



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB0785

Introduced 2/2/2005, by Rep. Cynthia Soto

#### SYNOPSIS AS INTRODUCED:

305 ILCS 5/10-10	from Ch. 23, par. 10-10
305 ILCS 5/10-28 new	
750 ILCS 5/507	from Ch. 40, par. 507
750 ILCS 5/517 new	
750 ILCS 5/705	from Ch. 40, par. 705
750 ILCS 5/709	from Ch. 40, par. 709
750 ILCS 16/25	
750 ILCS 45/21	from Ch. 40, par. 2521
750 ILCS 45/28 new	

Amends the Illinois Public Aid Code, the Illinois Marriage and Dissolution of Marriage Act, the Non-Support Punishment Act, and the Illinois Parentage Act of 1984. Replaces a provision concerning notice to a circuit clerk that a person is receiving child support enforcement services from the Department of Public Aid and requiring the clerk to send support payments in accordance with the Department's instructions. Provides that the Department of Public Aid may provide notice at any time to the parties to a support action that the Department is providing child support enforcement services. Provides that the Department is thereafter entitled to notice of further court proceedings. Requires the Department to provide the circuit clerk with copies of the notices sent to the parties.

LRB094 03694 DRJ 33699 b

FISCAL NOTE ACT  
MAY APPLY

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 Illinois Public Aid Code is amended by  
5 changing Section 10-10 and by adding Section 10-28 as follows:

6 (305 ILCS 5/10-10) (from Ch. 23, par. 10-10)

7 Sec. 10-10. Court enforcement; applicability also to  
8 persons who are not applicants or recipients. Except where the  
9 Illinois Department, by agreement, acts for the local  
10 governmental unit, as provided in Section 10-3.1, local  
11 governmental units shall refer to the State's Attorney or to  
12 the proper legal representative of the governmental unit, for  
13 judicial enforcement as herein provided, instances of  
14 non-support or insufficient support when the dependents are  
15 applicants or recipients under Article VI. The Child and Spouse  
16 Support Unit established by Section 10-3.1 may institute in  
17 behalf of the Illinois Department any actions under this  
18 Section for judicial enforcement of the support liability when  
19 the dependents are (a) applicants or recipients under Articles  
20 III, IV, V or VII; (b) applicants or recipients in a local  
21 governmental unit when the Illinois Department, by agreement,  
22 acts for the unit; or (c) non-applicants or non-recipients who  
23 are receiving child support enforcement services under this  
24 Article X, as provided in Section 10-1. Where the Child and  
25 Spouse Support Unit has exercised its option and discretion not  
26 to apply the provisions of Sections 10-3 through 10-8, the  
27 failure by the Unit to apply such provisions shall not be a bar  
28 to bringing an action under this Section.

29 Action shall be brought in the circuit court to obtain  
30 support, or for the recovery of aid granted during the period  
31 such support was not provided, or both for the obtainment of  
32 support and the recovery of the aid provided. Actions for the

1 recovery of aid may be taken separately or they may be  
2 consolidated with actions to obtain support. Such actions may  
3 be brought in the name of the person or persons requiring  
4 support, or may be brought in the name of the Illinois  
5 Department or the local governmental unit, as the case  
6 requires, in behalf of such persons.

7 The court may enter such orders for the payment of moneys  
8 for the support of the person as may be just and equitable and  
9 may direct payment thereof for such period or periods of time  
10 as the circumstances require, including support for a period  
11 before the date the order for support is entered. The order may  
12 be entered against any or all of the defendant responsible  
13 relatives and may be based upon the proportionate ability of  
14 each to contribute to the person's support.

15 The Court shall determine the amount of child support  
16 (including child support for a period before the date the order  
17 for child support is entered) by using the guidelines and  
18 standards set forth in subsection (a) of Section 505 and in  
19 Section 505.2 of the Illinois Marriage and Dissolution of  
20 Marriage Act. For purposes of determining the amount of child  
21 support to be paid for a period before the date the order for  
22 child support is entered, there is a rebuttable presumption  
23 that the responsible relative's net income for that period was  
24 the same as his or her net income at the time the order is  
25 entered.

26 If (i) the responsible relative was properly served with a  
27 request for discovery of financial information relating to the  
28 responsible relative's ability to provide child support, (ii)  
29 the responsible relative failed to comply with the request,  
30 despite having been ordered to do so by the court, and (iii)  
31 the responsible relative is not present at the hearing to  
32 determine support despite having received proper notice, then  
33 any relevant financial information concerning the responsible  
34 relative's ability to provide child support that was obtained  
35 pursuant to subpoena and proper notice shall be admitted into  
36 evidence without the need to establish any further foundation

1 for its admission.

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

21 The Court shall determine the amount of maintenance using  
22 the standards set forth in Section 504 of the Illinois Marriage  
23 and Dissolution of Marriage Act.

24 Any new or existing support order entered by the court  
25 under this Section shall be deemed to be a series of judgments  
26 against the person obligated to pay support thereunder, each  
27 such judgment to be in the amount of each payment or  
28 installment of support and each such judgment to be deemed  
29 entered as of the date the corresponding payment or installment  
30 becomes due under the terms of the support order. Each such  
31 judgment shall have the full force, effect and attributes of  
32 any other judgment of this State, including the ability to be  
33 enforced. Any such judgment is subject to modification or  
34 termination only in accordance with Section 510 of the Illinois  
35 Marriage and Dissolution of Marriage Act. A lien arises by  
36 operation of law against the real and personal property of the

1 noncustodial parent for each installment of overdue support  
2 owed by the noncustodial parent.

3 When an order is entered for the support of a minor, the  
4 court may provide therein for reasonable visitation of the  
5 minor by the person or persons who provided support pursuant to  
6 the order. Whoever willfully refuses to comply with such  
7 visitation order or willfully interferes with its enforcement  
8 may be declared in contempt of court and punished therefor.

