duration as the parenting time that was denied,  
3           including but not limited to parenting time during  
4           weekends, on holidays, and on weekdays and during times  
5           when the child is not in school;

6           (B) that the parenting time is made up within 6  
7           months after the noncompliance occurs, unless the  
8           period of time or holiday cannot be made up within 6  
9           months, in which case the parenting time shall be made  
10           up within one year after the noncompliance occurs;

11           (6) a finding that the non-complying parent is in  
12           contempt of court;

13           (7) an imposition on the non-complying parent of an  
14           appropriate civil fine per incident of denied parenting  
15           time;

16           (8) a requirement that the non-complying parent  
17           reimburse the other parent for all reasonable expenses  
18           incurred as a result of the violation of the parenting plan  
19           or court order; and

20           (9) any other provision that may promote the child's  
21           best interests.

22           (d) In addition to any other order entered under subsection  
23           (c), the court shall order a parent who has failed to provide  
24           allocated parenting time or to exercise allocated parenting  
25           time to pay the aggrieved party his or her reasonable  
26           attorney's fees, court costs, and expenses associated with an

1 action brought under this Section. If the court finds that the  
2 respondent in an action brought under this Section has not  
3 violated the allocated parenting time, the court may order the  
4 petitioner to pay the respondent's reasonable attorney's fees,  
5 court costs, and expenses incurred in the action.

6 (e) Nothing in this Section precludes a party from  
7 maintaining any other action as provided by law.

8 (750 ILCS 5/609.2 new)

9 Sec. 609.2. Parent's relocation.

10 (a) A parent's relocation constitutes a substantial change  
11 in circumstances for purposes of Section 610.5.

12 (b) Only a parent who has been allocated a majority of  
13 parenting time may seek to relocate with a child, except that  
14 when parents have equal parenting time, either parent may seek  
15 to relocate with a child.

16 (c) Any parent intending to relocate must provide at least  
17 60 days prior written notice to any other parent under the  
18 parenting plan or allocation judgment unless such notice is  
19 impracticable (in which case written notice shall be given at  
20 the earliest date practicable) or unless otherwise ordered by  
21 the court. At a minimum, the notice must set forth the  
22 following:

23 (1) the intended date of the parent's relocation;

24 (2) the address of the parent's intended new residence,  
25 if known;

1           (3) the specific reasons for the parent's intended  
2           relocation;

3           (4) a proposal modifying the parents' parental  
4           responsibilities, if necessary, in light of the  
5           relocation; and

6           (5) if the parent's intended relocation requires a  
7           change in the child's school, a statement of how the  
8           relocating parent intends to meet the child's educational  
9           needs.

10          The court may consider a parent's failure to comply with  
11          the notice requirements of this Section without good cause (i)  
12          as a factor in determining whether the parent's relocation is  
13          in good faith; and (ii) as a basis for awarding reasonable  
14          attorney's fees and costs resulting from the parent's failure  
15          to comply with these provisions.

16          (d) If a parent receives a written notice of the other  
17          parent's intent to relocate and objects to the relocation, then  
18          no later than 30 days after receiving the notice, the objecting  
19          parent must file a petition setting forth objections to the  
20          proposed relocation. A petition filed under this subsection  
21          shall be expeditiously heard by the court. A parent's failure  
22          to file for the relief provided under this subsection  
23          constitutes a waiver of that parent's objections to the  
24          relocation. If the court finds that objections are made in bad  
25          faith, it shall award reasonable attorney's fees and costs to  
26          the other party.

1       (e) The court shall modify the parenting plan or allocation  
2 judgment to accommodate a parent's relocation as agreed by the  
3 parents, as long as the agreed modification is in the child's  
4 best interests.

5       (f) The court shall modify the parenting plan or allocation  
6 judgment to accommodate the relocation without changing the  
7 proportion of parental responsibilities between the parties,  
8 if practicable, as long as such a modification is in the  
9 child's best interests.

10       (g) If a parent's relocation makes it impracticable to  
11 maintain the same proportion of parental responsibilities  
12 between the parties, the court shall modify the parenting plan  
13 or allocation judgment in accordance with the child's best  
14 interests. The court shall consider the following factors:

15           (1) the factors set forth in subsection (c) of this  
16 Section;

17           (2) the reasons, if any, why a parent is objecting to  
18 the intended relocation;

19           (3) the history and quality of each parent's  
20 relationship with the child since the implementation of any  
21 previous parenting plan or allocation judgment;

22           (4) the educational opportunities for the child at the  
23 existing location and at the proposed new location;

24           (5) the presence or absence of extended family at the  
25 existing location and at the proposed new location;

26           (6) the anticipated impact of the relocation on the

1 child;

2 (7) whether the court will be able to fashion a  
3 reasonable allocation of parental responsibilities between  
4 all parents if the relocation occurs;

5 (8) the wishes of the child after taking into  
6 consideration the child's age and maturity;

7 (9) whether the intended relocation is valid, in good  
8 faith, and to a location that is reasonable in light of the  
9 purpose;

10 (10) possible arrangements for the exercise of  
11 parental responsibilities appropriate to the parents'  
12 resources and circumstances and the developmental level of  
13 the child.

14 (11) minimization of the impairment to a parent-child  
15 relationship caused by a parent's relocation; and

16 (12) any other relevant factors bearing on the child's  
17 best interests.

18 (h) Unless the non-relocating parent demonstrates that a  
19 reallocation of parental responsibilities is necessary to  
20 prevent harm to the child, the court shall deny the  
21 non-relocating parent's request for a reallocation of parental  
22 responsibilities based on relocation if the non-relocating  
23 parent either:

24 (1) failed to object to the relocation within the time  
25 allowed; or

26 (2) has substantially failed or refused to exercise the

1 parental responsibilities allocated to him or her under the  
2 parenting plan or allocation judgment.

