

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 510 as follows:

6 (750 ILCS 5/510) (from Ch. 40, par. 510)

7 Sec. 510. Modification and termination of provisions for  
8 maintenance, support, educational expenses, and property  
9 disposition.

10 (a) Except as otherwise provided in paragraph (f) of  
11 Section 502 and in subsection (d), clause (3) of Section  
12 505.2, the provisions of any judgment respecting maintenance  
13 or support may be modified only as to installments accruing  
14 subsequent to due notice by the moving party of the filing of  
15 the motion for modification and, with respect to maintenance,  
16 only upon a showing of a substantial change in circumstances  
17 and in accordance with subsection (a-5). An order for child  
18 support may be modified as follows:

19 (1) upon a showing of a substantial change in  
20 circumstances; and

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

23 (A) upon a showing of an inconsistency of at  
24 least 20%, but no less than \$10 per month, between  
25 the amount of the existing order and the amount of  
26 child support that results from application of the  
27 guidelines specified in Section 505 of this Act  
28 unless the inconsistency is due to the fact that the  
29 amount of the existing order resulted from a  
30 deviation from the guideline amount and there has  
31 not been a change in the circumstances that resulted

1 in that deviation; or

2 (B) Upon a showing of a need to provide for  
3 the health care needs of the child under the order  
4 through health insurance or other means. In no  
5 event shall the eligibility for or receipt of  
6 medical assistance be considered to meet the need to  
7 provide for the child's health care needs.

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

14 (a-5) In a proceeding to review, modify, or terminate  
15 maintenance after the entry of the judgment of dissolution of  
16 marriage, judgment of legal separation, or judgment of  
17 declaration of invalidity of marriage, the court shall  
18 consider the applicable factors set forth in subsection (a)  
19 of Section 504 and the following factors:

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

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

25 (3) any impairment of the present and future  
26 earning capacity of either party;

27 (4) the tax consequences of the maintenance  
28 payments upon the respective economic circumstances of  
29 the parties;

30 (5) the duration of the maintenance payments  
31 previously paid (and remaining to be paid) relative to  
32 the length of the marriage;

33 (6) the property, including retirement benefits,  
34 awarded to each party under the judgment of dissolution

1       of marriage, judgment of legal separation, or judgment of  
 2       declaration of invalidity of marriage and the present  
 3       status of the property;

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

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

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

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

17       (c) Unless otherwise agreed by the parties in a written  
 18       agreement set forth in the judgment or otherwise approved by  
 19       the court, the obligation to pay future maintenance is  
 20       terminated upon the death of either party, or the remarriage  
 21       of the party receiving maintenance, or if the party receiving  
 22       maintenance cohabits with another person on a resident,  
 23       continuing conjugal basis.

24       (d) Unless otherwise agreed in writing or expressly  
 25       provided in a judgment, provisions for the support of a child  
 26       are terminated by emancipation of the child, except as  
 27       otherwise provided herein, but not by the death of a parent  
 28       obligated to support or educate the child. An existing  
 29       obligation to pay for support or educational expenses, or  
 30       both, is not terminated by the death of a parent. When a  
 31       parent obligated to pay support or educational expenses, or  
 32       both, dies, the amount of support or educational expenses, or  
 33       both, may be enforced, modified, revoked or commuted to a  
 34       lump sum payment, as equity may require, and that

1 determination may be provided for at the time of the  
2 dissolution of the marriage or thereafter.

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

13 (Source: P.A. 87-714; 88-42; 88-307; 88-670, eff. 12-2-94.)