

**SB3628**



**102ND GENERAL ASSEMBLY**

**State of Illinois**

**2021 and 2022**

**SB3628**

Introduced 1/19/2022, by Sen. Laura M. Murphy

**SYNOPSIS AS INTRODUCED:**

750 ILCS 5/505

from Ch. 40, par. 505

Amends the Illinois Marriage and Dissolution of Marriage Act. Requires the court, when entering an order for child support, to verbally provide notice to the obligor of (i) the obligor's existing and ongoing obligations to make payment to the obligee, (ii) the obligor's ability to request a modification of the order, and (iii) the possible penalties that may be incurred if the obligor falls into arrears.

LRB102 24582 LNS 33816 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 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, or  
10 dissolution of a civil union, a proceeding for child support  
11 following a legal separation or dissolution of the marriage or  
12 civil union by a court that lacked personal jurisdiction over  
13 the absent spouse, a proceeding for modification of a previous  
14 order for child support under Section 510 of this Act, or any  
15 proceeding authorized under Section 501 or 601 of this Act,  
16 the court may order either or both parents owing a duty of  
17 support to a child of the marriage or civil union to pay an  
18 amount reasonable and necessary for support. The duty of  
19 support owed to a child includes the obligation to provide for  
20 the reasonable and necessary physical, mental and emotional  
21 health needs of the child. For purposes of this Section, the  
22 term "child" shall include any child under age 18 and any child  
23 age 19 or younger who is still attending high school. For

1 purposes of this Section, the term "obligor" means the parent  
2 obligated to pay support to the other parent.

3 (1) Child support guidelines. The Illinois Department  
4 of Healthcare and Family Services shall adopt rules  
5 establishing child support guidelines which include  
6 worksheets to aid in the calculation of the child support  
7 obligations and a schedule of basic child support  
8 obligations that reflects the percentage of combined net  
9 income that parents living in the same household in this  
10 State ordinarily spend on their child. The child support  
11 guidelines have the following purposes:

12 (A) to establish as State policy an adequate  
13 standard of support for a child, subject to the  
14 ability of parents to pay;

15 (B) to make child support obligations more  
16 equitable by ensuring more consistent treatment of  
17 parents in similar circumstances;

18 (C) to improve the efficiency of the court process  
19 by promoting settlements and giving courts and the  
20 parties guidance in establishing levels of child  
21 support;

22 (D) to calculate child support based upon the  
23 parents' combined net income estimated to have been  
24 allocated for the support of the child if the parents  
25 and child were living in an intact household;

26 (E) to adjust child support based upon the needs

1 of the child; and

2 (F) to allocate the amount of child support to be  
3 paid by each parent based upon a parent's net income  
4 and the child's physical care arrangements.

5 (1.5) Computation of basic child support obligation.  
6 The court shall compute the basic child support obligation  
7 by taking the following steps:

8 (A) determine each parent's monthly net income;

9 (B) add the parents' monthly net incomes together  
10 to determine the combined monthly net income of the  
11 parents;

12 (C) select the corresponding appropriate amount  
13 from the schedule of basic child support obligations  
14 based on the parties' combined monthly net income and  
15 number of children of the parties; and

16 (D) calculate each parent's percentage share of  
17 the basic child support obligation.

18 Although a monetary obligation is computed for each  
19 parent as child support, the receiving parent's share is  
20 not payable to the other parent and is presumed to be spent  
21 directly on the child.

22 (2) Duty of support. The court shall determine child  
23 support in each case by applying the child support  
24 guidelines unless the court makes a finding that  
25 application of the guidelines would be inappropriate,  
26 after considering the best interests of the child and

1 evidence which shows relevant factors including, but not  
2 limited to, one or more of the following:

3 (A) the financial resources and needs of the  
4 child;

5 (B) the financial resources and needs of the  
6 parents;

7 (C) the standard of living the child would have  
8 enjoyed had the marriage or civil union not been  
9 dissolved; and

10 (D) the physical and emotional condition of the  
11 child and his or her educational needs.