3 (750 ILCS 5/610.5 new)

4 Sec. 610.5. Modification.

5 (a) Except in a case concerning the modification of any  
6 restriction of parental responsibilities under Section 603.10,  
7 the court shall modify a parenting plan or allocation judgment  
8 when necessary to serve the child's best interests if the court  
9 finds, by a preponderance of the evidence, that:

10 (1) on the basis of facts that have arisen since the  
11 entry of the existing parenting plan or allocation judgment  
12 or were not anticipated therein, a substantial change has  
13 occurred in the circumstances of the child or of any parent  
14 and that a modification is necessary to serve the child's  
15 best interests; or

16 (2) the existing allocation of parental  
17 responsibilities seriously endangers the child's physical,  
18 mental, moral, or emotional health.

19 (b) The court shall modify a parenting plan or allocation  
20 judgment in accordance with a parental agreement, unless it  
21 finds that the modification is not in the child's best  
22 interests.

23 (c) The court may modify a parenting plan or allocation  
24 judgment without a showing of changed circumstances if (i) the  
25 modification is in the child's best interests; and (ii) any of

1 the following are proven as to the modification:

2 (1) the modification reflects the actual arrangement  
3 under which the child has been receiving care, without  
4 parental objection, for the 6 months preceding the filing  
5 of the petition for modification, provided that the  
6 arrangement is not the result of a parent's acquiescence  
7 resulting from circumstances that negated the parent's  
8 ability to give meaningful consent;

9 (2) the modification constitutes a minor modification  
10 in the parenting plan or allocation judgment; and

11 (3) the modification is necessary to modify an agreed  
12 parenting plan or allocation judgment that the court would  
13 not have ordered or approved under Section 602.5 or 602.7  
14 had the court been aware of the circumstances at the time  
15 of the order or approval.

16 (d) Attorney's fees and costs shall be assessed against a  
17 party seeking modification if the court finds that the  
18 modification action is vexatious or constitutes harassment.

19 (750 ILCS 5/612 new)

20 Sec. 612. Application of provisions concerning allocation  
21 of parental responsibilities.

22 (a) The changes made by this amendatory Act of the 98th  
23 General Assembly apply to all proceedings commenced on or after  
24 the effective date of this amendatory Act of the 98th General  
25 Assembly.

1       (b) The changes made by this amendatory Act of the 98th  
2       General Assembly apply to all actions pending on the effective  
3       date of this amendatory Act of the 98th General Assembly and to  
4       all proceedings commenced before that effective date with  
5       respect to issues on which a judgment has not been entered.  
6       Evidence adduced after the effective date of this amendatory  
7       Act of the 98th General Assembly shall comply with the changes  
8       made by this amendatory Act of the 98th General Assembly.

9       (c) The changes made by this amendatory Act of the 98th  
10       General Assembly apply to all proceedings commenced on or after  
11       the effective date of this amendatory Act of the 98th General  
12       Assembly for the modification of a judgment or order entered  
13       before that effective date.

14       (d) In any action or proceeding in which an appeal was  
15       pending or a new trial was ordered before the effective date of  
16       this amendatory Act of the 98th General Assembly, the law in  
17       effect at the time of the order sustaining the appeal or the  
18       new trial governs the appeal, the new trial, and any subsequent  
19       trial or appeal.

20       (750 ILCS 5/406 rep.)

21       (750 ILCS 5/407 rep.)

22       (750 ILCS 5/408 rep.)

23       (750 ILCS 5/412 rep.)

24       (750 ILCS 5/514 rep.)

25       (750 ILCS 5/515 rep.)



- 1 (750 ILCS 5/516 rep.)
- 2 (750 ILCS 5/517 rep.)
- 3 (750 ILCS 5/601 rep.)
- 4 (750 ILCS 5/601.5 rep.)
- 5 (750 ILCS 5/602 rep.)
- 6 (750 ILCS 5/602.1 rep.)
- 7 (750 ILCS 5/603 rep.)
- 8 (750 ILCS 5/604 rep.)
- 9 (750 ILCS 5/604.5 rep.)
- 10 (750 ILCS 5/605 rep.)
- 11 (750 ILCS 5/606 rep.)
- 12 (750 ILCS 5/607 rep.)
- 13 (750 ILCS 5/607.1 rep.)
- 14 (750 ILCS 5/608 rep.)
- 15 (750 ILCS 5/609 rep.)
- 16 (750 ILCS 5/610 rep.)
- 17 (750 ILCS 5/611 rep.)
- 18 (750 ILCS 5/701 rep.)
- 19 (750 ILCS 5/703 rep.)

20 Section 5-20. The Illinois Marriage and Dissolution of  
21 Marriage Act is amended by repealing Sections 406, 407, 408,  
22 412, 514, 515, 516, 517, 601, 601.5, 602, 602.1, 603, 604,  
23 604.5, 605, 606, 607, 607.1, 608, 609, 610, 611, 701, and 703.

24 Section 5-25. The Illinois Domestic Violence Act of 1986 is  
25 amended by changing Sections 214 and 223 as follows:

1 (750 ILCS 60/214) (from Ch. 40, par. 2312-14)

2 Sec. 214. Order of protection; remedies.

3 (a) Issuance of order. If the court finds that petitioner  
4 has been abused by a family or household member or that  
5 petitioner is a high-risk adult who has been abused, neglected,  
6 or exploited, as defined in this Act, an order of protection  
7 prohibiting the abuse, neglect, or exploitation shall issue;  
8 provided that petitioner must also satisfy the requirements of  
9 one of the following Sections, as appropriate: Section 217 on  
10 emergency orders, Section 218 on interim orders, or Section 219  
11 on plenary orders. Petitioner shall not be denied an order of  
12 protection because petitioner or respondent is a minor. The  
13 court, when determining whether or not to issue an order of  
14 protection, shall not require physical manifestations of abuse  
15 on the person of the victim. Modification and extension of  
16 prior orders of protection shall be in accordance with this  
17 Act.

