

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.)