

1 AN ACT in relation to children.

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

4 Section 5. The Illinois Public Aid Code is amended by  
5 changing Sections 10-2, 10-8.1, 10-10, and 10-11 as follows:

6 (305 ILCS 5/10-2) (from Ch. 23, par. 10-2)

7 Sec. 10-2. Extent of Liability. A husband is liable for  
8 the support of his wife and a wife for the support of her  
9 husband. The parents are severally liable for the support of  
10 any child under age 18, and for any child aged 18 who is  
11 attending high school, until that child graduates from high  
12 school, or attains the age of 19, whichever is earlier 21,  
13 ~~except that a parent is not liable for a child age 18 or over~~  
14 ~~if such child is not living with the parent or parents, and a~~  
15 ~~parent is not liable for a child of any age if the child has~~  
16 ~~married and is not living with the parent or parents. A child~~  
17 ~~shall be considered to be living with the parent or parents~~  
18 ~~if such child is absent from the parent's or parents' home~~  
19 ~~only in order to regularly attend a school, college or~~  
20 ~~university or to receive technical training designed for~~  
21 ~~preparation for gainful employment. The term "child" includes~~  
22 a child born out of wedlock, or legally adopted child.

23 In addition to the primary obligation of support imposed  
24 upon responsible relatives, such relatives, if individually  
25 or together in any combination they have sufficient income or  
26 other resources to support a needy person, in whole or in  
27 part, shall be liable for any financial aid extended under  
28 this Code to a person for whose support they are responsible,  
29 including amounts expended for funeral and burial costs.

30 (Source: P.A. 89-641, eff. 8-9-96; 90-18, eff. 7-1-97.)

1 (305 ILCS 5/10-8.1)

2 Sec. 10-8.1. Temporary order for child support.  
3 Notwithstanding any other law to the contrary, pending the  
4 outcome of an administrative determination of parentage, the  
5 Illinois Department shall issue a temporary order for child  
6 support, upon motion by a party and a showing of clear and  
7 convincing evidence of paternity. In determining the amount  
8 of the temporary child support award, the Illinois Department  
9 shall use the guidelines and standards set forth in  
10 subsection (a) of Section 505 and in Section 505.2 of the  
11 Illinois Marriage and Dissolution of Marriage Act.

12 Any new or existing support order entered by the Illinois  
13 Department under this Section shall be deemed to be a series  
14 of judgments against the person obligated to pay support  
15 thereunder, each such judgment to be in the amount of each  
16 payment or installment of support and each judgment to be  
17 deemed entered as of the date the corresponding payment or  
18 installment becomes due under the terms of the support order.  
19 Each such judgment shall have the full force, effect, and  
20 attributes of any other judgment of this State, including the  
21 ability to be enforced. Any such judgment is subject to  
22 modification or termination only in accordance with Section  
23 510 of the Illinois Marriage and Dissolution of Marriage Act.  
24 A lien arises by operation of law against the real and  
25 personal property of the noncustodial parent for each  
26 installment of overdue support owed by the noncustodial  
27 parent.

28 All orders for support entered or modified in a case in  
29 which a party is receiving child and spouse support services  
30 under this Article X shall include a provision requiring the  
31 non-custodial parent to notify the Illinois Department,  
32 within 7 days, (i) of the name, address, and telephone number  
33 of any new employer of the non-custodial parent, (ii) whether  
34 the non-custodial parent has access to health insurance

1 coverage through the employer or other group coverage, and,  
2 if so, the policy name and number and the names of persons  
3 covered under the policy, and (iii) of any new residential or  
4 mailing address or telephone number of the non-custodial  
5 parent.

6 In any subsequent action to enforce a support order, upon  
7 sufficient showing that diligent effort has been made to  
8 ascertain the location of the non-custodial parent, service  
9 of process or provision of notice necessary in that action  
10 may be made at the last known address of the non-custodial  
11 parent, in any manner expressly provided by the Code of Civil  
12 Procedure or this Act, which service shall be sufficient for  
13 purposes of due process.

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

28 (Source: P.A. 90-18, eff. 7-1-97.)

29 (305 ILCS 5/10-10) (from Ch. 23, par. 10-10)

30 Sec. 10-10. Court enforcement; applicability also to  
31 persons who are not applicants or recipients. Except where  
32 the Illinois Department, by agreement, acts for the local  
33 governmental unit, as provided in Section 10-3.1, local

1 governmental units shall refer to the State's Attorney or to  
2 the proper legal representative of the governmental unit, for  
3 judicial enforcement as herein provided, instances of  
4 non-support or insufficient support when the dependents are  
5 applicants or recipients under Article VI. The Child and  
6 Spouse Support Unit established by Section 10-3.1 may  
7 institute in behalf of the Illinois Department any actions  
8 under this Section for judicial enforcement of the support  
9 liability when the dependents are (a) applicants or  
10 recipients under Articles III, IV, V or VII; (b) applicants  
11 or recipients in a local governmental unit when the Illinois  
12 Department, by agreement, acts for the unit; or (c)  
13 non-applicants or non-recipients who are receiving support  
14 enforcement services under this Article X, as provided in  
15 Section 10-1. Where the Child and Spouse Support Unit has  
16 exercised its option and discretion not to apply the  
17 provisions of Sections 10-3 through 10-8, the failure by the  
18 Unit to apply such provisions shall not be a bar to bringing  
19 an action under this Section.

20 Action shall be brought in the circuit court to obtain  
21 support, or for the recovery of aid granted during the period  
22 such support was not provided, or both for the obtainment of  
23 support and the recovery of the aid provided. Actions for  
24 the recovery of aid may be taken separately or they may be  
25 consolidated with actions to obtain support. Such actions  
26 may be brought in the name of the person or persons requiring  
27 support, or may be brought in the name of the Illinois  
28 Department or the local governmental unit, as the case  
29 requires, in behalf of such persons.