9 Except where the local governmental unit has entered into  
10 an agreement with the Illinois Department for the Child and  
11 Spouse Support Unit to act for it, as provided in Section  
12 10-3.1, support orders entered by the court in cases involving  
13 applicants or recipients under Article VI shall provide that  
14 payments thereunder be made directly to the local governmental  
15 unit. Orders for the support of all other applicants or  
16 recipients shall provide that payments thereunder be made  
17 directly to the Illinois Department. In accordance with federal  
18 law and regulations, the Illinois Department may continue to  
19 collect current maintenance payments or child support  
20 payments, or both, after those persons cease to receive public  
21 assistance and until termination of services under Article X.  
22 The Illinois Department shall pay the net amount collected to  
23 those persons after deducting any costs incurred in making the  
24 collection or any collection fee from the amount of any  
25 recovery made. In both cases the order shall permit the local  
26 governmental unit or the Illinois Department, as the case may  
27 be, to direct the responsible relative or relatives to make  
28 support payments directly to the needy person, or to some  
29 person or agency in his behalf, upon removal of the person from  
30 the public aid rolls or upon termination of services under  
31 Article X.

32 If the notice of support due issued pursuant to Section  
33 10-7 directs that support payments be made directly to the  
34 needy person, or to some person or agency in his behalf, and  
35 the recipient is removed from the public aid rolls, court  
36 action may be taken against the responsible relative hereunder

1 if he fails to furnish support in accordance with the terms of  
2 such notice.

3 Actions may also be brought under this Section in behalf of  
4 any person who is in need of support from responsible  
5 relatives, as defined in Section 2-11 of Article II who is not  
6 an applicant for or recipient of financial aid under this Code.  
7 In such instances, the State's Attorney of the county in which  
8 such person resides shall bring action against the responsible  
9 relatives hereunder. If the Illinois Department, as authorized  
10 by Section 10-1, extends the child support enforcement services  
11 provided by this Article to spouses and dependent children who  
12 are not applicants or recipients under this Code, the Child and  
13 Spouse Support Unit established by Section 10-3.1 shall bring  
14 action against the responsible relatives hereunder and any  
15 support orders entered by the court in such cases shall provide  
16 that payments thereunder be made directly to the Illinois  
17 Department.

18 Whenever it is determined in a proceeding to establish or  
19 enforce a child support or maintenance obligation that the  
20 person owing a duty of support is unemployed, the court may  
21 order the person to seek employment and report periodically to  
22 the court with a diary, listing or other memorandum of his or  
23 her efforts in accordance with such order. Additionally, the  
24 court may order the unemployed person to report to the  
25 Department of Employment Security for job search services or to  
26 make application with the local Job Training Partnership Act  
27 provider for participation in job search, training or work  
28 programs and where the duty of support is owed to a child  
29 receiving child support enforcement services under this  
30 Article X, the court may order the unemployed person to report  
31 to the Illinois Department for participation in job search,  
32 training or work programs established under Section 9-6 and  
33 Article IXA of this Code.

34 Whenever it is determined that a person owes past-due  
35 support for a child receiving assistance under this Code, the  
36 court shall order at the request of the Illinois Department:

1           (1) that the person pay the past-due support in  
2 accordance with a plan approved by the court; or

3           (2) if the person owing past-due support is unemployed,  
4 is subject to such a plan, and is not incapacitated, that  
5 the person participate in such job search, training, or  
6 work programs established under Section 9-6 and Article IXA  
7 of this Code as the court deems appropriate.

8           A determination under this Section shall not be  
9 administratively reviewable by the procedures specified in  
10 Sections 10-12, and 10-13 to 10-13.10. Any determination under  
11 these Sections, if made the basis of court action under this  
12 Section, shall not affect the de novo judicial determination  
13 required under this Section.

14           A one-time charge of 20% is imposable upon the amount of  
15 past-due child support owed on July 1, 1988 which has accrued  
16 under a support order entered by the court. The charge shall be  
17 imposed in accordance with the provisions of Section 10-21 of  
18 this Code and shall be enforced by the court upon petition.

19           All orders for support, when entered or modified, shall  
20 include a provision requiring the non-custodial parent to  
21 notify the court and, in cases in which a party is receiving  
22 child support enforcement services under this Article X, the  
23 Illinois Department, within 7 days, (i) of the name, address,  
24 and telephone number of any new employer of the non-custodial  
25 parent, (ii) whether the non-custodial parent has access to  
26 health insurance coverage through the employer or other group  
27 coverage and, if so, the policy name and number and the names  
28 of persons covered under the policy, and (iii) of any new  
29 residential or mailing address or telephone number of the  
30 non-custodial parent. In any subsequent action to enforce a  
31 support order, upon a sufficient showing that a diligent effort  
32 has been made to ascertain the location of the non-custodial  
33 parent, service of process or provision of notice necessary in  
34 the case may be made at the last known address of the  
35 non-custodial parent in any manner expressly provided by the  
36 Code of Civil Procedure or this Code, which service shall be

1 sufficient for purposes of due process.

2 An order for support shall include a date on which the  
3 current support obligation terminates. The termination date  
4 shall be no earlier than the date on which the child covered by  
5 the order will attain the age of 18. However, if the child will  
6 not graduate from high school until after attaining the age of  
7 18, then the termination date shall be no earlier than the  
8 earlier of the date on which the child's high school graduation  
9 will occur or the date on which the child will attain the age  
10 of 19. The order for support shall state that the termination  
11 date does not apply to any arrearage that may remain unpaid on  
12 that date. Nothing in this paragraph shall be construed to  
13 prevent the court from modifying the order or terminating the  
14 order in the event the child is otherwise emancipated.

15 ~~Upon notification in writing or by electronic transmission~~  
16 ~~from the Illinois Department to the clerk of the court that a~~  
17 ~~person who is receiving support payments under this Section is~~  
18 ~~receiving services under the Child Support Enforcement Program~~  
19 ~~established by Title IV-D of the Social Security Act, any~~  
20 ~~support payments subsequently received by the clerk of the~~  
21 ~~court shall be transmitted in accordance with the instructions~~  
22 ~~of the Illinois Department until the Illinois Department gives~~  
23 ~~notice to the clerk of the court to cease the transmittal.~~  
24 ~~After providing the notification authorized under this~~  
25 ~~paragraph, the Illinois Department shall be entitled as a party~~  
26 ~~to notice of any further proceedings in the case. The clerk of~~  
27 ~~the court shall file a copy of the Illinois Department's~~  
28 ~~notification in the court file. The clerk's failure to file a~~  
29 ~~copy of the notification in the court file shall not, however,~~  
30 ~~affect the Illinois Department's right to receive notice of~~  
31 ~~further proceedings.~~

32 Payments under this Section to the Illinois Department  
33 pursuant to the Child Support Enforcement Program established  
34 by Title IV-D of the Social Security Act shall be paid into the  
35 Child Support Enforcement Trust Fund. All payments under this  
36 Section to the Illinois Department of Human Services shall be



1 deposited in the DHS Recoveries Trust Fund. Disbursements from  
2 these funds shall be as provided in Sections 12-9.1 and 12-10.2  
3 of this Code. Payments received by a local governmental unit  
4 shall be deposited in that unit's General Assistance Fund.