18 (b) Remedies and standards. The remedies to be included in  
19 an order of protection shall be determined in accordance with  
20 this Section and one of the following Sections, as appropriate:  
21 Section 217 on emergency orders, Section 218 on interim orders,  
22 and Section 219 on plenary orders. The remedies listed in this  
23 subsection shall be in addition to other civil or criminal  
24 remedies available to petitioner.

25 (1) Prohibition of abuse, neglect, or exploitation.

1 Prohibit respondent's harassment, interference with  
2 personal liberty, intimidation of a dependent, physical  
3 abuse, or willful deprivation, neglect or exploitation, as  
4 defined in this Act, or stalking of the petitioner, as  
5 defined in Section 12-7.3 of the Criminal Code of 1961, if  
6 such abuse, neglect, exploitation, or stalking has  
7 occurred or otherwise appears likely to occur if not  
8 prohibited.

9 (2) Grant of exclusive possession of residence.  
10 Prohibit respondent from entering or remaining in any  
11 residence, household, or premises of the petitioner,  
12 including one owned or leased by respondent, if petitioner  
13 has a right to occupancy thereof. The grant of exclusive  
14 possession of the residence, household, or premises shall  
15 not affect title to real property, nor shall the court be  
16 limited by the standard set forth in Section 701 of the  
17 Illinois Marriage and Dissolution of Marriage Act.

18 (A) Right to occupancy. A party has a right to  
19 occupancy of a residence or household if it is solely  
20 or jointly owned or leased by that party, that party's  
21 spouse, a person with a legal duty to support that  
22 party or a minor child in that party's care, or by any  
23 person or entity other than the opposing party that  
24 authorizes that party's occupancy (e.g., a domestic  
25 violence shelter). Standards set forth in subparagraph  
26 (B) shall not preclude equitable relief.

1           (B) Presumption of hardships. If petitioner and  
2 respondent each has the right to occupancy of a  
3 residence or household, the court shall balance (i) the  
4 hardships to respondent and any minor child or  
5 dependent adult in respondent's care resulting from  
6 entry of this remedy with (ii) the hardships to  
7 petitioner and any minor child or dependent adult in  
8 petitioner's care resulting from continued exposure to  
9 the risk of abuse (should petitioner remain at the  
10 residence or household) or from loss of possession of  
11 the residence or household (should petitioner leave to  
12 avoid the risk of abuse). When determining the balance  
13 of hardships, the court shall also take into account  
14 the accessibility of the residence or household.  
15 Hardships need not be balanced if respondent does not  
16 have a right to occupancy.

17           The balance of hardships is presumed to favor  
18 possession by petitioner unless the presumption is  
19 rebutted by a preponderance of the evidence, showing  
20 that the hardships to respondent substantially  
21 outweigh the hardships to petitioner and any minor  
22 child or dependent adult in petitioner's care. The  
23 court, on the request of petitioner or on its own  
24 motion, may order respondent to provide suitable,  
25 accessible, alternate housing for petitioner instead  
26 of excluding respondent from a mutual residence or

1 household.

2 (3) Stay away order and additional prohibitions. Order  
3 respondent to stay away from petitioner or any other person  
4 protected by the order of protection, or prohibit  
5 respondent from entering or remaining present at  
6 petitioner's school, place of employment, or other  
7 specified places at times when petitioner is present, or  
8 both, if reasonable, given the balance of hardships.  
9 Hardships need not be balanced for the court to enter a  
10 stay away order or prohibit entry if respondent has no  
11 right to enter the premises.

12 (A) If an order of protection grants petitioner  
13 exclusive possession of the residence, or prohibits  
14 respondent from entering the residence, or orders  
15 respondent to stay away from petitioner or other  
16 protected persons, then the court may allow respondent  
17 access to the residence to remove items of clothing and  
18 personal adornment used exclusively by respondent,  
19 medications, and other items as the court directs. The  
20 right to access shall be exercised on only one occasion  
21 as the court directs and in the presence of an  
22 agreed-upon adult third party or law enforcement  
23 officer.

24 (B) When the petitioner and the respondent attend  
25 the same public, private, or non-public elementary,  
26 middle, or high school, the court when issuing an order

1 of protection and providing relief shall consider the  
2 severity of the act, any continuing physical danger or  
3 emotional distress to the petitioner, the educational  
4 rights guaranteed to the petitioner and respondent  
5 under federal and State law, the availability of a  
6 transfer of the respondent to another school, a change  
7 of placement or a change of program of the respondent,  
8 the expense, difficulty, and educational disruption  
9 that would be caused by a transfer of the respondent to  
10 another school, and any other relevant facts of the  
11 case. The court may order that the respondent not  
12 attend the public, private, or non-public elementary,  
13 middle, or high school attended by the petitioner,  
14 order that the respondent accept a change of placement  
15 or change of program, as determined by the school  
16 district or private or non-public school, or place  
17 restrictions on the respondent's movements within the  
18 school attended by the petitioner. The respondent  
19 bears the burden of proving by a preponderance of the  
20 evidence that a transfer, change of placement, or  
21 change of program of the respondent is not available.  
22 The respondent also bears the burden of production with  
23 respect to the expense, difficulty, and educational  
24 disruption that would be caused by a transfer of the  
25 respondent to another school. A transfer, change of  
26 placement, or change of program is not unavailable to

1 the respondent solely on the ground that the respondent  
2 does not agree with the school district's or private or  
3 non-public school's transfer, change of placement, or  
4 change of program or solely on the ground that the  
5 respondent fails or refuses to consent or otherwise  
6 does not take an action required to effectuate a  
7 transfer, change of placement, or change of program.  
8 When a court orders a respondent to stay away from the  
9 public, private, or non-public school attended by the  
10 petitioner and the respondent requests a transfer to  
11 another attendance center within the respondent's  
12 school district or private or non-public school, the  
13 school district or private or non-public school shall  
14 have sole discretion to determine the attendance  
15 center to which the respondent is transferred. In the  
16 event the court order results in a transfer of the  
17 minor respondent to another attendance center, a  
18 change in the respondent's placement, or a change of  
19 the respondent's program, the parents, guardian, or  
20 legal custodian of the respondent is responsible for  
21 transportation and other costs associated with the  
22 transfer or change.