30 The court may enter such orders for the payment of moneys  
31 for the support of the person as may be just and equitable  
32 and may direct payment thereof for such period or periods of  
33 time as the circumstances require, including support for a  
34 period before the date the order for support is entered. The

1 order may be entered against any or all of the defendant  
2 responsible relatives and may be based upon the proportionate  
3 ability of each to contribute to the person's support.

4 The Court shall determine the amount of child support  
5 (including child support for a period before the date the  
6 order for child support is entered) by using the guidelines  
7 and standards set forth in subsection (a) of Section 505 and  
8 in Section 505.2 of the Illinois Marriage and Dissolution of  
9 Marriage Act. For purposes of determining the amount of child  
10 support to be paid for a period before the date the order for  
11 child support is entered, there is a rebuttable presumption  
12 that the responsible relative's net income for that period  
13 was the same as his or her net income at the time the order  
14 is entered.

15 If (i) the responsible relative was properly served with  
16 a request for discovery of financial information relating to  
17 the responsible relative's ability to provide child support,  
18 (ii) the responsible relative failed to comply with the  
19 request, despite having been ordered to do so by the court,  
20 and (iii) the responsible relative is not present at the  
21 hearing to determine support despite having received proper  
22 notice, then any relevant financial information concerning  
23 the responsible relative'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 establish  
26 any further foundation for its admission.

27 An order entered under this Section shall include a  
28 provision requiring the obligor to report to the obligee and  
29 to the clerk of court within 10 days each time the obligor  
30 obtains new employment, and each time the obligor's  
31 employment is terminated for any reason. The report shall be  
32 in writing and shall, in the case of new employment, include  
33 the name and address of the new employer. Failure to report  
34 new employment or the termination of current employment, if

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

13 The Court shall determine the amount of maintenance using  
14 the standards set forth in Section 504 of the Illinois  
15 Marriage and Dissolution of Marriage Act.

16 Any new or existing support order entered by the court  
17 under this Section shall be deemed to be a series of  
18 judgments against the person obligated to pay support  
19 thereunder, each such judgment to be in the amount of each  
20 payment or installment of support and each such judgment to  
21 be deemed entered as of the date the corresponding payment or  
22 installment becomes due under the terms of the support order.  
23 Each such judgment shall have the full force, effect and  
24 attributes of any other judgment of this State, including the  
25 ability to be enforced. Any such judgment is subject to  
26 modification or termination only in accordance with Section  
27 510 of the Illinois Marriage and Dissolution of Marriage Act.  
28 A lien arises by operation of law against the real and  
29 personal property of the noncustodial parent for each  
30 installment of overdue support owed by the noncustodial  
31 parent.

32 When an order is entered for the support of a minor, the  
33 court may provide therein for reasonable visitation of the  
34 minor by the person or persons who provided support pursuant

1 to the order. Whoever willfully refuses to comply with such  
2 visitation order or willfully interferes with its enforcement  
3 may be declared in contempt of court and punished therefor.

4 Except where the local governmental unit has entered into  
5 an agreement with the Illinois Department for the Child and  
6 Spouse Support Unit to act for it, as provided in Section  
7 10-3.1, support orders entered by the court in cases  
8 involving applicants or recipients under Article VI shall  
9 provide that payments thereunder be made directly to the  
10 local governmental unit. Orders for the support of all other  
11 applicants or recipients shall provide that payments  
12 thereunder be made directly to the Illinois Department. In  
13 accordance with federal law and regulations, the Illinois  
14 Department may continue to collect current maintenance  
15 payments or child support payments, or both, after those  
16 persons cease to receive public assistance and until  
17 termination of services under Article X. The Illinois  
18 Department shall pay the net amount collected to those  
19 persons after deducting any costs incurred in making the  
20 collection or any collection fee from the amount of any  
21 recovery made. In both cases the order shall permit the  
22 local governmental unit or the Illinois Department, as the  
23 case may be, to direct the responsible relative or relatives  
24 to make support payments directly to the needy person, or to  
25 some person or agency in his behalf, upon removal of the  
26 person from the public aid rolls or upon termination of  
27 services under Article X.

28 If the notice of support due issued pursuant to Section  
29 10-7 directs that support payments be made directly to the  
30 needy person, or to some person or agency in his behalf, and  
31 the recipient is removed from the public aid rolls, court  
32 action may be taken against the responsible relative  
33 hereunder if he fails to furnish support in accordance with  
34 the terms of such notice.

1           Actions may also be brought under this Section in behalf  
2 of any person who is in need of support from responsible  
3 relatives, as defined in Section 2-11 of Article II who is  
4 not an applicant for or recipient of financial aid under this  
5 Code. In such instances, the State's Attorney of the county  
6 in which such person resides shall bring action against the  
7 responsible relatives hereunder. If the Illinois Department,  
8 as authorized by Section 10-1, extends the support services  
9 provided by this Article to spouses and dependent children  
10 who are not applicants or recipients under this Code, the  
11 Child and Spouse Support Unit established by Section 10-3.1  
12 shall bring action against the responsible relatives  
13 hereunder and any support orders entered by the court in such  
14 cases shall provide that payments thereunder be made directly  
15 to the Illinois Department.