5 To the extent the provisions of this Section are  
6 inconsistent with the requirements pertaining to the State  
7 Disbursement Unit under Sections 10-10.4 and 10-26 of this  
8 Code, the requirements pertaining to the State Disbursement  
9 Unit shall apply.

10 (Source: P.A. 92-16, eff. 6-28-01; 92-590, eff. 7-1-02; 92-876,  
11 eff. 6-1-03; revised 9-27-03.)

12 (305 ILCS 5/10-28 new)

13 Sec. 10-28. Notice of child support enforcement services.  
14 The Illinois Department may provide notice at any time to the  
15 parties to a judicial action filed under this Code, or under  
16 any other law providing for support of a spouse or dependent  
17 child, that child support enforcement services are being  
18 provided by the Illinois Department under this Article X. The  
19 notice shall be sent by regular mail to the party's last known  
20 address on file with the clerk of the court or the State Case  
21 Registry established under Section 10-27. After notice is  
22 provided pursuant to this Section, the Illinois Department  
23 shall be entitled, as if it were a party, to notice of any  
24 further proceedings brought in the case. The Illinois  
25 Department shall provide the clerk of the court with copies of  
26 the notices sent to the parties. The clerk shall file the  
27 copies in the court file.

28 Section 10. The Illinois Marriage and Dissolution of  
29 Marriage Act is amended by changing Sections 507, 705, and 709  
30 and by adding Section 517 as follows:

31 (750 ILCS 5/507) (from Ch. 40, par. 507)

32 Sec. 507. Payment of maintenance or support to court.

33 (a) In actions instituted under this Act, the court shall

1 order that maintenance and support payments be made to the  
2 clerk of court as trustee for remittance to the person entitled  
3 to receive the payments. However, the court in its discretion  
4 may direct otherwise where circumstances so warrant.

5 ~~Upon notification in writing or by electronic transmission~~  
6 ~~from the Illinois Department of Public Aid to the clerk of the~~  
7 ~~court that a person who is receiving support payments under~~  
8 ~~this Section is receiving services under the Child Support~~  
9 ~~Enforcement Program established by Title IV D of the Social~~  
10 ~~Security Act, any support payments subsequently received by the~~  
11 ~~clerk of the court shall be transmitted in accordance with the~~  
12 ~~instructions of the Illinois Department of Public Aid until the~~  
13 ~~Department gives notice to the clerk of the court to cease the~~  
14 ~~transmittal. After providing the notification authorized under~~  
15 ~~this paragraph, the Illinois Department of Public Aid shall be~~  
16 ~~entitled as a party to notice of any further proceedings in the~~  
17 ~~case. The clerk of the court shall file a copy of the Illinois~~  
18 ~~Department of Public Aid's notification in the court file. The~~  
19 ~~failure of the clerk to file a copy of the notification in the~~  
20 ~~court file shall not, however, affect the Illinois Department~~  
21 ~~of Public Aid's right to receive notice of further proceedings.~~

22 (b) The clerk of court shall maintain records listing the  
23 amount of payments, the date payments are required to be made  
24 and the names and addresses of the parties affected by the  
25 order. For those cases in which support is payable to the clerk  
26 of the circuit court for transmittal to the Illinois Department  
27 of Public Aid by order of the court or upon notification of the  
28 Illinois Department of Public Aid, and the Illinois Department  
29 of Public Aid collects support by assignment, offset,  
30 withholding, deduction or other process permitted by law, the  
31 Illinois Department shall notify the clerk of the date and  
32 amount of such collection. Upon notification, the clerk shall  
33 record the collection on the payment record for the case.

34 (c) The parties affected by the order shall inform the  
35 clerk of court of any change of address or of other condition  
36 that may affect the administration of the order.

1 (d) The provisions of this Section shall not apply to cases  
2 that come under the provisions of Sections 709 through 712.

3 (e) To the extent the provisions of this Section are  
4 inconsistent with the requirements pertaining to the State  
5 Disbursement Unit under Section 507.1 of this Act and Section  
6 10-26 of the Illinois Public Aid Code, the requirements  
7 pertaining to the State Disbursement Unit shall apply.

8 (Source: P.A. 90-18, eff. 7-1-97; 90-673, eff. 1-1-99; 90-790,  
9 eff. 8-14-98; 91-212, eff. 7-20-99; 91-357, eff. 7-29-99.)

10 (750 ILCS 5/517 new)

11 Sec. 517. Notice of child support enforcement services. The  
12 Illinois Department of Public Aid may provide notice at any  
13 time to the parties to an action filed under this Act that  
14 child support enforcement services are being provided by the  
15 Illinois Department under Article X of the Illinois Public Aid  
16 Code. The notice shall be sent by regular mail to the party's  
17 last known address on file with the clerk of the court or the  
18 State Case Registry established under Section 10-27 of the  
19 Illinois Public Aid Code. After notice is provided pursuant to  
20 this Section, the Illinois Department shall be entitled, as if  
21 it were a party, to notice of any further proceedings brought  
22 in the case. The Illinois Department shall provide the clerk of  
23 the court with copies of the notices sent to the parties. The  
24 clerk shall file the copies in the court file.

25 (750 ILCS 5/705) (from Ch. 40, par. 705)

26 Sec. 705. Support payments; receiving and disbursing  
27 agents.

28 (1) The provisions of this Section shall apply, except as  
29 provided in Sections 709 through 712.