23 (C) The court may order the parents, guardian, or  
24 legal custodian of a minor respondent to take certain  
25 actions or to refrain from taking certain actions to  
26 ensure that the respondent complies with the order. In

1           the event the court orders a transfer of the respondent  
2           to another school, the parents, guardian, or legal  
3           custodian of the respondent is responsible for  
4           transportation and other costs associated with the  
5           change of school by the respondent.

6           (4) Counseling. Require or recommend the respondent to  
7           undergo counseling for a specified duration with a social  
8           worker, psychologist, clinical psychologist, psychiatrist,  
9           family service agency, alcohol or substance abuse program,  
10          mental health center guidance counselor, agency providing  
11          services to elders, program designed for domestic violence  
12          abusers or any other guidance service the court deems  
13          appropriate. The Court may order the respondent in any  
14          intimate partner relationship to report to an Illinois  
15          Department of Human Services protocol approved partner  
16          abuse intervention program for an assessment and to follow  
17          all recommended treatment.

18          (5) Physical care and possession of the minor child. In  
19          order to protect the minor child from abuse, neglect, or  
20          unwarranted separation from the person who has been the  
21          minor child's primary caretaker, or to otherwise protect  
22          the well-being of the minor child, the court may do either  
23          or both of the following: (i) grant petitioner physical  
24          care or possession of the minor child, or both, or (ii)  
25          order respondent to return a minor child to, or not remove  
26          a minor child from, the physical care of a parent or person



1 in loco parentis.

2 If a court finds, after a hearing, that respondent has  
3 committed abuse (as defined in Section 103) of a minor  
4 child, there shall be a rebuttable presumption that  
5 awarding physical care to respondent would not be in the  
6 minor child's best interest.

7 (6) Temporary allocation of parental responsibilities  
8 ~~legal custody~~. Award temporary parental responsibility  
9 ~~legal custody~~ to petitioner in accordance with this  
10 Section, the Illinois Marriage and Dissolution of Marriage  
11 Act, the Illinois Parentage Act of 1984, and this State's  
12 Uniform Child-Custody Jurisdiction and Enforcement Act.

13 If a court finds, after a hearing, that respondent has  
14 committed abuse (as defined in Section 103) of a minor  
15 child, there shall be a rebuttable presumption that  
16 awarding temporary parental responsibility ~~legal custody~~  
17 to respondent would not be in the child's best interest.

18 (7) Parenting time Visitation. Determine the parenting  
19 time ~~visitation rights~~, if any, of respondent in any case  
20 in which the court awards physical care or allocates  
21 temporary parental responsibility ~~legal custody~~ of a minor  
22 child to petitioner. The court shall restrict or deny  
23 respondent's visitation with a minor child if the court  
24 finds that respondent has done or is likely to do any of  
25 the following: (i) abuse or endanger the minor child during  
26 parenting time ~~visitation~~; (ii) use the parenting time

1 ~~visitation~~ as an opportunity to abuse or harass petitioner  
2 or petitioner's family or household members; (iii)  
3 improperly conceal or detain the minor child; or (iv)  
4 otherwise act in a manner that is not in the best interests  
5 of the minor child. The court shall not be limited by the  
6 standards set forth in Section 603.10 ~~607.1~~ of the Illinois  
7 Marriage and Dissolution of Marriage Act. If the court  
8 grants parenting time ~~visitation~~, the order shall specify  
9 dates and times for the parenting time ~~visitation~~ to take  
10 place or other specific parameters or conditions that are  
11 appropriate. No order for parenting time ~~visitation~~ shall  
12 refer merely to the term "reasonable parenting time  
13 ~~visitation~~".

14 Petitioner may deny respondent access to the minor  
15 child if, when respondent arrives for parenting time  
16 ~~visitation~~, respondent is under the influence of drugs or  
17 alcohol and constitutes a threat to the safety and  
18 well-being of petitioner or petitioner's minor children or  
19 is behaving in a violent or abusive manner.

20 If necessary to protect any member of petitioner's  
21 family or household from future abuse, respondent shall be  
22 prohibited from coming to petitioner's residence to meet  
23 the minor child for parenting time ~~visitation~~, and the  
24 parties shall submit to the court their recommendations for  
25 reasonable alternative arrangements for parenting time  
26 ~~visitation~~. A person may be approved to supervise parenting

1        time ~~visitation~~ only after filing an affidavit accepting  
2        that responsibility and acknowledging accountability to  
3        the court.

4            (8) Removal or concealment of minor child. Prohibit  
5        respondent from removing a minor child from the State or  
6        concealing the child within the State.

7            (9) Order to appear. Order the respondent to appear in  
8        court, alone or with a minor child, to prevent abuse,  
9        neglect, removal or concealment of the child, to return the  
10       child to the custody or care of the petitioner or to permit  
11       any court-ordered interview or examination of the child or  
12       the respondent.

13           (10) Possession of personal property. Grant petitioner  
14       exclusive possession of personal property and, if  
15       respondent has possession or control, direct respondent to  
16       promptly make it available to petitioner, if:

17            (i) petitioner, but not respondent, owns the  
18       property; or

19            (ii) the parties own the property jointly; sharing  
20       it would risk abuse of petitioner by respondent or is  
21       impracticable; and the balance of hardships favors  
22       temporary possession by petitioner.

23            If petitioner's sole claim to ownership of the property  
24       is that it is marital property, the court may award  
25       petitioner temporary possession thereof under the  
26       standards of subparagraph (ii) of this paragraph only if a

1 proper proceeding has been filed under the Illinois  
2 Marriage and Dissolution of Marriage Act, as now or  
3 hereafter amended.

4 No order under this provision shall affect title to  
5 property.

6 (11) Protection of property. Forbid the respondent  
7 from taking, transferring, encumbering, concealing,  
8 damaging or otherwise disposing of any real or personal  
9 property, except as explicitly authorized by the court, if:

10 (i) petitioner, but not respondent, owns the  
11 property; or

12 (ii) the parties own the property jointly, and the  
13 balance of hardships favors granting this remedy.