16           Whenever it is determined in a proceeding to establish or  
17 enforce a child support or maintenance obligation that the  
18 person owing a duty of support is unemployed, the court may  
19 order the person to seek employment and report periodically  
20 to the court with a diary, listing or other memorandum of his  
21 or her efforts in accordance with such order. Additionally,  
22 the court may order the unemployed person to report to the  
23 Department of Employment Security for job search services or  
24 to make application with the local Job Training Partnership  
25 Act provider for participation in job search, training or  
26 work programs and where the duty of support is owed to a  
27 child receiving support services under this Article X, the  
28 court may order the unemployed person to report to the  
29 Illinois Department for participation in job search, training  
30 or work programs established under Section 9-6 and Article  
31 IXA of this Code.

32           Whenever it is determined that a person owes past-due  
33 support for a child receiving assistance under this Code, the  
34 court shall order at the request of the Illinois Department:



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

3           (2) if the person owing past-due support is  
4 unemployed, is subject to such a plan, and is not  
5 incapacitated, that the person participate in such job  
6 search, training, or work programs established under  
7 Section 9-6 and Article IXA of this Code as the court  
8 deems appropriate.

9           A determination under this Section shall not be  
10 administratively reviewable by the procedures specified in  
11 Sections 10-12, and 10-13 to 10-13.10. Any determination  
12 under these Sections, if made the basis of court action under  
13 this Section, shall not affect the de novo judicial  
14 determination required under this Section.

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

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

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

6 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  
9 by the order will attain the age of 18. However, if the  
10 child will not graduate from high school until after  
11 attaining the age of 18, then the termination date shall be  
12 no earlier than the earlier of the date on which the child's  
13 high school graduation will occur or the date on which the  
14 child will attain the age of 19 majority--er--is--otherwise  
15 emancipated. The order for support shall state that the  
16 termination date does not apply to any arrearage that may  
17 remain unpaid on that date. Nothing in this paragraph shall  
18 be construed to prevent the court from modifying the order.

19 Upon notification in writing or by electronic  
20 transmission from the Illinois Department to the clerk of the  
21 court that a person who is receiving support payments under  
22 this Section is receiving services under the Child Support  
23 Enforcement Program established by Title IV-D of the Social  
24 Security Act, any support payments subsequently received by  
25 the clerk of the court shall be transmitted in accordance  
26 with the instructions of the Illinois Department until the  
27 Illinois Department gives notice to the clerk of the court to  
28 cease the transmittal. After providing the notification  
29 authorized under this paragraph, the Illinois Department  
30 shall be entitled as a party to notice of any further  
31 proceedings in the case. The clerk of the court shall file a  
32 copy of the Illinois Department's notification in the court  
33 file. The clerk's failure to file a copy of the notification  
34 in the court file shall not, however, affect the Illinois

1 Department's right to receive notice of further proceedings.

2 Payments under this Section to the Illinois Department  
3 pursuant to the Child Support Enforcement Program established  
4 by Title IV-D of the Social Security Act shall be paid into  
5 the Child Support Enforcement Trust Fund. All payments under  
6 this Section to the Illinois Department of Human Services  
7 shall be deposited in the DHS Recoveries Trust Fund.  
8 Disbursements from these funds shall be as provided in  
9 Sections 12-9.1 and 12-10.2 of this Code. Payments received  
10 by a local governmental unit shall be deposited in that  
11 unit's General Assistance Fund.

12 To the extent the provisions of this Section are  
13 inconsistent with the requirements pertaining to the State  
14 Disbursement Unit under Sections 10-10.4 and 10-26 of this  
15 Code, the requirements pertaining to the State Disbursement  
16 Unit shall apply.

17 (Source: P.A. 91-24, eff. 7-1-99; 91-212, eff. 7-20-99;  
18 91-357, eff. 7-29-99; 91-767, eff. 6-9-00; 92-16, eff.  
19 6-28-01.)

20 (305 ILCS 5/10-11) (from Ch. 23, par. 10-11)

21 Sec. 10-11. Administrative Orders. In lieu of actions  
22 for court enforcement of support under Section 10-10, the  
23 Child and Spouse Support Unit of the Illinois Department, in  
24 accordance with the rules of the Illinois Department, may  
25 issue an administrative order requiring the responsible  
26 relative to comply with the terms of the determination and  
27 notice of support due, determined and issued under Sections  
28 10-6 and 10-7. The Unit may also enter an administrative  
29 order under subsection (b) of Section 10-7. The  
30 administrative order shall be served upon the responsible  
31 relative by United States registered or certified mail. In  
32 cases in which the responsible relative appeared at the  
33 office of the Child and Spouse Support Unit in response to

1 the notice of support obligation issued under Section 10-4,  
2 however, or in cases of default in which the notice was  
3 served on the responsible relative by certified mail, return  
4 receipt requested, or by any method provided by law for  
5 service of summons, the administrative determination of  
6 paternity or administrative support order may be sent to the  
7 responsible relative by ordinary mail addressed to the  
8 responsible relative's last known address.

9 If a responsible relative or a person receiving child and  
10 spouse support services under this Article fails to petition  
11 the Illinois Department for release from or modification of  
12 the administrative order, as provided in Section 10-12 or  
13 Section 10-12.1, the order shall become final and there shall  
14 be no further administrative or judicial remedy. Likewise a  
15 decision by the Illinois Department as a result of an  
16 administrative hearing, as provided in Sections 10-13 to  
17 10-13.10, shall become final and enforceable if not  
18 judicially reviewed under the Administrative Review Law, as  
19 provided in Section 10-14.

