

1 AN ACT concerning child support.

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

4 Section 5. The Income Withholding for Support Act is
5 amended by changing Section 35 as follows:

6 (750 ILCS 28/35)

7 Sec. 35. Duties of payor.

8 (a) It shall be the duty of any payor who has been
9 served with an income withholding notice to deduct and pay
10 over income as provided in this Section. The payor shall
11 deduct the amount designated in the income withholding
12 notice, as supplemented by any notice provided pursuant to
13 subsection (f) of Section 45, beginning no later than the
14 next payment of income which is payable or creditable to the
15 obligor that occurs 14 days following the date the income
16 withholding notice was mailed, sent by facsimile or other
17 electronic means, or placed for personal delivery to or
18 service on the payor. The payor may combine all amounts
19 withheld for the benefit of an obligee or public office into
20 a single payment and transmit the payment with a listing of
21 obligors from whom withholding has been effected. The payor
22 shall withhold from the obligor's wages and pay the amount
23 withheld to the State Disbursement Unit within 7 business
24 days after the date the amount would (but for the duty to
25 withhold income) have been paid or credited to the obligor.
26 If the payor knowingly fails to withhold the sums from the
27 obligor's wages or pay any amount withheld to the State
28 Disbursement Unit within 7 business days after the date the
29 amount would have been paid or credited to the obligor, the
30 payor shall pay a penalty of \$100 for each day that the
31 withheld amount or the amount that should have been withheld

1 is not paid to the State Disbursement Unit after the period
2 of 7 business days has expired. Payment of a penalty of \$100
3 per day is mandatory unless the payor demonstrates the
4 payor's compelling cause or justification for the payor's
5 failure to withhold or the payor's failure to pay over
6 withheld amounts to the State Disbursement Unit. The failure
7 of a payor, on more than one occasion, to pay amounts
8 withheld to the State Disbursement Unit within 7 business
9 days after the date the amount would have been paid or
10 credited to the obligor creates a presumption that the payor
11 knowingly failed to pay over the amounts. This penalty may
12 be collected in a civil action which may be brought against
13 the payor in favor of the obligee or public office. A finding
14 of a payor's nonperformance within the time required under
15 this Act must be documented by a certified mail return
16 receipt showing the date the income withholding notice was
17 served on the payor. For purposes of this Act, a withheld
18 amount shall be considered paid by a payor on the date it is
19 mailed by the payor, or on the date an electronic funds
20 transfer of the amount has been initiated by the payor, or on
21 the date delivery of the amount has been initiated by the
22 payor. For each deduction, the payor shall provide the State
23 Disbursement Unit, at the time of transmittal, with the date
24 the amount would (but for the duty to withhold income) have
25 been paid or credited to the obligor.

26 After June 30, 2000, every payor that has 250 or more
27 employees shall use electronic funds transfer to pay all
28 amounts withheld under this Section. During the year 2001 and
29 during each year thereafter, every payor that has fewer than
30 250 employees and that withheld income under this Section
31 pursuant to 10 or more income withholding notices during
32 December of the preceding year shall use electronic funds
33 transfer to pay all amounts withheld under this Section.

34 Upon receipt of an income withholding notice requiring

1 that a minor child be named as a beneficiary of a health
2 insurance plan available through an employer or labor union
3 or trade union, the employer or labor union or trade union
4 shall immediately enroll the minor child as a beneficiary in
5 the health insurance plan designated by the income
6 withholding notice. The employer shall withhold any required
7 premiums and pay over any amounts so withheld and any
8 additional amounts the employer pays to the insurance carrier
9 in a timely manner. The employer or labor union or trade
10 union shall mail to the obligee, within 15 days of enrollment
11 or upon request, notice of the date of coverage, information
12 on the dependent coverage plan, and all forms necessary to
13 obtain reimbursement for covered health expenses, such as
14 would be made available to a new employee. When an order for
15 dependent coverage is in effect and the insurance coverage is
16 terminated or changed for any reason, the employer or labor
17 union or trade union shall notify the obligee within 10 days
18 of the termination or change date along with notice of
19 conversion privileges.

20 For withholding of income, the payor shall be entitled to
21 receive a fee not to exceed \$5 per month to be taken from the
22 income to be paid to the obligor.

23 (b) Whenever the obligor is no longer receiving income
24 from the payor, the payor shall return a copy of the income
25 withholding notice to the obligee or public office and shall
26 provide information for the purpose of enforcing this Act.

27 (c) Withholding of income under this Act shall be made
28 without regard to any prior or subsequent garnishments,
29 attachments, wage assignments, or any other claims of
30 creditors. Withholding of income under this Act shall not be
31 in excess of the maximum amounts permitted under the federal
32 Consumer Credit Protection Act. Income available for
33 withholding shall be applied first to the current support
34 obligation, then to any premium required for employer, labor

1 union, or trade union-related health insurance coverage
2 ordered under the order for support, and then to payments
3 required on past-due support obligations. If there is
4 insufficient available income remaining to pay the full
5 amount of the required health insurance premium after
6 withholding of income for the current support obligation,
7 then the remaining available income shall be applied to
8 payments required on past-due support obligations. If the
9 payor has been served with more than one income withholding
10 notice pertaining to the same obligor, the payor shall
11 allocate income available for withholding on a proportionate
12 share basis, giving priority to current support payments. A
13 payor who complies with an income withholding notice that is
14 regular on its face shall not be subject to civil liability
15 with respect to any individual, any agency, or any creditor
16 of the obligor for conduct in compliance with the notice.

17 (d) No payor shall discharge, discipline, refuse to hire
18 or otherwise penalize any obligor because of the duty to
19 withhold income.

20 (Source: P.A. 91-212, eff. 7-20-99; 91-677, eff. 1-5-00;
21 92-590, eff. 7-1-02.)