12 (2.5) Notice from the court. Whenever the court enters  
13 an order for child support, the court shall verbally  
14 provide notice to the obligor of (i) the obligor's  
15 existing and ongoing obligations to make payment to the  
16 obligee, (ii) the obligor's ability to request a  
17 modification of the order, and (iii) the possible  
18 penalties that may be incurred if the obligor falls into  
19 arrears.

20 (3) Income.

21 (A) As used in this Section, "gross income" means  
22 the total of all income from all sources, except  
23 "gross income" does not include (i) benefits received  
24 by the parent from means-tested public assistance  
25 programs, including, but not limited to, Temporary  
26 Assistance for Needy Families, Supplemental Security

1           Income, and the Supplemental Nutrition Assistance  
2           Program or (ii) benefits and income received by the  
3           parent for other children in the household, including,  
4           but not limited to, child support, survivor benefits,  
5           and foster care payments. Social security disability  
6           and retirement benefits paid for the benefit of the  
7           subject child must be included in the disabled or  
8           retired parent's gross income for purposes of  
9           calculating the parent's child support obligation, but  
10          the parent is entitled to a child support credit for  
11          the amount of benefits paid to the other party for the  
12          child. "Gross income" includes maintenance treated as  
13          taxable income for federal income tax purposes to the  
14          payee and received pursuant to a court order in the  
15          pending proceedings or any other proceedings and shall  
16          be included in the payee's gross income for purposes  
17          of calculating the parent's child support obligation.

18                 (B) As used in this Section, "net income" means  
19          gross income minus either the standardized tax amount  
20          calculated pursuant to subparagraph (C) of this  
21          paragraph (3) or the individualized tax amount  
22          calculated pursuant to subparagraph (D) of this  
23          paragraph (3), and minus any adjustments pursuant to  
24          subparagraph (F) of this paragraph (3). The  
25          standardized tax amount shall be used unless the  
26          requirements for an individualized tax amount set

1           forth in subparagraph (E) of this paragraph (3) are  
2 met. "Net income" includes maintenance not includable  
3 in the gross taxable income of the payee for federal  
4 income tax purposes under a court order in the pending  
5 proceedings or any other proceedings and shall be  
6 included in the payee's net income for purposes of  
7 calculating the parent's child support obligation.

8           (C) As used in this Section, "standardized tax  
9 amount" means the total of federal and state income  
10 taxes for a single person claiming the standard tax  
11 deduction, one personal exemption, and the applicable  
12 number of dependency exemptions for the minor child or  
13 children of the parties, and Social Security and  
14 Medicare tax calculated at the Federal Insurance  
15 Contributions Act rate.

16           (I) Unless a court has determined otherwise or  
17 the parties otherwise agree, the party with the  
18 majority of parenting time shall be deemed  
19 entitled to claim the dependency exemption for the  
20 parties' minor child.

21           (II) The Illinois Department of Healthcare and  
22 Family Services shall promulgate a standardized  
23 net income conversion table that computes net  
24 income by deducting the standardized tax amount  
25 from gross income.

26           (D) As used in this Section, "individualized tax

1 amount" means the aggregate of the following taxes:

2 (I) federal income tax (properly calculated  
3 withholding or estimated payments);

4 (II) State income tax (properly calculated  
5 withholding or estimated payments); and

6 (III) Social Security or self-employment tax,  
7 if applicable (or, if none, mandatory retirement  
8 contributions required by law or as a condition of  
9 employment) and Medicare tax calculated at the  
10 Federal Insurance Contributions Act rate.

11 (E) In lieu of a standardized tax amount, a  
12 determination of an individualized tax amount may be  
13 made under items (I), (II), or (III) below. If an  
14 individualized tax amount determination is made under  
15 this subparagraph (E), all relevant tax attributes  
16 (including filing status, allocation of dependency  
17 exemptions, and whether a party is to claim the use of  
18 the standard deduction or itemized deductions for  
19 federal income tax purposes) shall be as the parties  
20 agree or as the court determines. To determine a  
21 party's reported income, the court may order the party  
22 to complete an Internal Revenue Service Form 4506-T,  
23 Request for Tax Transcript.