20 Any new or existing support order entered by the Illinois  
21 Department under this Section shall be deemed to be a series  
22 of judgments against the person obligated to pay support  
23 thereunder, each such judgment to be in the amount of each  
24 payment or installment of support and each such judgment to  
25 be deemed entered as of the date the corresponding payment or  
26 installment becomes due under the terms of the support order.  
27 Each such judgment shall have the full force, effect and  
28 attributes of any other judgment of this State, including the  
29 ability to be enforced. Any such judgment is subject to  
30 modification or termination only in accordance with Section  
31 510 of the Illinois Marriage and Dissolution of Marriage Act.  
32 A lien arises by operation of law against the real and  
33 personal property of the noncustodial parent for each  
34 installment of overdue support owed by the noncustodial

1 parent.

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

22 A one-time charge of 20% is imposable upon the amount of  
23 past-due child support owed on July 1, 1988, which has  
24 accrued under a support order entered by the Illinois  
25 Department under this Section. The charge shall be imposed  
26 in accordance with the provisions of Section 10-21 and shall  
27 be enforced by the court in a suit filed under Section 10-15.

28 An order for support shall include a date on which the  
29 support obligation terminates. The termination date shall be  
30 no earlier than the date on which the child covered by the  
31 order will attain the age of 18. However, if the child will  
32 not graduate from high school until after attaining the age  
33 of 18, then the termination date shall be no earlier than the  
34 earlier of the date that the child's graduation will occur or

1 the date on which the child will attain the age of 19.

2 (Source: P.A. 90-18, eff. 7-1-97; 90-539, eff. 6-1-98;  
3 90-655, eff. 7-30-98; 90-790, eff. 8-14-98; 91-212, eff.  
4 7-20-99.)

5 Section 10. The Illinois Marriage and Dissolution of  
6 Marriage Act is amended by changing Sections 505, 505.2, 510,  
7 and 513 as follows:

8 (750 ILCS 5/505) (from Ch. 40, par. 505)

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

10 (a) In a proceeding for dissolution of marriage, legal  
11 separation, declaration of invalidity of marriage, a  
12 proceeding for child support following dissolution of the  
13 marriage by a court which lacked personal jurisdiction over  
14 the absent spouse, a proceeding for modification of a  
15 previous order for child support under Section 510 of this  
16 Act, or any proceeding authorized under Section 501 or 601 of  
17 this Act, the court may order either or both parents owing a  
18 duty of support to a child of the marriage to pay an amount  
19 reasonable and necessary for his support, without regard to  
20 marital misconduct. The duty of support owed to a ~~minor~~  
21 child includes the obligation to provide for the reasonable  
22 and necessary physical, mental and emotional health needs of  
23 the child. For purposes of this Section, the term "child"  
24 shall include any child under age 18 and any child under age  
25 19 who is still attending high school.

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

Number of Children	Percent of Supporting Party's Net Income
1	20%
2	25%
3	32%

1	4	40%
2	5	45%
3	6 or more	50%

(2) The above guidelines shall be applied in each case unless the court makes a finding that application of the guidelines would be inappropriate, after considering the best interests of the child in light of evidence including but not limited 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 custodial parent;

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

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

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

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

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

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

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

(c) Social Security (FICA payments);

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

(e) Union dues;

1 (f) Dependent and individual  
2 health/hospitalization insurance premiums;

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

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

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

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

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



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

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

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

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

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

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

12 (A) work; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 emotional health of a party or that of a minor child, or  
2 both, would be seriously endangered by disclosure of the  
3 party's address.

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

9 (Source: P.A. 91-113, eff. 7-15-99; 91-397, eff. 1-1-00;  
10 91-655, eff. 6-1-00; 91-767, eff. 6-9-00; 92-16, eff.  
11 6-28-01; 92-203, eff. 8-1-01; 92-374, eff. 8-15-01; revised  
12 10-15-01.)

13 (750 ILCS 5/505.2) (from Ch. 40, par. 505.2)

14 Sec. 505.2. Health insurance.

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

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

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

21 (3) "Public office" means any elected official or  
22 any State or local agency which is or may become  
23 responsible by law for enforcement of, or which is or may  
24 become authorized to enforce, an order for support,  
25 including, but not limited to: the Attorney General, the  
26 Illinois Department of Public Aid, the Illinois  
27 Department of Human Services, the Illinois Department of  
28 Children and Family Services, and the various State's  
29 Attorneys, Clerks of the Circuit Court and supervisors of  
30 general assistance.

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

33 (b) Order.

1           (1) Whenever the court establishes, modifies or  
2 enforces an order for child support or for child support  
3 and maintenance the court shall include in the order a  
4 provision for the health care coverage of the child which  
5 shall, upon request of the obligee or Public Office,  
6 require that any child covered by the order be named as a  
7 beneficiary of any health insurance plan that is  
8 available to the obligor through an employer or labor  
9 union or trade union. If the court finds that such a  
10 plan is not available to the obligor, or that the plan is  
11 not accessible to the obligee, the court may, upon  
12 request of the obligee or Public Office, order the  
13 obligor to name the child covered by the order as a  
14 beneficiary of any health insurance plan that is  
15 available to the obligor on a group basis, or as a  
16 beneficiary of an independent health insurance plan to be  
17 obtained by the obligor, after considering the following  
18 factors:

- 19                   (A) the medical needs of the child;
- 20                   (B) the availability of a plan to meet those  
21 needs; and
- 22                   (C) the cost of such a plan to the obligor.

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

27           (3) Nothing in this Section shall be construed to  
28 limit the authority of the court to establish or modify a  
29 support order to provide for payment of expenses,  
30 including deductibles, copayments and any other health  
31 expenses, which are in addition to expenses covered by an  
32 insurance plan of which a child is ordered to be named a  
33 beneficiary pursuant to this Section.

34           (c) Implementation and enforcement.