30 (2) In a dissolution of marriage action filed in a county  
31 of less than 3 million population in which an order or judgment  
32 for child support is entered, and in supplementary proceedings  
33 in any such county to enforce or vary the terms of such order  
34 or judgment arising out of an action for dissolution of

1 marriage filed in such county, the court, except as it  
2 otherwise orders, under subsection (4) of this Section, may  
3 direct that child support payments be made to the clerk of the  
4 court.

5 (3) In a dissolution of marriage action filed in any county  
6 of 3 million or more population in which an order or judgment  
7 for child support is entered, and in supplementary proceedings  
8 in any such county to enforce or vary the terms of such order  
9 or judgment arising out of an action for dissolution of  
10 marriage filed in such county, the court, except as it  
11 otherwise orders under subsection (4) of this Section, may  
12 direct that child support payments be made either to the clerk  
13 of the court or to the Court Service Division of the County  
14 Department of Public Aid. After the effective date of this Act,  
15 the court, except as it otherwise orders under subsection (4)  
16 of this Section, may direct that child support payments be made  
17 either to the clerk of the court or to the Illinois Department  
18 of Public Aid.

19 (4) In a dissolution of marriage action or supplementary  
20 proceedings involving maintenance or child support payments,  
21 or both, to persons who are recipients of aid under the  
22 Illinois Public Aid Code, the court shall direct that such  
23 payments be made to (a) the Illinois Department of Public Aid  
24 if the persons are recipients under Articles III, IV, or V of  
25 the Code, or (b) the local governmental unit responsible for  
26 their support if they are recipients under Articles VI or VII  
27 of the Code. In accordance with federal law and regulations,  
28 the Illinois Department of Public Aid may continue to collect  
29 current maintenance payments or child support payments, or  
30 both, after those persons cease to receive public assistance  
31 and until termination of services under Article X of the  
32 Illinois Public Aid Code. The Illinois Department of Public Aid  
33 shall pay the net amount collected to those persons after  
34 deducting any costs incurred in making the collection or any  
35 collection fee from the amount of any recovery made. The order  
36 shall permit the Illinois Department of Public Aid or the local

1 governmental unit, as the case may be, to direct that payments  
2 be made directly to the former spouse, the children, or both,  
3 or to some person or agency in their behalf, upon removal of  
4 the former spouse or children from the public aid rolls or upon  
5 termination of services under Article X of the Illinois Public  
6 Aid Code; and upon such direction, the Illinois Department or  
7 local governmental unit, as the case requires, shall give  
8 notice of such action to the court in writing or by electronic  
9 transmission.

10 (5) All clerks of the court and the Court Service Division  
11 of a County Department of Public Aid and, after the effective  
12 date of this Act, all clerks of the court and the Illinois  
13 Department of Public Aid, receiving child support payments  
14 under subsections (2) and (3) of this Section shall disburse  
15 the payments to the person or persons entitled thereto under  
16 the terms of the order or judgment. They shall establish and  
17 maintain current records of all moneys received and disbursed  
18 and of defaults and delinquencies in required payments. The  
19 court, by order or rule, shall make provision for the carrying  
20 out of these duties.

21 ~~Upon notification in writing or by electronic transmission~~  
22 ~~from the Illinois Department of Public Aid to the clerk of the~~  
23 ~~court that a person who is receiving support payments under~~  
24 ~~this Section is receiving services under the Child Support~~  
25 ~~Enforcement Program established by Title IV-D of the Social~~  
26 ~~Security Act, any support payments subsequently received by the~~  
27 ~~clerk of the court shall be transmitted in accordance with the~~  
28 ~~instructions of the Illinois Department of Public Aid until the~~  
29 ~~Department gives notice to the clerk of the court to cease the~~  
30 ~~transmittal. After providing the notification authorized under~~  
31 ~~this paragraph, the Illinois Department of Public Aid shall be~~  
32 ~~entitled as a party to notice of any further proceedings in the~~  
33 ~~case. The clerk of the court shall file a copy of the Illinois~~  
34 ~~Department of Public Aid's notification in the court file. The~~  
35 ~~failure of the clerk to file a copy of the notification in the~~  
36 ~~court file shall not, however, affect the Illinois Department~~

1 ~~of Public Aid's right to receive notice of further proceedings.~~

2       Payments under this Section to the Illinois Department of  
3 Public Aid pursuant to the Child Support Enforcement Program  
4 established by Title IV-D of the Social Security Act shall be  
5 paid into the Child Support Enforcement Trust Fund. All  
6 payments under this Section to the Illinois Department of Human  
7 Services shall be deposited in the DHS Recoveries Trust Fund.  
8 Disbursements from these funds shall be as provided in the  
9 Illinois Public Aid Code. Payments received by a local  
10 governmental unit shall be deposited in that unit's General  
11 Assistance Fund. Any order of court directing payment of child  
12 support to a clerk of court or the Court Service Division of a  
13 County Department of Public Aid, which order has been entered  
14 on or after August 14, 1961, and prior to the effective date of  
15 this Act, may be amended by the court in line with this Act;  
16 and orders involving payments of maintenance or child support  
17 to recipients of public aid may in like manner be amended to  
18 conform to this Act.

19       (6) No filing fee or costs will be required in any action  
20 brought at the request of the Illinois Department of Public Aid  
21 in any proceeding under this Act. However, any such fees or  
22 costs may be assessed by the court against the respondent in  
23 the court's order of support or any modification thereof in a  
24 proceeding under this Act.

25       (7) For those cases in which child support is payable to  
26 the clerk of the circuit court for transmittal to the Illinois  
27 Department of Public Aid by order of court or upon notification  
28 by the Illinois Department of Public Aid, the clerk shall  
29 transmit all such payments, within 4 working days of receipt,  
30 to insure that funds are available for immediate distribution  
31 by the Department to the person or entity entitled thereto in  
32 accordance with standards of the Child Support Enforcement  
33 Program established under Title IV-D of the Social Security  
34 Act. The clerk shall notify the Department of the date of  
35 receipt and amount thereof at the time of transmittal. Where  
36 the clerk has entered into an agreement of cooperation with the

1 Department to record the terms of child support orders and  
2 payments made thereunder directly into the Department's  
3 automated data processing system, the clerk shall account for,  
4 transmit and otherwise distribute child support payments in  
5 accordance with such agreement in lieu of the requirements  
6 contained herein.