24 (I) Agreement. Irrespective of whether the  
25 parties agree on any other issue before the court,  
26 if they jointly stipulate for the record their



1 concurrence on a computation method for the  
2 individualized tax amount that is different from  
3 the method set forth under subparagraph (D), the  
4 stipulated method shall be used by the court  
5 unless the court rejects the proposed stipulated  
6 method for good cause.

7 (II) Summary hearing. If the court determines  
8 child support in a summary hearing under Section  
9 501 and an eligible party opts in to the  
10 individualized tax amount method under this item  
11 (II), the individualized tax amount shall be  
12 determined by the court on the basis of  
13 information contained in one or both parties'  
14 Supreme Court approved Financial Affidavit (Family  
15 & Divorce Cases) and relevant supporting documents  
16 under applicable court rules. No party, however,  
17 is eligible to opt in unless the party, under  
18 applicable court rules, has served the other party  
19 with the required Supreme Court approved Financial  
20 Affidavit (Family & Divorce Cases) and has  
21 substantially produced supporting documents  
22 required by the applicable court rules.

23 (III) Evidentiary hearing. If the court  
24 determines child support in an evidentiary  
25 hearing, whether for purposes of a temporary order  
26 or at the conclusion of a proceeding, item (II) of

1 this subparagraph (E) does not apply. In each such  
2 case (unless item (I) governs), the individualized  
3 tax amount shall be as determined by the court on  
4 the basis of the record established.

5 (F) Adjustments to income.

6 (I) Multi-family adjustment. If a parent is  
7 also legally responsible for support of a child  
8 not shared with the other parent and not subject  
9 to the present proceeding, there shall be an  
10 adjustment to net income as follows:

11 (i) Multi-family adjustment with court  
12 order. The court shall deduct from the  
13 parent's net income the amount of child  
14 support actually paid by the parent pursuant  
15 to a support order unless the court makes a  
16 finding that it would cause economic hardship  
17 to the child.

18 (ii) Multi-family adjustment without court  
19 order. Upon the request or application of a  
20 parent actually supporting a presumed,  
21 acknowledged, or adjudicated child living in  
22 or outside of that parent's household, there  
23 shall be an adjustment to child support. The  
24 court shall deduct from the parent's net  
25 income the amount of financial support  
26 actually paid by the parent for the child or

1           75% of the support the parent should pay under  
2           the child support guidelines (before this  
3           adjustment), whichever is less, unless the  
4           court makes a finding that it would cause  
5           economic hardship to the child. The adjustment  
6           shall be calculated using that parent's income  
7           alone.

8           (II)       Spousal       Maintenance       adjustment.  
9           Obligations pursuant to a court order for spousal  
10          maintenance in the pending proceeding actually  
11          paid or payable to the same party to whom child  
12          support is to be payable or actually paid to a  
13          former spouse pursuant to a court order shall be  
14          deducted from the parent's after-tax income,  
15          unless the maintenance obligation is tax  
16          deductible to the payor for federal income tax  
17          purposes, in which case it shall be deducted from  
18          the payor's gross income for purposes of  
19          calculating the parent's child support obligation.

20          (3.1) Business income. For purposes of calculating  
21          child support, net business income from the operation of a  
22          business means gross receipts minus ordinary and necessary  
23          expenses required to carry on the trade or business. As  
24          used in this paragraph, "business" includes, but is not  
25          limited to, sole proprietorships, closely held  
26          corporations, partnerships, other flow-through business

1 entities, and self-employment. The court shall apply the  
2 following:

3 (A) The accelerated component of depreciation and  
4 any business expenses determined either judicially or  
5 administratively to be inappropriate or excessive  
6 shall be excluded from the total of ordinary and  
7 necessary business expenses to be deducted in the  
8 determination of net business income from gross  
9 business income.

10 (B) Any item of reimbursement or in-kind payment  
11 received by a parent from a business, including, but  
12 not limited to, a company car, reimbursed meals, free  
13 housing, or a housing allowance, shall be counted as  
14 income if not otherwise included in the recipient's  
15 gross income, if the item is significant in amount and  
16 reduces personal expenses.

