

1 AN ACT concerning family law.

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

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

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

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

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

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

24	Number of Children	Percent of Supporting Party's
25		Net Income
26	1	20%
27	2	25%
28	3	32%
29	4	40%
30	5	45%
31	6 or more	50%

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

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

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

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

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

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

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

22 In evaluating the factors set forth in this
23 paragraph (2), the court may require the custodial parent
24 to provide an accounting of how child support is being
25 spent or will be spent.

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

28 (a) Federal income tax (properly calculated
29 withholding or estimated payments);

30 (b) State income tax (properly calculated
31 withholding or estimated payments);

32 (c) Social Security (FICA payments);

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

1 (e) Union dues;
2 (f) Dependent and individual
3 health/hospitalization insurance premiums;

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

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

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

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

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

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

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

1 Support Orders, or by any other reasonable means.

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

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

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

13 (A) work; or

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

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

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

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

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

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

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

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

1 financial responsibility driving permit to the parent.

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

15 A support obligation, or any portion of a support
16 obligation, which becomes due and remains unpaid for 30 days
17 or more shall accrue interest at the rate of 9% per annum.

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

24 (d) Any new or existing support order entered by the
25 court under this Section shall be deemed to be a series of
26 judgments against the person obligated to pay support
27 thereunder, each such judgment to be in the amount of each
28 payment or installment of support and each such judgment to
29 be deemed entered as of the date the corresponding payment or
30 installment becomes due under the terms of the support order.
31 Each such judgment shall have the full force, effect and
32 attributes of any other judgment of this State, including the
33 ability to be enforced. A lien arises by operation of law
34 against the real and personal property of the noncustodial

1 parent for each installment of overdue support owed by the
2 noncustodial parent.

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

12 (f) All orders for support, when entered or modified,
13 shall include a provision requiring the obligor to notify the
14 court and, in cases in which a party is receiving child and
15 spouse services under Article X of the Illinois Public Aid
16 Code, the Illinois Department of Public Aid, within 7 days,
17 (i) of the name and address of any new employer of the
18 obligor, (ii) whether the obligor has access to health
19 insurance coverage through the employer or other group
20 coverage and, if so, the policy name and number and the names
21 of persons covered under the policy, and (iii) of any new
22 residential or mailing address or telephone number of the
23 non-custodial parent. In any subsequent action to enforce a
24 support order, upon a sufficient showing that a diligent
25 effort has been made to ascertain the location of the
26 non-custodial parent, service of process or provision of
27 notice necessary in the case may be made at the last known
28 address of the non-custodial parent in any manner expressly
29 provided by the Code of Civil Procedure or this Act, which
30 service shall be sufficient for purposes of due process.

31 (g) An order for support shall include a date on which
32 the current support obligation terminates. The termination
33 date shall be no earlier than the date on which the child
34 covered by the order will attain the age of majority or is

1 otherwise emancipated. The order for support shall state that
2 the termination date does not apply to any arrearage that may
3 remain unpaid on that date. Nothing in this subsection shall
4 be construed to prevent the court from modifying the order.

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

25 (Source: P.A. 90-18, eff. 7-1-97; 90-476, eff. 1-1-98;
26 90-539, eff. 6-1-98; 90-655, eff. 7-30-98; 90-733, eff.
27 8-11-98; 91-113, eff. 7-15-99; 91-397, eff. 1-1-00; 91-655,
28 eff. 6-1-00; 91-767, eff. 6-9-00; revised 6-28-00.)