14 If petitioner's sole claim to ownership of the property  
15 is that it is marital property, the court may grant  
16 petitioner relief under subparagraph (ii) of this  
17 paragraph only if a proper proceeding has been filed under  
18 the Illinois Marriage and Dissolution of Marriage Act, as  
19 now or hereafter amended.

20 The court may further prohibit respondent from  
21 improperly using the financial or other resources of an  
22 aged member of the family or household for the profit or  
23 advantage of respondent or of any other person.

24 (11.5) Protection of animals. Grant the petitioner the  
25 exclusive care, custody, or control of any animal owned,  
26 possessed, leased, kept, or held by either the petitioner

1 or the respondent or a minor child residing in the  
2 residence or household of either the petitioner or the  
3 respondent and order the respondent to stay away from the  
4 animal and forbid the respondent from taking,  
5 transferring, encumbering, concealing, harming, or  
6 otherwise disposing of the animal.

7 (12) Order for payment of support. Order respondent to  
8 pay temporary support for the petitioner or any child in  
9 the petitioner's care or over whom the petitioner has been  
10 allocated parental responsibility ~~custody~~, when the  
11 respondent has a legal obligation to support that person,  
12 in accordance with the Illinois Marriage and Dissolution of  
13 Marriage Act, which shall govern, among other matters, the  
14 amount of support, payment through the clerk and  
15 withholding of income to secure payment. An order for child  
16 support may be granted to a petitioner with lawful physical  
17 care ~~or custody~~ of a child, or an order or agreement for  
18 physical care of a child ~~or custody~~, prior to entry of an  
19 order allocating parental responsibility ~~for legal~~  
20 ~~custody~~. Such a support order shall expire upon entry of a  
21 valid order allocating parental responsibility differently  
22 ~~granting legal custody to another~~, unless otherwise  
23 provided in the custody order.

24 (13) Order for payment of losses. Order respondent to  
25 pay petitioner for losses suffered as a direct result of  
26 the abuse, neglect, or exploitation. Such losses shall

1 include, but not be limited to, medical expenses, lost  
2 earnings or other support, repair or replacement of  
3 property damaged or taken, reasonable attorney's fees,  
4 court costs and moving or other travel expenses, including  
5 additional reasonable expenses for temporary shelter and  
6 restaurant meals.

7 (i) Losses affecting family needs. If a party is  
8 entitled to seek maintenance, child support or  
9 property distribution from the other party under the  
10 Illinois Marriage and Dissolution of Marriage Act, as  
11 now or hereafter amended, the court may order  
12 respondent to reimburse petitioner's actual losses, to  
13 the extent that such reimbursement would be  
14 "appropriate temporary relief", as authorized by  
15 subsection (a)(3) of Section 501 of that Act.

16 (ii) Recovery of expenses. In the case of an  
17 improper concealment or removal of a minor child, the  
18 court may order respondent to pay the reasonable  
19 expenses incurred or to be incurred in the search for  
20 and recovery of the minor child, including but not  
21 limited to legal fees, court costs, private  
22 investigator fees, and travel costs.

23 (14) Prohibition of entry. Prohibit the respondent  
24 from entering or remaining in the residence or household  
25 while the respondent is under the influence of alcohol or  
26 drugs and constitutes a threat to the safety and well-being

1 of the petitioner or the petitioner's children.

2 (14.5) Prohibition of firearm possession.

3 (a) Prohibit a respondent against whom an order of  
4 protection was issued from possessing any firearms  
5 during the duration of the order if the order:

6 (1) was issued after a hearing of which such  
7 person received actual notice, and at which such  
8 person had an opportunity to participate;

9 (2) restrains such person from harassing,  
10 stalking, or threatening an intimate partner of  
11 such person or child of such intimate partner or  
12 person, or engaging in other conduct that would  
13 place an intimate partner in reasonable fear of  
14 bodily injury to the partner or child; and

15 (3) (i) includes a finding that such person  
16 represents a credible threat to the physical  
17 safety of such intimate partner or child; or (ii)  
18 by its terms explicitly prohibits the use,  
19 attempted use, or threatened use of physical force  
20 against such intimate partner or child that would  
21 reasonably be expected to cause bodily injury.

22 Any Firearm Owner's Identification Card in the  
23 possession of the respondent, except as provided in  
24 subsection (b), shall be ordered by the court to be  
25 turned over to the local law enforcement agency. The  
26 local law enforcement agency shall immediately mail

1 the card to the Department of State Police Firearm  
2 Owner's Identification Card Office for safekeeping.  
3 The court shall issue a warrant for seizure of any  
4 firearm in the possession of the respondent, to be kept  
5 by the local law enforcement agency for safekeeping,  
6 except as provided in subsection (b). The period of  
7 safekeeping shall be for the duration of the order of  
8 protection. The firearm or firearms and Firearm  
9 Owner's Identification Card, if unexpired, shall at  
10 the respondent's request, be returned to the  
11 respondent at the end of the order of protection. It is  
12 the respondent's responsibility to notify the  
13 Department of State Police Firearm Owner's  
14 Identification Card Office.

15 (b) If the respondent is a peace officer as defined  
16 in Section 2-13 of the Criminal Code of 1961, the court  
17 shall order that any firearms used by the respondent in  
18 the performance of his or her duties as a peace officer  
19 be surrendered to the chief law enforcement executive  
20 of the agency in which the respondent is employed, who  
21 shall retain the firearms for safekeeping for the  
22 duration of the order of protection.

23 (c) Upon expiration of the period of safekeeping,  
24 if the firearms or Firearm Owner's Identification Card  
25 cannot be returned to respondent because respondent  
26 cannot be located, fails to respond to requests to



1 retrieve the firearms, or is not lawfully eligible to  
2 possess a firearm, upon petition from the local law  
3 enforcement agency, the court may order the local law  
4 enforcement agency to destroy the firearms, use the  
5 firearms for training purposes, or for any other  
6 application as deemed appropriate by the local law  
7 enforcement agency; or that the firearms be turned over  
8 to a third party who is lawfully eligible to possess  
9 firearms, and who does not reside with respondent.