1           (1) When the court order requires that a ~~minor~~  
2 child be named as a beneficiary of a health insurance  
3 plan, other than a health insurance plan available  
4 through an employer or labor union or trade union, the  
5 obligor shall provide written proof to the obligee or  
6 Public Office that the required insurance has been  
7 obtained, or that application for insurability has been  
8 made, within 30 days of receiving notice of the court  
9 order. Unless the obligor was present in court when the  
10 order was issued, notice of the order shall be given  
11 pursuant to Illinois Supreme Court Rules. If an obligor  
12 fails to provide the required proof, he may be held in  
13 contempt of court.

14           (2) When the court requires that a ~~minor~~ child be  
15 named as a beneficiary of a health insurance plan  
16 available through an employer or labor union or trade  
17 union, the court's order shall be implemented in  
18 accordance with the Income Withholding for Support Act.

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

1 the obligor's failure to pay the premiums for court-ordered  
2 health insurance.

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

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

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

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

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

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

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

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

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

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

15 (Source: P.A. 92-16, eff. 6-28-01)

16 (750 ILCS 5/510) (from Ch. 40, par. 510)

17 Sec. 510. Modification and termination of provisions for  
18 maintenance, support, educational expenses, and property  
19 disposition.

20 (a) Except as otherwise provided in paragraph (f) of  
21 Section 502 and in subsection (b) ~~(d)~~, clause (3) of Section  
22 505.2, the provisions of any judgment respecting maintenance  
23 or support may be modified only as to installments accruing  
24 subsequent to due notice by the moving party of the filing of  
25 the motion for modification and, with respect to maintenance,  
26 only upon a showing of a substantial change in circumstances.  
27 An order for child support may be modified as follows:

28 (1) upon a showing of a substantial change in  
29 circumstances; and

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

32 (A) upon a showing of an inconsistency of at  
33 least 20%, but no less than \$10 per month, between

1 the amount of the existing order and the amount of  
2 child support that results from application of the  
3 guidelines specified in Section 505 of this Act  
4 unless the inconsistency is due to the fact that the  
5 amount of the existing order resulted from a  
6 deviation from the guideline amount and there has  
7 not been a change in the circumstances that resulted  
8 in that deviation; or

9 (B) Upon a showing of a need to provide for  
10 the health care needs of the child under the order  
11 through health insurance or other means. In no  
12 event shall the eligibility for or receipt of  
13 medical assistance be considered to meet the need to  
14 provide for the child's health care needs.

15 The provisions of subparagraph (a)(2)(A) shall apply only  
16 in cases in which a party is receiving child and spouse  
17 support services from the Illinois Department of Public Aid  
18 under Article X of the Illinois Public Aid Code, and only  
19 when at least 36 months have elapsed since the order for  
20 child support was entered or last modified.

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

25 (c) Unless otherwise agreed by the parties in a written  
26 agreement set forth in the judgment or otherwise approved by  
27 the court, the obligation to pay future maintenance is  
28 terminated upon the death of either party, or the remarriage  
29 of the party receiving maintenance, or if the party receiving  
30 maintenance cohabits with another person on a resident,  
31 continuing conjugal basis.

32 (d) Unless otherwise provided in this Act, or as agreed  
33 in writing or expressly provided in the judgment, provisions  
34 for the support of a child are terminated by emancipation of

1 the child, or if the child has attained the age of 18 and is  
2 still attending high school, provisions for the support of  
3 the child are terminated upon the date that the child  
4 graduates from high school or the date the child attains the  
5 age of 19, whichever is earlier, but not by the death of a  
6 parent obligated to support or educate the child. Unless  
7 ~~otherwise-agreed--in--writing--or--expressly--provided--in--a~~  
8 ~~judgment,---provisions---for---the---support---of---a---child---are~~  
9 ~~terminated-by-emancipation-of-the-child,--except-as--otherwise~~  
10 ~~provided--herein,--but-not-by-the-death-of-a-parent-obligated~~  
11 ~~to-support-or-educate-the-child.~~ An existing obligation to  
12 pay for support or educational expenses, or both, is not  
13 terminated by the death of a parent. When a parent obligated  
14 to pay support or educational expenses, or both, dies, the  
15 amount of support or educational expenses, or both, may be  
16 enforced, modified, revoked or commuted to a lump sum  
17 payment, as equity may require, and that determination may be  
18 provided for at the time of the dissolution of the marriage  
19 or thereafter.

20 (e) The right to petition for support or educational  
21 expenses, or both, under Sections 505 and 513 is not  
22 extinguished by the death of a parent. Upon a petition filed  
23 before or after a parent's death, the court may award sums of  
24 money out of the decedent's estate for the child's support or  
25 educational expenses, or both, as equity may require. The  
26 time within which a claim may be filed against the estate of  
27 a decedent under Sections 505 and 513 and subsection (d) and  
28 this subsection shall be governed by the provisions of the  
29 Probate Act of 1975, as a barrable, noncontingent claim.

30 (f) A petition to modify or terminate child support,  
31 custody, or visitation shall not delay any child support  
32 enforcement litigation or supplementary proceeding on behalf  
33 of the obligee, including, but not limited to, a petition for  
34 a rule to show cause, for non-wage garnishment, or for a

1 restraining order.

2 (Source: P.A. 92-289, eff. 8-9-01; revised 12-07-01.)

3 (750 ILCS 5/513) (from Ch. 40, par. 513)

4 Sec. 513. Support for Non-minor Children and Educational  
5 Expenses.

6 (a) The court may award sums of money out of the  
7 property and income of either or both parties or the estate  
8 of a deceased parent, as equity may require, for the support  
9 of the child or children of the parties who have attained  
10 majority in the following instances:

11 (1) When the child is mentally or physically  
12 disabled and not otherwise emancipated, an application  
13 for support may be made before or after the child has  
14 attained majority.

