



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0619

Introduced 2/5/2007, by Rep. Cynthia Soto

SYNOPSIS AS INTRODUCED:

305 ILCS 5/10-7	from Ch. 23, par. 10-7
305 ILCS 5/10-10	from Ch. 23, par. 10-10
305 ILCS 5/10-11	from Ch. 23, par. 10-11

Amends the Illinois Public Aid Code. Provides that before a court or the Department of Healthcare and Family Services' Child and Spouse Support Unit enters an order for support, the court or Unit must determine whether another order has been entered requiring the responsible relative to contribute to the support of the person requiring support. Provides that if the court or the Child and Spouse Support Unit determines that another such order has been entered, the court or Unit must ensure that its order does not require the responsible relative to make any payment of support that duplicates a payment required under the other order. Effective immediately.

LRB095 07308 DRJ 27447 b

1 AN ACT in relation to 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 Sections 10-7, 10-10, and 10-11 as follows:

6 (305 ILCS 5/10-7) (from Ch. 23, par. 10-7)
7 Sec. 10-7. Notice of support due.

8 (a) When an administrative enforcement unit has determined
9 that a responsible relative is financially able to contribute
10 to the support of an applicant or recipient, the responsible
11 relative shall be notified by mailing him a copy of the
12 determination by United States registered or certified mail,
13 advising him of his legal obligation to make support payments
14 for such period or periods of time, definite in duration or
15 indefinite, as the circumstances require. The notice shall
16 direct payment as provided in Section 10-8. Where applicable,
17 the determination and notice may include a demand for
18 reimbursement for emergency aid granted an applicant or
19 recipient during the period between the application and
20 determination of the relative's obligation for support and for
21 aid granted during any subsequent period the responsible
22 relative was financially able to provide support but failed or
23 refused to do so.

1 (b) In the alternative, when support is sought on behalf of
2 applicants for or recipients of financial aid under Article IV
3 of this Act and other persons who are given access to the child
4 support enforcement services of this Article as provided in
5 Section 10-1, the administrative enforcement unit shall not be
6 required to send the notice and may enter an administrative
7 order immediately under the provisions of Section 10-11. The
8 order shall be based upon the determination made under the
9 provisions of Section 10-6 or, in instances of default, upon
10 the needs of the persons for whom support is sought. In
11 addition to requiring payment of future support, the
12 administrative order may require payment of support for a
13 period before the date the order is entered. The amount of
14 support to be paid for the prior period shall be determined
15 under the guidelines established by the Illinois Department
16 pursuant to Section 10-3. The order shall direct payment as
17 provided in Section 10-10.

18 Before entering an administrative order for support under
19 this subsection, the administrative enforcement unit must
20 determine whether a court has entered an order requiring the
21 responsible relative to contribute to the support of the person
22 or persons requiring support. If the administrative
23 enforcement unit determines that a court has entered such an
24 order, the unit must ensure that its order entered under this
25 subsection does not require the responsible relative to make
26 any payment of support that duplicates a payment ordered by the

1 court.

2 (Source: P.A. 92-590, eff. 7-1-02.)

3 (305 ILCS 5/10-10) (from Ch. 23, par. 10-10)

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

1 Action shall be brought in the circuit court to obtain
2 support, or for the recovery of aid granted during the period
3 such support was not provided, or both for the obtainment of
4 support and the recovery of the aid provided. Actions for the
5 recovery of aid may be taken separately or they may be
6 consolidated with actions to obtain support. Such actions may
7 be brought in the name of the person or persons requiring
8 support, or may be brought in the name of the Illinois
9 Department or the local governmental unit, as the case
10 requires, in behalf of such persons.

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

19 Before entering an order under this Section, the court must
20 determine whether the Department of Healthcare and Family
21 Services' administrative enforcement unit has entered an
22 administrative order for support under Section 10-7 or 10-11
23 requiring the responsible relative to contribute to the support
24 of the person or persons requiring support. If the court
25 determines that the administrative enforcement unit has
26 entered such an order, the court must ensure that its order

1 entered under this Section does not require the responsible
2 relative to make any payment of support that duplicates a
3 payment ordered by the administrative enforcement unit.