17 (3.2) Unemployment or underemployment. If a parent is  
18 voluntarily unemployed or underemployed, child support  
19 shall be calculated based on a determination of potential  
20 income. A determination of potential income shall be made  
21 by determining employment potential and probable earnings  
22 level based on the obligor's work history, occupational  
23 qualifications, prevailing job opportunities, the  
24 ownership by a parent of a substantial non-income  
25 producing asset, and earnings levels in the community. If  
26 there is insufficient work history to determine employment

1 potential and probable earnings level, there shall be a  
2 rebuttable presumption that the parent's potential income  
3 is 75% of the most recent United States Department of  
4 Health and Human Services Federal Poverty Guidelines for a  
5 family of one person.

6 (3.3) Rebuttable presumption in favor of guidelines.  
7 There is a rebuttable presumption in any judicial or  
8 administrative proceeding for child support that the  
9 amount of the child support obligation that would result  
10 from the application of the child support guidelines is  
11 the correct amount of child support.

12 (3.3a) Minimum child support obligation. There is a  
13 rebuttable presumption that a minimum child support  
14 obligation of \$40 per month, per child, will be entered  
15 for an obligor who has actual or imputed gross income at or  
16 less than 75% of the most recent United States Department  
17 of Health and Human Services Federal Poverty Guidelines  
18 for a family of one person, with a maximum total child  
19 support obligation for that obligor of \$120 per month to  
20 be divided equally among all of the obligor's children.

21 (3.3b) Zero dollar child support order. For parents  
22 with no gross income, who receive only means-tested  
23 assistance, or who cannot work due to a medically proven  
24 disability, incarceration, or institutionalization, there  
25 is a rebuttable presumption that the \$40 per month minimum  
26 support order is inapplicable and a zero dollar order

1 shall be entered.

2 (3.4) Deviation factors. In any action to establish or  
3 modify child support, whether pursuant to a temporary or  
4 final administrative or court order, the child support  
5 guidelines shall be used as a rebuttable presumption for  
6 the establishment or modification of the amount of child  
7 support. The court may deviate from the child support  
8 guidelines if the application would be inequitable,  
9 unjust, or inappropriate. Any deviation from the  
10 guidelines shall be accompanied by written findings by the  
11 court specifying the reasons for the deviation and the  
12 presumed amount under the child support guidelines without  
13 a deviation. These reasons may include:

14 (A) extraordinary medical expenditures necessary  
15 to preserve the life or health of a party or a child of  
16 either or both of the parties;

17 (B) additional expenses incurred for a child  
18 subject to the child support order who has special  
19 medical, physical, or developmental needs; and

20 (C) any other factor the court determines should  
21 be applied upon a finding that the application of the  
22 child support guidelines would be inappropriate, after  
23 considering the best interest of the child.

24 (3.5) Income in excess of the schedule of basic child  
25 support obligation. A court may use its discretion to  
26 determine child support if the combined adjusted net

1 income of the parties exceeds the highest level of the  
2 schedule of basic child support obligation, except that  
3 the basic child support obligation shall not be less than  
4 the highest level of combined net income set forth in the  
5 schedule of basic child support obligation.

6 (3.6) Extracurricular activities and school expenses.  
7 The court, in its discretion, in addition to the basic  
8 child support obligation, may order either or both parents  
9 owing a duty of support to the child to contribute to the  
10 reasonable school and extracurricular activity expenses  
11 incurred which are intended to enhance the educational,  
12 athletic, social, or cultural development of the child.

13 (3.7) Child care expenses. The court, in its  
14 discretion, in addition to the basic child support  
15 obligation, may order either or both parents owing a duty  
16 of support to the child to contribute to the reasonable  
17 child care expenses of the child. The child care expenses  
18 shall be made payable directly to a party or directly to  
19 the child care provider at the time of child care  
20 services.

21 (A) "Child care expenses" means actual expenses  
22 reasonably necessary to enable a parent or non-parent  
23 custodian to be employed, to attend educational or  
24 vocational training programs to improve employment  
25 opportunities, or to search for employment. "Child  
26 care expenses" also includes deposits for securing

1 placement in a child care program, the cost of before  
2 and after school care, and camps when school is not in  
3 session. A child's special needs shall be a  
4 consideration in determining reasonable child care  
5 expenses.