7 In any action filed in a county with a population of  
8 1,000,000 or less, the court shall assess against the  
9 respondent in any order of maintenance or child support any sum  
10 up to \$36 annually authorized by ordinance of the county board  
11 to be collected by the clerk of the court as costs for  
12 administering the collection and disbursement of maintenance  
13 and child support payments. Such sum shall be in addition to  
14 and separate from amounts ordered to be paid as maintenance or  
15 child support.

16 (8) To the extent the provisions of this Section are  
17 inconsistent with the requirements pertaining to the State  
18 Disbursement Unit under Section 507.1 of this Act and Section  
19 10-26 of the Illinois Public Aid Code, the requirements  
20 pertaining to the State Disbursement Unit shall apply.

21 (Source: P.A. 91-24, eff. 7-1-99; 91-212, eff. 7-20-99; 91-357,  
22 eff. 7-29-99; 92-16, eff. 6-28-01.)

23 (750 ILCS 5/709) (from Ch. 40, par. 709)

24 Sec. 709. Mandatory child support payments to clerk.

25 (a) As of January 1, 1982, child support orders entered in  
26 any county covered by this subsection shall be made pursuant to  
27 the provisions of Sections 709 through 712 of this Act. For  
28 purposes of these Sections, the term "child support payment" or  
29 "payment" shall include any payment ordered to be made solely  
30 for the purpose of the support of a child or children or any  
31 payment ordered for general support which includes any amount  
32 for support of any child or children.

33 The provisions of Sections 709 through 712 shall be  
34 applicable to any county with a population of 2 million or more  
35 and to any other county which notifies the Supreme Court of its

1 desire to be included within the coverage of these Sections and  
2 is certified pursuant to Supreme Court Rules.

3 The effective date of inclusion, however, shall be subject  
4 to approval of the application for reimbursement of the costs  
5 of the support program by the Department of Public Aid as  
6 provided in Section 712.

7 (b) In any proceeding for a dissolution of marriage, legal  
8 separation, or declaration of invalidity of marriage, or in any  
9 supplementary proceedings in which a judgment or modification  
10 thereof for the payment of child support is entered on or after  
11 January 1, 1982, in any county covered by Sections 709 through  
12 712, and the person entitled to payment is receiving a grant of  
13 financial aid under Article IV of the Illinois Public Aid Code  
14 or has applied and qualified for child support enforcement  
15 services under Section 10-1 of that Code, the court shall  
16 direct: (1) that such payments be made to the clerk of the  
17 court and (2) that the parties affected shall each thereafter  
18 notify the clerk of any change of address or change in other  
19 conditions that may affect the administration of the order,  
20 including the fact that a party who was previously not on  
21 public aid has become a recipient of public aid, within 10 days  
22 of such change. All notices sent to the obligor's last known  
23 address on file with the clerk shall be deemed sufficient to  
24 proceed with enforcement pursuant to the provisions of Sections  
25 709 through 712.

26 In all other cases, the court may direct that payments be  
27 made to the clerk of the court.

28 (c) Except as provided in subsection (d) of this Section,  
29 the clerk shall disburse the payments to the person or persons  
30 entitled thereto under the terms of the order or judgment.

31 (d) The court shall determine, prior to the entry of the  
32 support order, if the party who is to receive the support is  
33 presently receiving public aid or has a current application for  
34 public aid pending and shall enter the finding on the record.

35 If the person entitled to payment is a recipient of aid  
36 under the Illinois Public Aid Code, the clerk, upon being



1 informed of this fact by finding of the court, by notification  
2 by the party entitled to payment, by the Illinois Department of  
3 Public Aid or by the local governmental unit, shall make all  
4 payments to: (1) the Illinois Department of Public Aid if the  
5 person is a recipient under Article III, IV, or V of the Code  
6 or (2) the local governmental unit responsible for his or her  
7 support if the person is a recipient under Article VI or VII of  
8 the Code. In accordance with federal law and regulations, the  
9 Illinois Department of Public Aid may continue to collect  
10 current maintenance payments or child support payments, or  
11 both, after those persons cease to receive public assistance  
12 and until termination of services under Article X of the  
13 Illinois Public Aid Code. The Illinois Department of Public Aid  
14 shall pay the net amount collected to those persons after  
15 deducting any costs incurred in making the collection or any  
16 collection fee from the amount of any recovery made. Upon  
17 termination of public aid payments to such a recipient or  
18 termination of services under Article X of the Illinois Public  
19 Aid Code, the Illinois Department of Public Aid or the  
20 appropriate local governmental unit shall notify the clerk in  
21 writing or by electronic transmission that all subsequent  
22 payments are to be sent directly to the person entitled  
23 thereto.

24 ~~Upon notification in writing or by electronic transmission~~  
25 ~~from the Illinois Department of Public Aid to the clerk of the~~  
26 ~~court that a person who is receiving support payments under~~  
27 ~~this Section is receiving services under the Child Support~~  
28 ~~Enforcement Program established by Title IV D of the Social~~  
29 ~~Security Act, any support payments subsequently received by the~~  
30 ~~clerk of the court shall be transmitted in accordance with the~~  
31 ~~instructions of the Illinois Department of Public Aid until the~~  
32 ~~Department gives notice to the clerk of the court to cease the~~  
33 ~~transmittal. After providing the notification authorized under~~  
34 ~~this paragraph, the Illinois Department of Public Aid shall be~~  
35 ~~entitled as a party to notice of any further proceedings in the~~  
36 ~~case. The clerk of the court shall file a copy of the Illinois~~

~~1 Department of Public Aid's notification in the court file. The  
2 failure of the clerk to file a copy of the notification in the  
3 court file shall not, however, affect the Illinois Department  
4 of Public Aid's right to receive notice of further proceedings.~~

5 Payments under this Section to the Illinois Department of  
6 Public Aid pursuant to the Child Support Enforcement Program  
7 established by Title IV-D of the Social Security Act shall be  
8 paid into the Child Support Enforcement Trust Fund. All  
9 payments under this Section to the Illinois Department of Human  
10 Services shall be deposited in the DHS Recoveries Trust Fund.  
11 Disbursements from these funds shall be as provided in the  
12 Illinois Public Aid Code. Payments received by a local  
13 governmental unit shall be deposited in that unit's General  
14 Assistance Fund.