10 (15) Prohibition of access to records. If an order of  
11 protection prohibits respondent from having contact with  
12 the minor child, or if petitioner's address is omitted  
13 under subsection (b) of Section 203, or if necessary to  
14 prevent abuse or wrongful removal or concealment of a minor  
15 child, the order shall deny respondent access to, and  
16 prohibit respondent from inspecting, obtaining, or  
17 attempting to inspect or obtain, school or any other  
18 records of the minor child who is in the care of  
19 petitioner.

20 (16) Order for payment of shelter services. Order  
21 respondent to reimburse a shelter providing temporary  
22 housing and counseling services to the petitioner for the  
23 cost of the services, as certified by the shelter and  
24 deemed reasonable by the court.

25 (17) Order for injunctive relief. Enter injunctive  
26 relief necessary or appropriate to prevent further abuse of

1 a family or household member or further abuse, neglect, or  
2 exploitation of a high-risk adult with disabilities or to  
3 effectuate one of the granted remedies, if supported by the  
4 balance of hardships. If the harm to be prevented by the  
5 injunction is abuse or any other harm that one of the  
6 remedies listed in paragraphs (1) through (16) of this  
7 subsection is designed to prevent, no further evidence is  
8 necessary that the harm is an irreparable injury.

9 (c) Relevant factors; findings.

10 (1) In determining whether to grant a specific remedy,  
11 other than payment of support, the court shall consider  
12 relevant factors, including but not limited to the  
13 following:

14 (i) the nature, frequency, severity, pattern and  
15 consequences of the respondent's past abuse, neglect  
16 or exploitation of the petitioner or any family or  
17 household member, including the concealment of his or  
18 her location in order to evade service of process or  
19 notice, and the likelihood of danger of future abuse,  
20 neglect, or exploitation to petitioner or any member of  
21 petitioner's or respondent's family or household; and

22 (ii) the danger that any minor child will be abused  
23 or neglected or improperly relocated ~~removed~~ from the  
24 jurisdiction, improperly concealed within the State or  
25 improperly separated from the child's primary  
26 caretaker.

1           (2) In comparing relative hardships resulting to the  
2 parties from loss of possession of the family home, the  
3 court shall consider relevant factors, including but not  
4 limited to the following:

5           (i) availability, accessibility, cost, safety,  
6 adequacy, location and other characteristics of  
7 alternate housing for each party and any minor child or  
8 dependent adult in the party's care;

9           (ii) the effect on the party's employment; and

10           (iii) the effect on the relationship of the party,  
11 and any minor child or dependent adult in the party's  
12 care, to family, school, church and community.

13           (3) Subject to the exceptions set forth in paragraph  
14 (4) of this subsection, the court shall make its findings  
15 in an official record or in writing, and shall at a minimum  
16 set forth the following:

17           (i) That the court has considered the applicable  
18 relevant factors described in paragraphs (1) and (2) of  
19 this subsection.

20           (ii) Whether the conduct or actions of respondent,  
21 unless prohibited, will likely cause irreparable harm  
22 or continued abuse.

23           (iii) Whether it is necessary to grant the  
24 requested relief in order to protect petitioner or  
25 other alleged abused persons.

26           (4) For purposes of issuing an ex parte emergency order

1 of protection, the court, as an alternative to or as a  
2 supplement to making the findings described in paragraphs  
3 (c)(3)(i) through (c)(3)(iii) of this subsection, may use  
4 the following procedure:

5 When a verified petition for an emergency order of  
6 protection in accordance with the requirements of Sections  
7 203 and 217 is presented to the court, the court shall  
8 examine petitioner on oath or affirmation. An emergency  
9 order of protection shall be issued by the court if it  
10 appears from the contents of the petition and the  
11 examination of petitioner that the averments are  
12 sufficient to indicate abuse by respondent and to support  
13 the granting of relief under the issuance of the emergency  
14 order of protection.

15 (5) Never married parties. No rights or  
16 responsibilities for a minor child born outside of marriage  
17 attach to a putative father until a father and child  
18 relationship has been established under the Illinois  
19 Parentage Act of 1984, the Illinois Public Aid Code,  
20 Section 12 of the Vital Records Act, the Juvenile Court Act  
21 of 1987, the Probate Act of 1985, the Revised Uniform  
22 Reciprocal Enforcement of Support Act, the Uniform  
23 Interstate Family Support Act, the Expedited Child Support  
24 Act of 1990, any judicial, administrative, or other act of  
25 another state or territory, any other Illinois statute, or  
26 by any foreign nation establishing the father and child

1 relationship, any other proceeding substantially in  
2 conformity with the Personal Responsibility and Work  
3 Opportunity Reconciliation Act of 1996 (Pub. L. 104-193),  
4 or where both parties appeared in open court or at an  
5 administrative hearing acknowledging under oath or  
6 admitting by affirmation the existence of a father and  
7 child relationship. Absent such an adjudication, finding,  
8 or acknowledgement, no putative father shall be granted  
9 temporary allocation of parental responsibilities,  
10 including parenting time ~~custody of the minor child,~~  
11 ~~visitation~~ with the minor child, or physical care and  
12 possession of the minor child, nor shall an order of  
13 payment for support of the minor child be entered.

14 (d) Balance of hardships; findings. If the court finds that  
15 the balance of hardships does not support the granting of a  
16 remedy governed by paragraph (2), (3), (10), (11), or (16) of  
17 subsection (b) of this Section, which may require such  
18 balancing, the court's findings shall so indicate and shall  
19 include a finding as to whether granting the remedy will result  
20 in hardship to respondent that would substantially outweigh the  
21 hardship to petitioner from denial of the remedy. The findings  
22 shall be an official record or in writing.