6 (B) Child care expenses shall be prorated in  
7 proportion to each parent's percentage share of  
8 combined net income, and may be added to the basic  
9 child support obligation if not paid directly by each  
10 parent to the provider of child care services. The  
11 obligor's and obligee's portion of actual child care  
12 expenses shall appear in the support order. If  
13 allowed, the value of the federal income tax credit  
14 for child care shall be subtracted from the actual  
15 cost to determine the net child care costs.

16 (C) The amount of child care expenses shall be  
17 adequate to obtain reasonable and necessary child  
18 care. The actual child care expenses shall be used to  
19 calculate the child care expenses, if available. When  
20 actual child care expenses vary, the actual child care  
21 expenses may be averaged over the most recent 12-month  
22 period. When a parent is temporarily unemployed or  
23 temporarily not attending educational or vocational  
24 training programs, future child care expenses shall be  
25 based upon prospective expenses to be incurred upon  
26 return to employment or educational or vocational



1 training programs.

2 (D) An order for child care expenses may be  
3 modified upon a showing of a substantial change in  
4 circumstances. The party incurring child care expenses  
5 shall notify the other party within 14 days of any  
6 change in the amount of child care expenses that would  
7 affect the annualized child care amount as determined  
8 in the support order.

9 (3.8) Shared physical care. If each parent exercises  
10 146 or more overnights per year with the child, the basic  
11 child support obligation is multiplied by 1.5 to calculate  
12 the shared care child support obligation. The court shall  
13 determine each parent's share of the shared care child  
14 support obligation based on the parent's percentage share  
15 of combined net income. The child support obligation is  
16 then computed for each parent by multiplying that parent's  
17 portion of the shared care support obligation by the  
18 percentage of time the child spends with the other parent.  
19 The respective child support obligations are then offset,  
20 with the parent owing more child support paying the  
21 difference between the child support amounts. The Illinois  
22 Department of Healthcare and Family Services shall  
23 promulgate a worksheet to calculate child support in cases  
24 in which the parents have shared physical care and use the  
25 standardized tax amount to determine net income.

26 (3.9) Split physical care. When there is more than one

1 child and each parent has physical care of at least one but  
2 not all of the children, the support is calculated by  
3 using 2 child support worksheets to determine the support  
4 each parent owes the other. The support shall be  
5 calculated as follows:

6 (A) compute the support the first parent would owe  
7 to other parent as if the child in his or her care was  
8 the only child of the parties; then

9 (B) compute the support the other parent would owe  
10 to the first parent as if the child in his or her care  
11 were the only child of the parties; then

12 (C) subtract the lesser support obligation from  
13 the greater.

14 The parent who owes the greater obligation shall be  
15 ordered to pay the difference in support to the other  
16 parent, unless the court determines, pursuant to other  
17 provisions of this Section, that it should deviate from  
18 the guidelines.

19 (4) Health care.

20 (A) A portion of the basic child support  
21 obligation is intended to cover basic ordinary  
22 out-of-pocket medical expenses. The court, in its  
23 discretion, in addition to the basic child support  
24 obligation, shall also provide for the child's current  
25 and future medical needs by ordering either or both  
26 parents to initiate health insurance coverage for the

1 child through currently effective health insurance  
2 policies held by the parent or parents, purchase one  
3 or more or all health, dental, or vision insurance  
4 policies for the child, or provide for the child's  
5 current and future medical needs through some other  
6 manner.

7 (B) The court, in its discretion, may order either  
8 or both parents to contribute to the reasonable health  
9 care needs of the child not covered by insurance,  
10 including, but not limited to, unreimbursed medical,  
11 dental, orthodontic, or vision expenses and any  
12 prescription medication for the child not covered  
13 under the child's health insurance.

14 (C) If neither parent has access to appropriate  
15 private health insurance coverage, the court may  
16 order:

17 (I) one or both parents to provide health  
18 insurance coverage at any time it becomes  
19 available at a reasonable cost; or

20 (II) the parent or non-parent custodian with  
21 primary physical responsibility for the child to  
22 apply for public health insurance coverage for the  
23 child and require either or both parents to pay a  
24 reasonable amount of the cost of health insurance  
25 for the child.