4 The Court shall determine the amount of child support
5 (including child support for a period before the date the order
6 for child support is entered) by using the guidelines and
7 standards set forth in subsection (a) of Section 505 and in
8 Section 505.2 of the Illinois Marriage and Dissolution of
9 Marriage Act. For purposes of determining the amount of child
10 support to be paid for a period before the date the order for
11 child support is entered, there is a rebuttable presumption
12 that the responsible relative's net income for that period was
13 the same as his or her net income at the time the order is
14 entered.

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

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

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

23 Any new or existing support order entered by the court
24 under this Section shall be deemed to be a series of judgments
25 against the person obligated to pay support thereunder, each
26 such judgment to be in the amount of each payment or

1 installment of support and each such judgment to be deemed
2 entered as of the date the corresponding payment or installment
3 becomes due under the terms of the support order. Each such
4 judgment shall have the full force, effect and attributes of
5 any other judgment of this State, including the ability to be
6 enforced. Any such judgment is subject to modification or
7 termination only in accordance with Section 510 of the Illinois
8 Marriage and Dissolution of Marriage Act. A lien arises by
9 operation of law against the real and personal property of the
10 noncustodial parent for each installment of overdue support
11 owed by the noncustodial parent.

12 When an order is entered for the support of a minor, the
13 court may provide therein for reasonable visitation of the
14 minor by the person or persons who provided support pursuant to
15 the order. Whoever willfully refuses to comply with such
16 visitation order or willfully interferes with its enforcement
17 may be declared in contempt of court and punished therefor.

18 Except where the local governmental unit has entered into
19 an agreement with the Illinois Department for the Child and
20 Spouse Support Unit to act for it, as provided in Section
21 10-3.1, support orders entered by the court in cases involving
22 applicants or recipients under Article VI shall provide that
23 payments thereunder be made directly to the local governmental
24 unit. Orders for the support of all other applicants or
25 recipients shall provide that payments thereunder be made
26 directly to the Illinois Department. In accordance with federal

1 law and regulations, the Illinois Department may continue to
2 collect current maintenance payments or child support
3 payments, or both, after those persons cease to receive public
4 assistance and until termination of services under Article X.
5 The Illinois Department shall pay the net amount collected to
6 those persons after deducting any costs incurred in making the
7 collection or any collection fee from the amount of any
8 recovery made. In both cases the order shall permit the local
9 governmental unit or the Illinois Department, as the case may
10 be, to direct the responsible relative or relatives to make
11 support payments directly to the needy person, or to some
12 person or agency in his behalf, upon removal of the person from
13 the public aid rolls or upon termination of services under
14 Article X.

15 If the notice of support due issued pursuant to Section
16 10-7 directs that support payments be made directly to the
17 needy person, or to some person or agency in his behalf, and
18 the recipient is removed from the public aid rolls, court
19 action may be taken against the responsible relative hereunder
20 if he fails to furnish support in accordance with the terms of
21 such notice.

22 Actions may also be brought under this Section in behalf of
23 any person who is in need of support from responsible
24 relatives, as defined in Section 2-11 of Article II who is not
25 an applicant for or recipient of financial aid under this Code.
26 In such instances, the State's Attorney of the county in which

1 such person resides shall bring action against the responsible
2 relatives hereunder. If the Illinois Department, as authorized
3 by Section 10-1, extends the child support enforcement services
4 provided by this Article to spouses and dependent children who
5 are not applicants or recipients under this Code, the Child and
6 Spouse Support Unit established by Section 10-3.1 shall bring
7 action against the responsible relatives hereunder and any
8 support orders entered by the court in such cases shall provide
9 that payments thereunder be made directly to the Illinois
10 Department.

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

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

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

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

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

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

22 All orders for support, when entered or modified, shall
23 include a provision requiring the non-custodial parent to
24 notify the court and, in cases in which a party is receiving
25 child support enforcement services under this Article X, the
26 Illinois Department, within 7 days, (i) of the name, address,

1 and telephone number of any new employer of the non-custodial
2 parent, (ii) whether the non-custodial parent has access to
3 health insurance coverage through the employer or other group
4 coverage and, if so, the policy name and number and the names
5 of persons covered under the policy, and (iii) of any new
6 residential or mailing address or telephone number of the
7 non-custodial parent. In any subsequent action to enforce a
8 support order, upon a sufficient showing that a diligent effort
9 has been made to ascertain the location of the non-custodial
10 parent, service of process or provision of notice necessary in
11 the case may be made at the last known address of the
12 non-custodial parent in any manner expressly provided by the
13 Code of Civil Procedure or this Code, which service shall be
14 sufficient for purposes of due process.