23 (e) Denial of remedies. Denial of any remedy shall not be  
24 based, in whole or in part, on evidence that:

25 (1) Respondent has cause for any use of force, unless  
26 that cause satisfies the standards for justifiable use of

1 force provided by Article VII of the Criminal Code of 1961;

2 (2) Respondent was voluntarily intoxicated;

3 (3) Petitioner acted in self-defense or defense of  
4 another, provided that, if petitioner utilized force, such  
5 force was justifiable under Article VII of the Criminal  
6 Code of 1961;

7 (4) Petitioner did not act in self-defense or defense  
8 of another;

9 (5) Petitioner left the residence or household to avoid  
10 further abuse, neglect, or exploitation by respondent;

11 (6) Petitioner did not leave the residence or household  
12 to avoid further abuse, neglect, or exploitation by  
13 respondent;

14 (7) Conduct by any family or household member excused  
15 the abuse, neglect, or exploitation by respondent, unless  
16 that same conduct would have excused such abuse, neglect,  
17 or exploitation if the parties had not been family or  
18 household members.

19 (Source: P.A. 96-701, eff. 1-1-10; 96-1239, eff. 1-1-11;  
20 97-158, eff. 1-1-12; 97-294, eff. 1-1-12; 97-813, eff. 7-13-12;  
21 97-1131, eff. 1-1-13.)

22 (750 ILCS 60/223) (from Ch. 40, par. 2312-23)

23 Sec. 223. Enforcement of orders of protection.

24 (a) When violation is crime. A violation of any order of  
25 protection, whether issued in a civil or criminal proceeding,

1 shall be enforced by a criminal court when:

2 (1) The respondent commits the crime of violation of an  
3 order of protection pursuant to Section 12-3.4 or 12-30 of  
4 the Criminal Code of 1961, by having knowingly violated:

5 (i) remedies described in paragraphs (1), (2),  
6 (3), (14), or (14.5) of subsection (b) of Section 214  
7 of this Act; or

8 (ii) a remedy, which is substantially similar to  
9 the remedies authorized under paragraphs (1), (2),  
10 (3), (14), and (14.5) of subsection (b) of Section 214  
11 of this Act, in a valid order of protection which is  
12 authorized under the laws of another state, tribe, or  
13 United States territory; or

14 (iii) any other remedy when the act constitutes a  
15 crime against the protected parties as defined by the  
16 Criminal Code of 1961.

17 Prosecution for a violation of an order of protection  
18 shall not bar concurrent prosecution for any other crime,  
19 including any crime that may have been committed at the  
20 time of the violation of the order of protection; or

21 (2) The respondent commits the crime of child abduction  
22 pursuant to Section 10-5 of the Criminal Code of 1961, by  
23 having knowingly violated:

24 (i) remedies described in paragraphs (5), (6) or  
25 (8) of subsection (b) of Section 214 of this Act; or

26 (ii) a remedy, which is substantially similar to

1           the remedies authorized under paragraphs (5), (6), or  
2           (8) of subsection (b) of Section 214 of this Act, in a  
3           valid order of protection which is authorized under the  
4           laws of another state, tribe, or United States  
5           territory.

6           (b) When violation is contempt of court. A violation of any  
7           valid Illinois order of protection, whether issued in a civil  
8           or criminal proceeding, may be enforced through civil or  
9           criminal contempt procedures, as appropriate, by any court with  
10          jurisdiction, regardless where the act or acts which violated  
11          the order of protection were committed, to the extent  
12          consistent with the venue provisions of this Act. Nothing in  
13          this Act shall preclude any Illinois court from enforcing any  
14          valid order of protection issued in another state. Illinois  
15          courts may enforce orders of protection through both criminal  
16          prosecution and contempt proceedings, unless the action which  
17          is second in time is barred by collateral estoppel or the  
18          constitutional prohibition against double jeopardy.

19          (1) In a contempt proceeding where the petition for a  
20          rule to show cause sets forth facts evidencing an immediate  
21          danger that the respondent will flee the jurisdiction,  
22          conceal a child, or inflict physical abuse on the  
23          petitioner or minor children or on dependent adults in  
24          petitioner's care, the court may order the attachment of  
25          the respondent without prior service of the rule to show  
26          cause or the petition for a rule to show cause. Bond shall



1 be set unless specifically denied in writing.

2 (2) A petition for a rule to show cause for violation  
3 of an order of protection shall be treated as an expedited  
4 proceeding.

5 (b-1) The court shall not hold a school district or private  
6 or non-public school or any of its employees in civil or  
7 criminal contempt unless the school district or private or  
8 non-public school has been allowed to intervene.

9 (b-2) The court may hold the parents, guardian, or legal  
10 custodian of a minor respondent in civil or criminal contempt  
11 for a violation of any provision of any order entered under  
12 this Act for conduct of the minor respondent in violation of  
13 this Act if the parents, guardian, or legal custodian directed,  
14 encouraged, or assisted the respondent minor in such conduct.

15 (c) Violation of custody or support orders or temporary or  
16 final judgments allocating parental responsibilities. A  
17 violation of remedies described in paragraphs (5), (6), (8), or  
18 (9) of subsection (b) of Section 214 of this Act may be  
19 enforced by any remedy provided by Section 607.5 ~~611~~ of the  
20 Illinois Marriage and Dissolution of Marriage Act. The court  
21 may enforce any order for support issued under paragraph (12)  
22 of subsection (b) of Section 214 in the manner provided for  
23 under Parts V and VII of the Illinois Marriage and Dissolution  
24 of Marriage Act.

25 (d) Actual knowledge. An order of protection may be  
26 enforced pursuant to this Section if the respondent violates

1 the order after the respondent has actual knowledge of its  
2 contents as shown through one of the following means:

3 (1) By service, delivery, or notice under Section 210.

4 (2) By notice under Section 210.1 or 211.

5 (3) By service of an order of protection under Section  
6 222.

7 (4) By other means demonstrating actual knowledge of  
8 the contents of the order.