26 The order may also provide that any time private

1 health insurance coverage is available at a reasonable  
2 cost to that party it will be provided instead of cash  
3 medical support. As used in this Section, "cash  
4 medical support" means an amount ordered to be paid  
5 toward the cost of health insurance provided by a  
6 public entity or by another person through employment  
7 or otherwise or for other medical costs not covered by  
8 insurance.

9 (D) The amount to be added to the basic child  
10 support obligation shall be the actual amount of the  
11 total health insurance premium that is attributable to  
12 the child who is the subject of the order. If this  
13 amount is not available or cannot be verified, the  
14 total cost of the health insurance premium shall be  
15 divided by the total number of persons covered by the  
16 policy. The cost per person derived from this  
17 calculation shall be multiplied by the number of  
18 children who are the subject of the order and who are  
19 covered under the health insurance policy. This amount  
20 shall be added to the basic child support obligation  
21 and shall be allocated between the parents in  
22 proportion to their respective net incomes.

23 (E) After the health insurance premium for the  
24 child is added to the basic child support obligation  
25 and allocated between the parents in proportion to  
26 their respective incomes for child support purposes,

1 if the obligor is paying the premium, the amount  
2 calculated for the obligee's share of the health  
3 insurance premium for the child shall be deducted from  
4 the obligor's share of the total child support  
5 obligation. If the obligee is paying for private  
6 health insurance for the child, the child support  
7 obligation shall be increased by the obligor's share  
8 of the premium payment. The obligor's and obligee's  
9 portion of health insurance costs shall appear in the  
10 support order.

11 (F) Prior to allowing the health insurance  
12 adjustment, the parent requesting the adjustment must  
13 submit proof that the child has been enrolled in a  
14 health insurance plan and must submit proof of the  
15 cost of the premium. The court shall require the  
16 parent receiving the adjustment to annually submit  
17 proof of continued coverage of the child to the other  
18 parent, or as designated by the court.

19 (G) A reasonable cost for providing health  
20 insurance coverage for the child may not exceed 5% of  
21 the providing parent's gross income. Parents with a  
22 net income below 133% of the most recent United States  
23 Department of Health and Human Services Federal  
24 Poverty Guidelines or whose child is covered by  
25 Medicaid based on that parent's income may not be  
26 ordered to contribute toward or provide private

1 coverage, unless private coverage is obtainable  
2 without any financial contribution by that parent.

3 (H) If dental or vision insurance is included as  
4 part of the employer's medical plan, the coverage  
5 shall be maintained for the child. If not included in  
6 the employer's medical plan, adding the dental or  
7 vision insurance for the child is at the discretion of  
8 the court.

9 (I) If a parent has been directed to provide  
10 health insurance pursuant to this paragraph and that  
11 parent's spouse or legally recognized partner provides  
12 the insurance for the benefit of the child either  
13 directly or through employment, a credit on the child  
14 support worksheet shall be given to that parent in the  
15 same manner as if the premium were paid by that parent.

16 (4.5) In a proceeding for child support following  
17 dissolution of the marriage or civil union by a court that  
18 lacked personal jurisdiction over the absent spouse, and  
19 in which the court is requiring payment of support for the  
20 period before the date an order for current support is  
21 entered, there is a rebuttable presumption that the  
22 obligor's net income for the prior period was the same as  
23 his or her net income at the time the order for current  
24 support is entered.

25 (5) If the net income cannot be determined because of  
26 default or any other reason, the court shall order support

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

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

23 (a-5) In an action to enforce an order for child support  
24 based on the obligor's failure to make support payments as  
25 required by the order, notice of proceedings to hold the  
26 obligor in contempt for that failure may be served on the

1 obligor by personal service or by regular mail addressed to  
2 the last known address of the obligor. The last known address  
3 of the obligor may be determined from records of the clerk of  
4 the court, from the Federal Case Registry of Child Support  
5 Orders, or by any other reasonable means.