15 (e) Any order or judgment may be amended by the court, upon  
16 its own motion or upon the motion of either party, to conform  
17 with the provisions of Sections 709 through 712, either as to  
18 the requirement of making payments to the clerk or, where  
19 payments are already being made to the clerk, as to the  
20 statutory fees provided for under Section 711.

21 (f) The clerk may invest in any interest bearing account or  
22 in any securities, monies collected for the benefit of a payee,  
23 where such payee cannot be found; however, the investment may  
24 be only for the period until the clerk is able to locate and  
25 present the payee with such monies. The clerk may invest in any  
26 interest bearing account, or in any securities, monies  
27 collected for the benefit of any other payee; however, this  
28 does not alter the clerk's obligation to make payments to the  
29 payee in a timely manner. Any interest or capital gains accrued  
30 shall be for the benefit of the county and shall be paid into  
31 the special fund established in subsection (b) of Section 711.

32 (g) The clerk shall establish and maintain a payment record  
33 of all monies received and disbursed and such record shall  
34 constitute prima facie evidence of such payment and  
35 non-payment, as the case may be.

36 (h) For those cases in which child support is payable to

1 the clerk of the circuit court for transmittal to the Illinois  
2 Department of Public Aid by order of court or upon notification  
3 by the Illinois Department of Public Aid, the clerk shall  
4 transmit all such payments, within 4 working days of receipt,  
5 to insure that funds are available for immediate distribution  
6 by the Department to the person or entity entitled thereto in  
7 accordance with standards of the Child Support Enforcement  
8 Program established under Title IV-D of the Social Security  
9 Act. The clerk shall notify the Department of the date of  
10 receipt and amount thereof at the time of transmittal. Where  
11 the clerk has entered into an agreement of cooperation with the  
12 Department to record the terms of child support orders and  
13 payments made thereunder directly into the Department's  
14 automated data processing system, the clerk shall account for,  
15 transmit and otherwise distribute child support payments in  
16 accordance with such agreement in lieu of the requirements  
17 contained herein.

18 (i) To the extent the provisions of this Section are  
19 inconsistent with the requirements pertaining to the State  
20 Disbursement Unit under Section 507.1 of this Act and Section  
21 10-26 of the Illinois Public Aid Code, the requirements  
22 pertaining to the State Disbursement Unit shall apply.

23 (Source: P.A. 91-24, eff. 7-1-99; 91-212, eff. 7-20-99; 92-16,  
24 eff. 6-28-01; 92-590, eff. 7-1-02.)

25 Section 15. The Non-Support Punishment Act is amended by  
26 changing Section 25 as follows:

27 (750 ILCS 16/25)

28 Sec. 25. Payment of support to State Disbursement Unit;  
29 clerk of the court.

30 (a) As used in this Section, "order for support",  
31 "obligor", "obligee", and "payor" mean those terms as defined  
32 in the Income Withholding for Support Act.

33 (b) Each order for support entered or modified under  
34 Section 20 of this Act shall require that support payments be

1 made to the State Disbursement Unit established under the  
2 Illinois Public Aid Code, under the following circumstances:

3 (1) when a party to the order is receiving child  
4 support enforcement services under Article X of the  
5 Illinois Public Aid Code; or

6 (2) when no party to the order is receiving child  
7 support enforcement services, but the support payments are  
8 made through income withholding.

9 (c) When no party to the order is receiving child support  
10 enforcement services, and payments are not being made through  
11 income withholding, the court shall order the obligor to make  
12 support payments to the clerk of the court.

13 (d) At any time, and notwithstanding the existence of an  
14 order directing payments to be made elsewhere, the Department  
15 of Public Aid may provide notice to the obligor and, where  
16 applicable, to the obligor's payor:

17 (1) to make support payments to the State Disbursement  
18 Unit if:

19 (A) a party to the order for support is receiving  
20 child support enforcement services under Article X of  
21 the Illinois Public Aid Code; or

22 (B) no party to the order for support is receiving  
23 child support enforcement services under Article X of  
24 the Illinois Public Aid Code, but the support payments  
25 are made through income withholding; or

26 (2) to make support payments to the State Disbursement  
27 Unit of another state upon request of another state's Title  
28 IV-D child support enforcement agency, in accordance with  
29 the requirements of Title IV, Part D of the Social Security  
30 Act and regulations promulgated under that Part D.

31 The Department of Public Aid shall provide a copy of the  
32 notice to the obligee and to the clerk of the circuit court.

33 (e) If a State Disbursement Unit as specified by federal  
34 law has not been created in Illinois upon the effective date of  
35 this Act, then, until the creation of a State Disbursement Unit  
36 as specified by federal law, the following provisions regarding

1 payment and disbursement of support payments shall control and  
2 the provisions in subsections (a), (b), (c), and (d) shall be  
3 inoperative. Upon the creation of a State Disbursement Unit as  
4 specified by federal law, the payment and disbursement  
5 provisions of subsections (a), (b), (c), and (d) shall control,  
6 and this subsection (e) shall be inoperative to the extent that  
7 it conflicts with those subsections.

8 (1) In cases in which an order for support is entered  
9 under Section 20 of this Act, the court shall order that  
10 maintenance and support payments be made to the clerk of  
11 the court for remittance to the person or agency entitled  
12 to receive the payments. However, the court in its  
13 discretion may direct otherwise where exceptional  
14 circumstances so warrant.