15 (2) The court may also make provision for the  
16 educational expenses of the child or children of the  
17 parties, whether of minor or majority age, and an  
18 application for educational expenses may be made before  
19 or after the child has attained majority, or after the  
20 death of either parent. The authority under this Section  
21 to make provision for educational expenses extends not  
22 only to periods of college education or professional or  
23 other training after graduation from high school, but  
24 also to any period during which the child of the parties  
25 is still attending high school, even though he or she  
26 attained the age of 19 18. The educational expenses may  
27 include, but shall not be limited to, room, board, dues,  
28 tuition, transportation, books, fees, registration and  
29 application costs, medical expenses including medical  
30 insurance, dental expenses, and living expenses during  
31 the school year and periods of recess, which sums may be  
32 ordered payable to the child, to either parent, or to the  
33 educational institution, directly or through a special

1 account or trust created for that purpose, as the court  
2 sees fit.

3 If educational expenses are ordered payable, each  
4 parent and the child shall sign any consents necessary  
5 for the educational institution to provide the supporting  
6 parent with access to the child's academic transcripts,  
7 records, and grade reports. The consents shall not apply  
8 to any non-academic records. Failure to execute the  
9 required consent may be a basis for a modification or  
10 termination of any order entered under this Section.

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

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

- 21 (1) The financial resources of both parents.
- 22 (2) The standard of living the child would have  
23 enjoyed had the marriage not been dissolved.
- 24 (3) The financial resources of the child.
- 25 (4) The child's academic performance.

26 (Source: P.A. 91-204, eff. 1-1-00.)

27 Section 15. The Non-Support Punishment Act is amended by  
28 changing Sections 15 and 20 as follows:

29 (750 ILCS 16/15)

30 Sec. 15. Failure to support.

31 (a) A person commits the offense of failure to support  
32 when he or she:

1           (1) willfully, without any lawful excuse, refuses  
2 to provide for the support or maintenance of his or her  
3 spouse, with the knowledge that the spouse is in need of  
4 such support or maintenance, or, without lawful excuse,  
5 deserts or willfully refuses to provide for the support  
6 or maintenance of his or her child or children ~~under--the~~  
7 ~~age--of--18--years,~~ in need of support or maintenance and  
8 the person has the ability to provide the support; or

9           (2) willfully fails to pay a support obligation  
10 required under a court or administrative order for  
11 support, if the obligation has remained unpaid for a  
12 period longer than 6 months, or is in arrears in an  
13 amount greater than \$5,000, and the person has the  
14 ability to provide the support; or

15           (3) leaves the State with the intent to evade a  
16 support obligation required under a court or  
17 administrative order for support, if the obligation,  
18 regardless of when it accrued, has remained unpaid for a  
19 period longer than 6 months, or is in arrears in an  
20 amount greater than \$10,000; or

21           (4) willfully fails to pay a support obligation  
22 required under a court or administrative order for  
23 support, if the obligation has remained unpaid for a  
24 period longer than one year, or is in arrears in an  
25 amount greater than \$20,000, and the person has the  
26 ability to provide the support.

27           (a-5) Presumption of ability to pay support. The  
28 existence of a court or administrative order of support that  
29 was not based on a default judgment and was in effect for the  
30 time period charged in the indictment or information creates  
31 a rebuttable presumption that the obligor has the ability to  
32 pay the support obligation for that time period.

33           (b) Sentence. A person convicted of a first offense  
34 under subdivision (a)(1) or (a)(2) is guilty of a Class A



1 misdemeanor. A person convicted of an offense under  
2 subdivision (a)(3) or (a)(4) or a second or subsequent  
3 offense under subdivision (a)(1) or (a)(2) is guilty of a  
4 Class 4 felony.

5 (c) Expungement. A person convicted of a first offense  
6 under subdivision (a)(1) or (a)(2) who is eligible for the  
7 Earnfare program, shall, in lieu of the sentence prescribed  
8 in subsection (b), be referred to the Earnfare program. Upon  
9 certification of completion of the Earnfare program, the  
10 conviction shall be expunged. If the person fails to  
11 successfully complete the Earnfare program, he or she shall  
12 be sentenced in accordance with subsection (b).

13 (d) Fine. Sentences of imprisonment and fines for  
14 offenses committed under this Act shall be as provided under  
15 Articles 8 and 9 of Chapter V of the Unified Code of  
16 Corrections, except that the court shall order restitution of  
17 all unpaid support payments and may impose the following  
18 fines, alone, or in addition to a sentence of imprisonment  
19 under the following circumstances:

20 (1) from \$1,000 to \$5,000 if the support obligation  
21 has remained unpaid for a period longer than 2 years, or  
22 is in arrears in an amount greater than \$1,000 and not  
23 exceeding \$10,000;

24 (2) from \$5,000 to \$10,000 if the support obligation  
25 has remained unpaid for a period longer than 5 years, or  
26 is in arrears in an amount greater than \$10,000 and not  
27 exceeding \$20,000; or

28 (3) from \$10,000 to \$25,000 if the support  
29 obligation has remained unpaid for a period longer than 8  
30 years, or is in arrears in an amount greater than  
31 \$20,000.

32 (e) Restitution shall be ordered in an amount equal to  
33 the total unpaid support obligation as it existed at the time  
34 of sentencing. Any amounts paid by the obligor shall be

1 allocated first to current support and then to restitution  
2 ordered and then to fines imposed under this Section.

3 (f) For purposes of this Act, the term "child" shall  
4 have the meaning ascribed to it in Section 505 of the  
5 Illinois Marriage and Dissolution of Marriage Act.