6 (b) Failure of either parent to comply with an order to pay  
7 support shall be punishable as in other cases of contempt. In  
8 addition to other penalties provided by law the court may,  
9 after finding the parent guilty of contempt, order that the  
10 parent be:

11 (1) placed on probation with such conditions of  
12 probation as the court deems advisable;

13 (2) sentenced to periodic imprisonment for a period  
14 not to exceed 6 months; provided, however, that the court  
15 may permit the parent to be released for periods of time  
16 during the day or night to:

17 (A) work; or

18 (B) conduct a business or other self-employed  
19 occupation.

20 The court may further order any part or all of the earnings  
21 of a parent during a sentence of periodic imprisonment paid to  
22 the Clerk of the Circuit Court or to the parent having physical  
23 possession of the child or to the non-parent custodian having  
24 custody of the child of the sentenced parent for the support of  
25 the child until further order of the court.

26 If a parent who is found guilty of contempt for failure to



1 comply with an order to pay support is a person who conducts a  
2 business or who is self-employed, the court in addition to  
3 other penalties provided by law may order that the parent do  
4 one or more of the following: (i) provide to the court monthly  
5 financial statements showing income and expenses from the  
6 business or the self-employment; (ii) seek employment and  
7 report periodically to the court with a diary, listing, or  
8 other memorandum of his or her employment search efforts; or  
9 (iii) report to the Department of Employment Security for job  
10 search services to find employment that will be subject to  
11 withholding for child support.

12 If there is a unity of interest and ownership sufficient  
13 to render no financial separation between an obligor and  
14 another person or persons or business entity, the court may  
15 pierce the ownership veil of the person, persons, or business  
16 entity to discover assets of the obligor held in the name of  
17 that person, those persons, or that business entity. The  
18 following circumstances are sufficient to authorize a court to  
19 order discovery of the assets of a person, persons, or  
20 business entity and to compel the application of any  
21 discovered assets toward payment on the judgment for support:

22 (1) the obligor and the person, persons, or business  
23 entity maintain records together.

24 (2) the obligor and the person, persons, or business  
25 entity fail to maintain an arm's length relationship  
26 between themselves with regard to any assets.

1           (3) the obligor transfers assets to the person,  
2           persons, or business entity with the intent to perpetrate  
3           a fraud on the obligee.

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

12          The court may also order in cases where the parent is 90  
13          days or more delinquent in payment of support or has been  
14          adjudicated in arrears in an amount equal to 90 days  
15          obligation or more, that the parent's Illinois driving  
16          privileges be suspended until the court determines that the  
17          parent is in compliance with the order of support. The court  
18          may also order that the parent be issued a family financial  
19          responsibility driving permit that would allow limited driving  
20          privileges for employment and medical purposes in accordance  
21          with Section 7-702.1 of the Illinois Vehicle Code. The Clerk  
22          of the Circuit Court shall certify the order suspending the  
23          driving privileges of the parent or granting the issuance of a  
24          family financial responsibility driving permit to the  
25          Secretary of State on forms prescribed by the Secretary of  
26          State. Upon receipt of the authenticated documents, the

1 Secretary of State shall suspend the parent's driving  
2 privileges until further order of the court and shall, if  
3 ordered by the court, subject to the provisions of Section  
4 7-702.1 of the Illinois Vehicle Code, issue a family financial  
5 responsibility driving permit to the parent.

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

19 A support obligation, or any portion of a support  
20 obligation, which becomes due and remains unpaid as of the end  
21 of each month, excluding the child support that was due for  
22 that month to the extent that it was not paid in that month,  
23 shall accrue simple interest as set forth in Section 12-109 of  
24 the Code of Civil Procedure. An order for support entered or  
25 modified on or after January 1, 2006 shall contain a statement  
26 that a support obligation required under the order, or any

1 portion of a support obligation required under the order, that  
2 becomes due and remains unpaid as of the end of each month,  
3 excluding the child support that was due for that month to the  
4 extent that it was not paid in that month, shall accrue simple  
5 interest as set forth in Section 12-109 of the Code of Civil  
6 Procedure. Failure to include the statement in the order for  
7 support does not affect the validity of the order or the  
8 accrual of interest as provided in this Section.

9 (c) A one-time charge of 20% is imposable upon the amount  
10 of past-due child support owed on July 1, 1988 which has  
11 accrued under a support order entered by the court. The charge  
12 shall be imposed in accordance with the provisions of Section  
13 10-21 of the Illinois Public Aid Code and shall be enforced by  
14 the court upon petition.