15 (2) The court shall direct that support payments be  
16 sent by the clerk to (i) the Illinois Department of Public  
17 Aid if the person in whose behalf payments are made is  
18 receiving aid under Articles III, IV, or V of the Illinois  
19 Public Aid Code, or child support enforcement services  
20 under Article X of the Code, or (ii) to the local  
21 governmental unit responsible for the support of the person  
22 if he or she is a recipient under Article VI of the Code.  
23 In accordance with federal law and regulations, the  
24 Illinois Department of Public Aid may continue to collect  
25 current maintenance payments or child support payments, or  
26 both, after those persons cease to receive public  
27 assistance and until termination of services under Article  
28 X of the Illinois Public Aid Code. The Illinois Department  
29 shall pay the net amount collected to those persons after  
30 deducting any costs incurred in making the collection or  
31 any collection fee from the amount of any recovery made.  
32 The order shall permit the Illinois Department of Public  
33 Aid or the local governmental unit, as the case may be, to  
34 direct that support payments be made directly to the  
35 spouse, children, or both, or to some person or agency in  
36 their behalf, upon removal of the spouse or children from

1 the public aid rolls or upon termination of services under  
2 Article X of the Illinois Public Aid Code; and upon such  
3 direction, the Illinois Department or the local  
4 governmental unit, as the case requires, shall give notice  
5 of such action to the court in writing or by electronic  
6 transmission.

7 (3) The clerk of the court shall establish and maintain  
8 current records of all moneys received and disbursed and of  
9 delinquencies and defaults in required payments. The  
10 court, by order or rule, shall make provision for the  
11 carrying out of these duties.

12 (4) (Blank). ~~Upon notification in writing or by~~  
13 ~~electronic transmission from the Illinois Department of~~  
14 ~~Public Aid to the clerk of the court that a person who is~~  
15 ~~receiving support payments under this Section is receiving~~  
16 ~~services under the Child Support Enforcement Program~~  
17 ~~established by Title IV D of the Social Security Act, any~~  
18 ~~support payments subsequently received by the clerk of the~~  
19 ~~court shall be transmitted in accordance with the~~  
20 ~~instructions of the Illinois Department of Public Aid until~~  
21 ~~the Department gives notice to cease the transmittal. After~~  
22 ~~providing the notification authorized under this~~  
23 ~~paragraph, the Illinois Department of Public Aid shall be a~~  
24 ~~party and entitled to notice of any further proceedings in~~  
25 ~~the case. The clerk of the court shall file a copy of the~~  
26 ~~Illinois Department of Public Aid's notification in the~~  
27 ~~court file. The failure of the clerk to file a copy of the~~  
28 ~~notification in the court file shall not, however, affect~~  
29 ~~the Illinois Department of Public Aid's rights as a party~~  
30 ~~or its right to receive notice of further proceedings.~~

31 (5) Payments under this Section to the Illinois  
32 Department of Public Aid pursuant to the Child Support  
33 Enforcement Program established by Title IV-D of the Social  
34 Security Act shall be paid into the Child Support  
35 Enforcement Trust Fund. All other payments under this  
36 Section to the Illinois Department of Public Aid shall be

1 deposited in the Public Assistance Recoveries Trust Fund.  
2 Disbursements from these funds shall be as provided in the  
3 Illinois Public Aid Code. Payments received by a local  
4 governmental unit shall be deposited in that unit's General  
5 Assistance Fund.

6 (6) For those cases in which child support is payable  
7 to the clerk of the circuit court for transmittal to the  
8 Illinois Department of Public Aid by order of court or upon  
9 notification by the Illinois Department of Public Aid, the  
10 clerk shall transmit all such payments, within 4 working  
11 days of receipt, to insure that funds are available for  
12 immediate distribution by the Department to the person or  
13 entity entitled thereto in accordance with standards of the  
14 Child Support Enforcement Program established under Title  
15 IV-D of the Social Security Act. The clerk shall notify the  
16 Department of the date of receipt and amount thereof at the  
17 time of transmittal. Where the clerk has entered into an  
18 agreement of cooperation with the Department to record the  
19 terms of child support orders and payments made thereunder  
20 directly into the Department's automated data processing  
21 system, the clerk shall account for, transmit and otherwise  
22 distribute child support payments in accordance with such  
23 agreement in lieu of the requirements contained herein.

24 (Source: P.A. 91-613, eff. 10-1-99; 92-590, eff. 7-1-02.)

25 Section 20. The Illinois Parentage Act of 1984 is amended  
26 by changing Section 21 and by adding Section 28 as follows:

27 (750 ILCS 45/21) (from Ch. 40, par. 2521)

28 Sec. 21. Support payments; receiving and disbursing  
29 agents.

30 (1) In an action filed in a county of less than 3 million  
31 population in which an order for child support is entered, and  
32 in supplementary proceedings in such a county to enforce or  
33 vary the terms of such order arising out of an action filed in  
34 such a county, the court, except in actions or supplementary

1 proceedings in which the pregnancy and delivery expenses of the  
2 mother or the child support payments are for a recipient of aid  
3 under the Illinois Public Aid Code, shall direct that child  
4 support payments be made to the clerk of the court unless in  
5 the discretion of the court exceptional circumstances warrant  
6 otherwise. In cases where payment is to be made to persons  
7 other than the clerk of the court the judgment or order of  
8 support shall set forth the facts of the exceptional  
9 circumstances.

10 (2) In an action filed in a county of 3 million or more  
11 population in which an order for child support is entered, and  
12 in supplementary proceedings in such a county to enforce or  
13 vary the terms of such order arising out of an action filed in  
14 such a county, the court, except in actions or supplementary  
15 proceedings in which the pregnancy and delivery expenses of the  
16 mother or the child support payments are for a recipient of aid  
17 under the Illinois Public Aid Code, shall direct that child  
18 support payments be made either to the clerk of the court or to  
19 the Court Service Division of the County Department of Public  
20 Aid, or to the clerk of the court or to the Illinois Department  
21 of Public Aid, unless in the discretion of the court  
22 exceptional circumstances warrant otherwise. In cases where  
23 payment is to be made to persons other than the clerk of the  
24 court, the Court Service Division of the County Department of  
25 Public Aid, or the Illinois Department of Public Aid, the  
26 judgment or order of support shall set forth the facts of the  
27 exceptional circumstances.