6 (Source: P.A. 91-613, eff. 10-1-99.)

7 (750 ILCS 16/20)

8 Sec. 20. Entry of order for support; income withholding.

9 (a) In a case in which no court or administrative order  
10 for support is in effect against the defendant:

11 (1) at any time before the trial, upon motion of  
12 the State's Attorney, or of the Attorney General if the  
13 action has been instituted by his office, and upon notice  
14 to the defendant, or at the time of arraignment or as a  
15 condition of postponement of arraignment, the court may  
16 enter such temporary order for support as may seem just,  
17 providing for the support or maintenance of the spouse or  
18 child or children of the defendant, or both, pendente  
19 lite; or

20 (2) before trial with the consent of the defendant,  
21 or at the trial on entry of a plea of guilty, or after  
22 conviction, instead of imposing the penalty provided in  
23 this Act, or in addition thereto, the court may enter an  
24 order for support, subject to modification by the court  
25 from time to time as circumstances may require, directing  
26 the defendant to pay a certain sum for maintenance of the  
27 spouse, or for support of the child or children, or both.

28 (b) The court shall determine the amount of child  
29 support by using the guidelines and standards set forth in  
30 subsection (a) of Section 505 and in Section 505.2 of the  
31 Illinois Marriage and Dissolution of Marriage Act.

32 If (i) the non-custodial parent was properly served with  
33 a request for discovery of financial information relating to

1 the non-custodial parent's ability to provide child support,  
2 (ii) the non-custodial parent failed to comply with the  
3 request, despite having been ordered to do so by the court,  
4 and (iii) the non-custodial parent is not present at the  
5 hearing to determine support despite having received proper  
6 notice, then any relevant financial information concerning  
7 the non-custodial parent's ability to provide support that  
8 was obtained pursuant to subpoena and proper notice shall be  
9 admitted into evidence without the need to establish any  
10 further foundation for its admission.

11 (c) The court shall determine the amount of maintenance  
12 using the standards set forth in Section 504 of the Illinois  
13 Marriage and Dissolution of Marriage Act.

14 (d) The court may, for violation of any order under this  
15 Section, punish the offender as for a contempt of court, but  
16 no pendente lite order shall remain in effect longer than 4  
17 months, or after the discharge of any panel of jurors  
18 summoned for service thereafter in such court, whichever is  
19 sooner.

20 (e) Any order for support entered by the court under  
21 this Section shall be deemed to be a series of judgments  
22 against the person obligated to pay support under the  
23 judgments, each such judgment to be in the amount of each  
24 payment or installment of support and each judgment to be  
25 deemed entered as of the date the corresponding payment or  
26 installment becomes due under the terms of the support order.  
27 Each judgment shall have the full force, effect, and  
28 attributes of any other judgment of this State, including the  
29 ability to be enforced. Each judgment is subject to  
30 modification or termination only in accordance with Section  
31 510 of the Illinois Marriage and Dissolution of Marriage Act.  
32 A lien arises by operation of law against the real and  
33 personal property of the noncustodial parent for each  
34 installment of overdue support owed by the noncustodial

1 parent.

2 (f) An order for support entered under this Section  
3 shall include a provision requiring the obligor to report to  
4 the obligee and to the clerk of the court within 10 days each  
5 time the obligor obtains new employment, and each time the  
6 obligor's employment is terminated for any reason. The  
7 report shall be in writing and shall, in the case of new  
8 employment, include the name and address of the new employer.

9 Failure to report new employment or the termination of  
10 current employment, if coupled with nonpayment of support for  
11 a period in excess of 60 days, is indirect criminal contempt.  
12 For any obligor arrested for failure to report new  
13 employment, bond shall be set in the amount of the child  
14 support that should have been paid during the period of  
15 unreported employment.

16 An order for support entered under this Section shall  
17 also include a provision requiring the obligor and obligee  
18 parents to advise each other of a change in residence within  
19 5 days of the change except when the court finds that the  
20 physical, mental, or emotional health of a party or of a  
21 minor child, or both, would be seriously endangered by  
22 disclosure of the party's address.

23 (g) An order for support entered or modified in a case  
24 in which a party is receiving child and spouse support  
25 services under Article X of the Illinois Public Aid Code  
26 shall include a provision requiring the noncustodial parent  
27 to notify the Illinois Department of Public Aid, within 7  
28 days, of the name and address of any new employer of the  
29 noncustodial parent, whether the noncustodial parent has  
30 access to health insurance coverage through the employer or  
31 other group coverage and, if so, the policy name and number  
32 and the names of persons covered under the policy.

33 (h) In any subsequent action to enforce an order for  
34 support entered under this Act, upon sufficient showing that

1 diligent effort has been made to ascertain the location of  
2 the noncustodial parent, service of process or provision of  
3 notice necessary in that action may be made at the last known  
4 address of the noncustodial parent, in any manner expressly  
5 provided by the Code of Civil Procedure or in this Act, which  
6 service shall be sufficient for purposes of due process.

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

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

32 (Source: P.A. 91-613, eff. 10-1-99; 91-767, eff. 6-9-00;  
33 92-374, eff. 8-15-01.)