15 (d) Any new or existing support order entered by the court  
16 under this Section shall be deemed to be a series of judgments  
17 against the person obligated to pay support thereunder, each  
18 such judgment to be in the amount of each payment or  
19 installment of support and each such judgment to be deemed  
20 entered as of the date the corresponding payment or  
21 installment becomes due under the terms of the support order.  
22 Each such judgment shall have the full force, effect and  
23 attributes of any other judgment of this State, including the  
24 ability to be enforced. Notwithstanding any other State or  
25 local law to the contrary, a lien arises by operation of law  
26 against the real and personal property of the obligor for each

1 installment of overdue support owed by the obligor.

2 (e) When child support is to be paid through the Clerk of  
3 the Court in a county of 500,000 inhabitants or less, the order  
4 shall direct the obligor to pay to the Clerk, in addition to  
5 the child support payments, all fees imposed by the county  
6 board under paragraph (4) of subsection (bb) of Section 27.1a  
7 of the Clerks of Courts Act. When child support is to be paid  
8 through the clerk of the court in a county of more than 500,000  
9 but less than 3,000,000 inhabitants, the order shall direct  
10 the obligor to pay to the clerk, in addition to the child  
11 support payments, all fees imposed by the county board under  
12 paragraph (4) of subsection (bb) of Section 27.2 of the Clerks  
13 of Courts Act. Unless paid pursuant to an Income Withholding  
14 Order/Notice for Support, the payment of the fee shall be by  
15 payment acceptable to the clerk and shall be made to the order  
16 of the Clerk.

17 (f) All orders for support, when entered or modified,  
18 shall include a provision requiring the obligor to notify the  
19 court and, in cases in which a party is receiving child and  
20 spouse services under Article X of the Illinois Public Aid  
21 Code, the Department of Healthcare and Family Services, within  
22 7 days, (i) of the name and address of any new employer of the  
23 obligor, (ii) whether the obligor has access to health  
24 insurance coverage through the employer or other group  
25 coverage and, if so, the policy name and number and the names  
26 of persons covered under the policy, except only the initials

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

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

24 (g-5) If there is an unpaid arrearage or delinquency (as  
25 those terms are defined in the Income Withholding for Support  
26 Act) equal to at least one month's support obligation on the

1 termination date stated in the order for support or, if there  
2 is no termination date stated in the order, on the date the  
3 child attains the age of majority or is otherwise emancipated,  
4 the periodic amount required to be paid for current support of  
5 that child immediately prior to that date shall automatically  
6 continue to be an obligation, not as current support but as  
7 periodic payment toward satisfaction of the unpaid arrearage  
8 or delinquency. That periodic payment shall be in addition to  
9 any periodic payment previously required for satisfaction of  
10 the arrearage or delinquency. The total periodic amount to be  
11 paid toward satisfaction of the arrearage or delinquency may  
12 be enforced and collected by any method provided by law for  
13 enforcement and collection of child support, including but not  
14 limited to income withholding under the Income Withholding for  
15 Support Act. Each order for support entered or modified on or  
16 after January 1, 2005 (the effective date of Public Act  
17 93-1061) must contain a statement notifying the parties of the  
18 requirements of this subsection. Failure to include the  
19 statement in the order for support does not affect the  
20 validity of the order or the operation of the provisions of  
21 this subsection with regard to the order. This subsection  
22 shall not be construed to prevent or affect the establishment  
23 or modification of an order for support of a minor child or the  
24 establishment or modification of an order for support of a  
25 non-minor child or educational expenses under Section 513 of  
26 this Act.

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

21 (i) The court does not lose the powers of contempt,  
22 driver's license suspension, or other child support  
23 enforcement mechanisms, including, but not limited to,  
24 criminal prosecution as set forth in this Act, upon the  
25 emancipation of the minor child.

26 (Source: P.A. 99-90, eff. 1-1-16; 99-763, eff. 1-1-17; 99-764,



- 1 eff. 7-1-17; 100-15, eff. 7-1-17; 100-863, eff. 8-14-18;
- 2 100-923, eff. 1-1-19.)