9 (e) The enforcement of an order of protection in civil or  
10 criminal court shall not be affected by either of the  
11 following:

12 (1) The existence of a separate, correlative order,  
13 entered under Section 215.

14 (2) Any finding or order entered in a conjoined  
15 criminal proceeding.

16 (f) Circumstances. The court, when determining whether or  
17 not a violation of an order of protection has occurred, shall  
18 not require physical manifestations of abuse on the person of  
19 the victim.

20 (g) Penalties.

21 (1) Except as provided in paragraph (3) of this  
22 subsection, where the court finds the commission of a crime  
23 or contempt of court under subsections (a) or (b) of this  
24 Section, the penalty shall be the penalty that generally  
25 applies in such criminal or contempt proceedings, and may  
26 include one or more of the following: incarceration,

1 payment of restitution, a fine, payment of attorneys' fees  
2 and costs, or community service.

3 (2) The court shall hear and take into account evidence  
4 of any factors in aggravation or mitigation before deciding  
5 an appropriate penalty under paragraph (1) of this  
6 subsection.

7 (3) To the extent permitted by law, the court is  
8 encouraged to:

9 (i) increase the penalty for the knowing violation  
10 of any order of protection over any penalty previously  
11 imposed by any court for respondent's violation of any  
12 order of protection or penal statute involving  
13 petitioner as victim and respondent as defendant;

14 (ii) impose a minimum penalty of 24 hours  
15 imprisonment for respondent's first violation of any  
16 order of protection; and

17 (iii) impose a minimum penalty of 48 hours  
18 imprisonment for respondent's second or subsequent  
19 violation of an order of protection

20 unless the court explicitly finds that an increased penalty  
21 or that period of imprisonment would be manifestly unjust.

22 (4) In addition to any other penalties imposed for a  
23 violation of an order of protection, a criminal court may  
24 consider evidence of any violations of an order of  
25 protection:

26 (i) to increase, revoke or modify the bail bond on

1 an underlying criminal charge pursuant to Section  
2 110-6 of the Code of Criminal Procedure of 1963;

3 (ii) to revoke or modify an order of probation,  
4 conditional discharge or supervision, pursuant to  
5 Section 5-6-4 of the Unified Code of Corrections;

6 (iii) to revoke or modify a sentence of periodic  
7 imprisonment, pursuant to Section 5-7-2 of the Unified  
8 Code of Corrections.

9 (5) In addition to any other penalties, the court shall  
10 impose an additional fine of \$20 as authorized by Section  
11 5-9-1.11 of the Unified Code of Corrections upon any person  
12 convicted of or placed on supervision for a violation of an  
13 order of protection. The additional fine shall be imposed  
14 for each violation of this Section.

15 (Source: P.A. 96-1551, eff. 7-1-11; 97-294, eff. 1-1-12.)

16 Section 5-30. The Probate Act of 1975 is amended by  
17 changing Section 11-7.1 as follows:

18 (755 ILCS 5/11-7.1) (from Ch. 110 1/2, par. 11-7.1)

19 Sec. 11-7.1. Parenting time ~~Visitation rights~~.

20 (a) Whenever both natural or adoptive parents of a minor  
21 are deceased, an allocation of parenting time ~~visitation rights~~  
22 shall be granted to the grandparents of the minor who are the  
23 parents of the minor's legal parents unless it is shown that  
24 such parenting time ~~visitation~~ would be detrimental to the best

1 interests and welfare of the minor. In the discretion of the  
2 court, reasonable parenting time ~~visitation rights~~ may be  
3 granted to any other relative of the minor or other person  
4 having an interest in the welfare of the child. However, the  
5 court shall not grant parenting time ~~visitation privileges~~ to  
6 any person who otherwise might have parenting time ~~visitation~~  
7 ~~privileges~~ under this Section where the minor has been adopted  
8 subsequent to the death of both his legal parents except where  
9 such adoption is by a close relative. For the purpose of this  
10 Section, "close relative" shall include, but not be limited to,  
11 a grandparent, aunt, uncle, first cousin, or adult brother or  
12 sister.

13 Where such adoption is by a close relative, the court shall  
14 not grant parenting time ~~visitation privileges~~ under this  
15 Section unless the petitioner alleges and proves that he or she  
16 has been unreasonably denied parenting time ~~visitation~~ with the  
17 child. The court may grant reasonable parenting time ~~visitation~~  
18 ~~privileges~~ upon finding that such parenting time ~~visitation~~  
19 would be in the best interest of the child.

20 An order denying parenting time ~~visitation rights~~ to  
21 grandparents of the minor shall be in writing and shall state  
22 the reasons for denial. An order denying parenting time  
23 ~~visitation rights~~ is a final order for purposes of appeal.

24 (b) Unless the court determines, after considering all  
25 relevant factors, including but not limited to those set forth  
26 in Section 602.7 ~~602(a)~~ of the Illinois Marriage and

1 Dissolution of Marriage Act, that it would be in the best  
2 interests of the child to allow parenting time ~~visitation~~, the  
3 court shall not enter an order providing parenting time  
4 ~~visitation rights~~ and pursuant to a motion to modify parenting  
5 time ~~visitation~~ brought under Section 610.5 ~~607(f)~~ of the  
6 Illinois Marriage and Dissolution of Marriage Act shall revoke  
7 parenting time ~~visitation rights~~ previously granted to any  
8 person who would otherwise be entitled to petition for  
9 parenting time ~~visitation rights~~ under this Section who has  
10 been convicted of first degree murder of the parent,  
11 grandparent, great-grandparent, or sibling of the child who is  
12 the subject of the order. Until an order is entered pursuant to  
13 this subsection, no person shall visit, with the child present,  
14 a person who has been convicted of first degree murder of the  
15 parent, grandparent, great-grandparent, or sibling of the  
16 child without the consent of the child's parent, other than a  
17 parent convicted of first degree murder as set forth herein, or  
18 legal guardian.

19 (Source: P.A. 90-801, eff. 6-1-99.)

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