

# SB1864



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

**SB1864**

Introduced 2/9/2017, by Sen. Chapin Rose

#### SYNOPSIS AS INTRODUCED:

750 ILCS 5/513

from Ch. 40, par. 513

Amends the Illinois Marriage and Dissolution of Marriage Act. In provisions governing the award of sums of money for the education of a non-minor child, changes "educational expenses" to "reasonable and necessary educational expenses". Provides that in making an award for reasonable and necessary educational expenses, the court shall consider any grants, scholarships, tuition assistance, or other financial aid available to the child.

LRB100 08606 HEP 18740 b

A BILL FOR

1 AN ACT concerning civil law.

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

4 Section 5. The Illinois Marriage and Dissolution of  
5 Marriage Act is amended by changing Section 513 as follows:

6 (750 ILCS 5/513) (from Ch. 40, par. 513)

7 Sec. 513. Reasonable and necessary educational ~~Educational~~  
8 expenses for a non-minor child.

9 (a) The court may award sums of money out of the property  
10 and income of either or both parties or the estate of a  
11 deceased parent, as equity may require, for the reasonable and  
12 necessary educational expenses of any child of the parties.  
13 Unless otherwise agreed to by the parties, all reasonable and  
14 necessary educational expenses which are the subject of a  
15 petition brought pursuant to this Section shall be incurred no  
16 later than the student's 23rd birthday, except for good cause  
17 shown, but in no event later than the child's 25th birthday.

18 (b) Regardless of whether an award has been made under  
19 subsection (a), the court may require both parties and the  
20 child to complete the Free Application for Federal Student Aid  
21 (FAFSA) and other financial aid forms and to submit any form of  
22 that type prior to the designated submission deadline for the  
23 form. The court may require either or both parties to provide

1 funds for the child so as to pay for the cost of up to 5 college  
2 applications, the cost of 2 standardized college entrance  
3 examinations, and the cost of one standardized college entrance  
4 examination preparatory course.

5 (c) The authority under this Section to make provision for  
6 reasonable and necessary educational expenses extends not only  
7 to periods of college education or vocational or professional  
8 or other training after graduation from high school, but also  
9 to any period during which the child of the parties is still  
10 attending high school, even though he or she attained the age  
11 of 19.

12 (d) Reasonable and necessary educational ~~Educational~~  
13 expenses may include, but shall not be limited to, the  
14 following:

15 (1) except for good cause shown, the actual cost of the  
16 child's post-secondary expenses, including tuition and  
17 fees, provided that the cost for tuition and fees does not  
18 exceed the amount of in-state tuition and fees paid by a  
19 student at the University of Illinois at Urbana-Champaign  
20 for the same academic year;

21 (2) except for good cause shown, the actual costs of  
22 the child's housing expenses, whether on-campus or  
23 off-campus, provided that the housing expenses do not  
24 exceed the cost for the same academic year of a  
25 double-occupancy student room, with a standard meal plan,  
26 in a residence hall operated by the University of Illinois

1 at Urbana-Champaign;

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

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

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

8 (B) if the child is living with one party at that  
9 party's home and attending a post-secondary  
10 educational program as a non-resident student, in  
11 which case the living expenses include an amount that  
12 pays for the reasonable cost of the child's food,  
13 utilities, and transportation; and

14 (5) the cost of books and other supplies necessary to  
15 attend college.

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

20 (f) If reasonable and necessary educational expenses are  
21 ordered payable, each party and the child shall sign any  
22 consent necessary for the educational institution to provide a  
23 supporting party with access to the child's academic  
24 transcripts, records, and grade reports. The consent shall not  
25 apply to any non-academic records. Failure to execute the  
26 required consent may be a basis for a modification or

1 termination of any order entered under this Section. Unless the  
2 court specifically finds that the child's safety would be  
3 jeopardized, each party is entitled to know the name of the  
4 educational institution the child attends.

5 (g) The authority under this Section to make provision for  
6 reasonable and necessary educational expenses terminates when  
7 the child either: fails to maintain a cumulative "C" grade  
8 point average, except in the event of illness or other good  
9 cause shown; attains the age of 23; receives a baccalaureate  
10 degree; or marries. A child's enlisting in the armed forces,  
11 being incarcerated, or becoming pregnant does not terminate the  
12 court's authority to make provisions for the reasonable and  
13 necessary educational expenses for the child under this  
14 Section.

15 (h) An account established prior to the dissolution that is  
16 to be used for the child's post-secondary education, that is an  
17 account in a state tuition program under Section 529 of the  
18 Internal Revenue Code, or that is some other college savings  
19 plan, is to be considered by the court to be a resource of the  
20 child, provided that any post-judgment contribution made by a  
21 party to such an account is to be considered a contribution  
22 from that party.

23 (i) The child is not a third party beneficiary to the  
24 settlement agreement or judgment between the parties after  
25 trial and is not entitled to file a petition for contribution.  
26 If the parties' settlement agreement describes the manner in

1 which a child's reasonable and necessary educational expenses  
2 will be paid, or if the court makes an award pursuant to this  
3 Section, then the parties are responsible pursuant to that  
4 agreement or award for the child's reasonable and necessary  
5 educational expenses, but in no event shall the court consider  
6 the child a third party beneficiary of that provision. In the  
7 event of the death or legal disability of a party who would  
8 have the right to file a petition for contribution, the child  
9 of the party may file a petition for contribution.

10 (j) In making awards under this Section, or pursuant to a  
11 petition or motion to decrease, modify, or terminate any such  
12 award, the court shall consider all relevant factors that  
13 appear reasonable and necessary, including:

14 (1) The present and future financial resources of both  
15 parties to meet their needs, including, but not limited to,  
16 savings for retirement.

17 (2) The standard of living the child would have enjoyed  
18 had the marriage not been dissolved.

19 (3) The financial resources of the child.

20 (4) The child's academic performance.

21 (5) Any grants, scholarships, tuition assistance, or  
22 other financial aid available to the child.

23 (k) The establishment of an obligation to pay under this  
24 Section is retroactive only to the date of filing a petition.  
25 The right to enforce a prior obligation to pay may be enforced  
26 either before or after the obligation is incurred.

1 (Source: P.A. 99-90, eff. 1-1-16; 99-143, eff. 7-27-15; 99-642,  
2 eff. 7-28-16; 99-763, eff. 1-1-17.)