1 Section 20. The Illinois Parentage Act of 1984 is  
2 amended by changing Section 14 as follows:

3 (750 ILCS 45/14) (from Ch. 40, par. 2514)

4 Sec. 14. Judgment.

5 (a) (1) The judgment shall contain or explicitly reserve  
6 provisions concerning any duty and amount of child support  
7 and may contain provisions concerning the custody and  
8 guardianship of the child, visitation privileges with the  
9 child, the furnishing of bond or other security for the  
10 payment of the judgment, which the court shall determine in  
11 accordance with the relevant factors set forth in the  
12 Illinois Marriage and Dissolution of Marriage Act and any  
13 other applicable law of Illinois, to guide the court in a  
14 finding in the best interests of the child. In determining  
15 custody, joint custody, or visitation, the court shall apply  
16 the relevant standards of the Illinois Marriage and  
17 Dissolution of Marriage Act. Specifically, in determining the  
18 amount of any child support award, the court shall use the  
19 guidelines and standards set forth in subsection (a) of  
20 Section 505 and in Section 505.2 of the Illinois Marriage and  
21 Dissolution of Marriage Act. For purposes of Section 505 of  
22 the Illinois Marriage and Dissolution of Marriage Act, "net  
23 income" of the non-custodial parent shall include any  
24 benefits available to that person under the Illinois Public  
25 Aid Code or from other federal, State or local  
26 government-funded programs. The court shall, in any event  
27 and regardless of the amount of the non-custodial parent's  
28 net income, in its judgment order the non-custodial parent to  
29 pay child support to the custodial parent in a minimum amount  
30 of not less than \$10 per month. In an action brought within 2  
31 years after a child's birth, the judgment or order may direct  
32 either parent to pay the reasonable expenses incurred by  
33 either parent related to the mother's pregnancy and the

1 delivery of the child. The judgment or order shall contain  
2 the father's social security number, which the father shall  
3 disclose to the court; however, failure to include the  
4 father's social security number on the judgment or order does  
5 not invalidate the judgment or order.

6 (2) If a judgment of parentage contains no explicit  
7 award of custody, the establishment of a support obligation  
8 or of visitation rights in one parent shall be considered a  
9 judgment granting custody to the other parent. If the  
10 parentage judgment contains no such provisions, custody shall  
11 be presumed to be with the mother; however, the presumption  
12 shall not apply if the father has had physical custody for at  
13 least 6 months prior to the date that the mother seeks to  
14 enforce custodial rights.

15 (b) The court shall order all child support payments,  
16 determined in accordance with such guidelines, to commence  
17 with the date summons is served. The level of current  
18 periodic support payments shall not be reduced because of  
19 payments set for the period prior to the date of entry of the  
20 support order. The Court may order any child support  
21 payments to be made for a period prior to the commencement of  
22 the action. In determining whether and the extent to which  
23 the payments shall be made for any prior period, the court  
24 shall consider all relevant facts, including the factors for  
25 determining the amount of support specified in the Illinois  
26 Marriage and Dissolution of Marriage Act and other equitable  
27 factors including but not limited to:

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

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

32 (3) The extent to which the mother or the public  
33 agency bringing the action previously informed the father  
34 of the child's needs or attempted to seek or require his

1 help in raising or supporting the child.

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

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

6 For purposes of determining the amount of child support  
7 to be paid for any period before the date the order for  
8 current child support is entered, there is a rebuttable  
9 presumption that the father's net income for the prior period  
10 was the same as his net income at the time the order for  
11 current child support is entered.

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

24 (c) 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 judgment to be in the amount of each payment  
28 or installment of support and each such judgment to be deemed  
29 entered as of the date the corresponding payment or  
30 installment becomes due under the terms of the support order.  
31 Each 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 (d) If the judgment or order of the court is at variance  
4 with the child's birth certificate, the court shall order  
5 that a new birth certificate be issued under the Vital  
6 Records Act.

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

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

18 (g) 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 (h) All orders for support, when entered or modified,  
25 shall include a provision requiring the non-custodial parent  
26 to notify the court and, in cases in which party is receiving  
27 child and spouse support services under Article X of the  
28 Illinois Public Aid Code, the Illinois Department of Public  
29 Aid, within 7 days, (i) of the name and address of any new  
30 employer of the non-custodial parent, (ii) whether the  
31 non-custodial parent has access to health insurance coverage  
32 through the employer or other group coverage and, if so, the  
33 policy name and number and the names of persons covered under  
34 the policy, and (iii) of any new residential or mailing

1 address or telephone number of the non-custodial parent. In  
2 any subsequent action to enforce a support order, upon a  
3 sufficient showing that a diligent effort has been made to  
4 ascertain the location of the non-custodial parent, service  
5 of process or provision of notice necessary in the case may  
6 be made at the last known address of the non-custodial parent  
7 in any manner expressly provided by the Code of Civil  
8 Procedure or this Act, which service shall be sufficient for  
9 purposes of due process.

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

23 (j) An order entered under this Section shall include a  
24 provision requiring the obligor to report to the obligee and  
25 to the clerk of court within 10 days each time the obligor  
26 obtains new employment, and each time the obligor's  
27 employment is terminated for any reason. The report shall be  
28 in writing and shall, in the case of new employment, include  
29 the name and address of the new employer. Failure to report  
30 new employment or the termination of current employment, if  
31 coupled with nonpayment of support for a period in excess of  
32 60 days, is indirect criminal contempt. For any obligor  
33 arrested for failure to report new employment bond shall be  
34 set in the amount of the child support that should have been

1 paid during the period of unreported employment. An order  
2 entered under this Section shall also include a provision  
3 requiring the obligor and obligee parents to advise each  
4 other of a change in residence within 5 days of the change  
5 except when the court finds that the physical, mental, or  
6 emotional health of a party or that of a minor child, or  
7 both, would be seriously endangered by disclosure of the  
8 party's address.

9 (Source: P.A. 90-18, eff. 7-1-97; 90-539, eff. 6-1-98;  
10 90-655, eff. 7-30-98; 91-767, eff. 6-9-00.)