

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

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

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

28           (c) Social Security (FICA payments);

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

31           (e) Union dues;

32           (f) Dependent and individual  
33 health/hospitalization insurance premiums;

34           (g) Prior obligations of support or

1 maintenance actually paid pursuant to a court order;

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

13 (i) Amounts properly deducted for federal  
14 income tax purposes for depreciation of farm  
15 machinery and equipment.

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 majority or is  
9 otherwise emancipated. The order for support shall state that  
10 the termination date does not apply to any arrearage that may  
11 remain unpaid on that date. Nothing in this subsection shall  
12 be construed to prevent the court from modifying the order.

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

33 (i) The court does not lose the powers of contempt,  
34 driver's license suspension, or other child support

1 enforcement mechanisms, including, but not limited to,  
2 criminal prosecution as set forth in this Act, upon the  
3 emancipation of the minor child or children.

4 (Source: P.A. 91-113, eff. 7-15-99; 91-397, eff. 1-1-00;  
5 91-655, eff. 6-1-00; 91-767, eff. 6-9-00; 92-16, eff.  
6 6-28-01; 92-203, eff. 8-1-01; 92-374, eff. 8-15-01; revised  
7 10-15-01.)