28 (3) Where the action or supplementary proceeding is in  
29 behalf of a mother for pregnancy and delivery expenses or for  
30 child support, or both, and the mother, child, or both, are  
31 recipients of aid under the Illinois Public Aid Code, the court  
32 shall order that the payments be made directly to (a) the  
33 Illinois Department of Public Aid if the mother or child, or  
34 both, are recipients under Articles IV or V of the Code, or (b)  
35 the local governmental unit responsible for the support of the  
36 mother or child, or both, if they are recipients under Articles



1 VI or VII of the Code. In accordance with federal law and  
2 regulations, the Illinois Department of Public Aid may continue  
3 to collect current maintenance payments or child support  
4 payments, or both, after those persons cease to receive public  
5 assistance and until termination of services under Article X of  
6 the Illinois Public Aid Code. The Illinois Department of Public  
7 Aid shall pay the net amount collected to those persons after  
8 deducting any costs incurred in making the collection or any  
9 collection fee from the amount of any recovery made. The  
10 Illinois Department of Public Aid or the local governmental  
11 unit, as the case may be, may direct that payments be made  
12 directly to the mother of the child, or to some other person or  
13 agency in the child's behalf, upon the removal of the mother  
14 and child from the public aid rolls or upon termination of  
15 services under Article X of the Illinois Public Aid Code; and  
16 upon such direction, the Illinois Department or the local  
17 governmental unit, as the case requires, shall give notice of  
18 such action to the court in writing or by electronic  
19 transmission.

20 (4) All clerks of the court and the Court Service Division  
21 of a County Department of Public Aid and the Illinois  
22 Department of Public Aid, receiving child support payments  
23 under paragraphs (1) or (2) shall disburse the same to the  
24 person or persons entitled thereto under the terms of the  
25 order. They shall establish and maintain clear and current  
26 records of all moneys received and disbursed and of defaults  
27 and delinquencies in required payments. The court, by order or  
28 rule, shall make provision for the carrying out of these  
29 duties.

30 ~~Upon notification in writing or by electronic transmission~~  
31 ~~from the Illinois Department of Public Aid to the clerk of the~~  
32 ~~court that a person who is receiving support payments under~~  
33 ~~this Section is receiving services under the Child Support~~  
34 ~~Enforcement Program established by Title IV-D of the Social~~  
35 ~~Security Act, any support payments subsequently received by the~~  
36 ~~clerk of the court shall be transmitted in accordance with the~~

1 ~~instructions of the Illinois Department of Public Aid until the~~  
2 ~~Department gives notice to cease the transmittal. After~~  
3 ~~providing the notification authorized under this paragraph,~~  
4 ~~the Illinois Department of Public Aid shall be entitled as a~~  
5 ~~party to notice of any further proceedings in the case. The~~  
6 ~~clerk of the court shall file a copy of the Illinois Department~~  
7 ~~of Public Aid's notification in the court file. The failure of~~  
8 ~~the clerk to file a copy of the notification in the court file~~  
9 ~~shall not, however, affect the Illinois Department of Public~~  
10 ~~Aid's right to receive notice of further proceedings.~~

11 Payments under this Section to the Illinois Department of  
12 Public Aid pursuant to the Child Support Enforcement Program  
13 established by Title IV-D of the Social Security Act shall be  
14 paid into the Child Support Enforcement Trust Fund. All  
15 payments under this Section to the Illinois Department of Human  
16 Services shall be deposited in the DHS Recoveries Trust Fund.  
17 Disbursement from these funds shall be as provided in the  
18 Illinois Public Aid Code. Payments received by a local  
19 governmental unit shall be deposited in that unit's General  
20 Assistance Fund.

21 (5) The moneys received by persons or agencies designated  
22 by the court shall be disbursed by them in accordance with the  
23 order. However, the court, on petition of the state's attorney,  
24 may enter new orders designating the clerk of the court or the  
25 Illinois Department of Public Aid, as the person or agency  
26 authorized to receive and disburse child support payments and,  
27 in the case of recipients of public aid, the court, on petition  
28 of the Attorney General or State's Attorney, shall direct  
29 subsequent payments to be paid to the Illinois Department of  
30 Public Aid or to the appropriate local governmental unit, as  
31 provided in paragraph (3). Payments of child support by  
32 principals or sureties on bonds, or proceeds of any sale for  
33 the enforcement of a judgment shall be made to the clerk of the  
34 court, the Illinois Department of Public Aid or the appropriate  
35 local governmental unit, as the respective provisions of this  
36 Section require.

1 (6) For those cases in which child support is payable to  
2 the clerk of the circuit court for transmittal to the Illinois  
3 Department of Public Aid by order of court or upon notification  
4 by the Illinois Department of Public Aid, the clerk shall  
5 transmit all such payments, within 4 working days of receipt,  
6 to insure that funds are available for immediate distribution  
7 by the Department to the person or entity entitled thereto in  
8 accordance with standards of the Child Support Enforcement  
9 Program established under Title IV-D of the Social Security  
10 Act. The clerk shall notify the Department of the date of  
11 receipt and amount thereof at the time of transmittal. Where  
12 the clerk has entered into an agreement of cooperation with the  
13 Department to record the terms of child support orders and  
14 payments made thereunder directly into the Department's  
15 automated data processing system, the clerk shall account for,  
16 transmit and otherwise distribute child support payments in  
17 accordance with such agreement in lieu of the requirements  
18 contained herein.

19 (7) To the extent the provisions of this Section are  
20 inconsistent with the requirements pertaining to the State  
21 Disbursement Unit under Section 21.1 of this Act and Section  
22 10-26 of the Illinois Public Aid Code, the requirements  
23 pertaining to the State Disbursement Unit shall apply.

24 (Source: P.A. 91-24, eff. 7-1-99; 91-212, eff. 7-20-99; 91-357,  
25 eff. 7-29-99; 92-16, eff. 6-28-01.)

26 (750 ILCS 45/28 new)

27 Sec. 28. Notice of child support enforcement services. The  
28 Illinois Department of Public Aid may provide notice at any  
29 time to the parties to an action filed under this Act that  
30 child support enforcement services are being provided by the  
31 Illinois Department under Article X of the Illinois Public Aid  
32 Code. The notice shall be sent by regular mail to the party's  
33 last known address on file with the clerk of the court or the  
34 State Case Registry established under Section 10-27 of the  
35 Illinois Public Aid Code. After notice is provided pursuant to

1 this Section, the Illinois Department shall be entitled, as if  
2 it were a party, to notice of any further proceedings brought  
3 in the case. The Illinois Department shall provide the clerk of  
4 the court with copies of the notices sent to the parties. The  
5 clerk shall file the copies in the court file.