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

1 order in the event the child is otherwise emancipated.

2 If there is an unpaid arrearage or delinquency (as those
3 terms are defined in the Income Withholding for Support Act)
4 equal to at least one month's support obligation on the
5 termination date stated in the order for support or, if there
6 is no termination date stated in the order, on the date the
7 child attains the age of majority or is otherwise emancipated,
8 then the periodic amount required to be paid for current
9 support of that child immediately prior to that date shall
10 automatically continue to be an obligation, not as current
11 support but as periodic payment toward satisfaction of the
12 unpaid arrearage or delinquency. That periodic payment shall be
13 in addition to any periodic payment previously required for
14 satisfaction of the arrearage or delinquency. The total
15 periodic amount to be paid toward satisfaction of the arrearage
16 or delinquency may be enforced and collected by any method
17 provided by law for the enforcement and collection of child
18 support, including but not limited to income withholding under
19 the Income Withholding for Support Act. Each order for support
20 entered or modified on or after the effective date of this
21 amendatory Act of the 93rd General Assembly must contain a
22 statement notifying the parties of the requirements of this
23 paragraph. Failure to include the statement in the order for
24 support does not affect the validity of the order or the
25 operation of the provisions of this paragraph with regard to
26 the order. This paragraph shall not be construed to prevent or

1 affect the establishment or modification of an order for the
2 support of a minor child or the establishment or modification
3 of an order for the support of a non-minor child or educational
4 expenses under Section 513 of the Illinois Marriage and
5 Dissolution of Marriage Act.

6 Payments under this Section to the Illinois Department
7 pursuant to the Child Support Enforcement Program established
8 by Title IV-D of the Social Security Act shall be paid into the
9 Child Support Enforcement Trust Fund. All payments under this
10 Section to the Illinois Department of Human Services shall be
11 deposited in the DHS Recoveries Trust Fund. Disbursements from
12 these funds shall be as provided in Sections 12-9.1 and 12-10.2
13 of this Code. Payments received by a local governmental unit
14 shall be deposited in that unit's General Assistance Fund.

15 To the extent the provisions of this Section are
16 inconsistent with the requirements pertaining to the State
17 Disbursement Unit under Sections 10-10.4 and 10-26 of this
18 Code, the requirements pertaining to the State Disbursement
19 Unit shall apply.

20 (Source: P.A. 93-1061, eff. 1-1-05; 94-88, eff. 1-1-06; revised
21 8-9-05.)

22 (305 ILCS 5/10-11) (from Ch. 23, par. 10-11)

23 Sec. 10-11. Administrative Orders. In lieu of actions for
24 court enforcement of support under Section 10-10, the Child and
25 Spouse Support Unit of the Illinois Department, in accordance

1 with the rules of the Illinois Department, may issue an
2 administrative order requiring the responsible relative to
3 comply with the terms of the determination and notice of
4 support due, determined and issued under Sections 10-6 and
5 10-7. The Unit may also enter an administrative order under
6 subsection (b) of Section 10-7. The administrative order shall
7 be served upon the responsible relative by United States
8 registered or certified mail. In cases in which the responsible
9 relative appeared at the office of the Child and Spouse Support
10 Unit in response to the notice of support obligation issued
11 under Section 10-4, however, or in cases of default in which
12 the notice was served on the responsible relative by certified
13 mail, return receipt requested, or by any method provided by
14 law for service of summons, the administrative determination of
15 paternity or administrative support order may be sent to the
16 responsible relative by ordinary mail addressed to the
17 responsible relative's last known address.

18 Before entering an administrative order for support under
19 this Section, the Child and Spouse Support Unit must determine
20 whether a court has entered an order requiring the responsible
21 relative to contribute to the support of the person or persons
22 requiring support. If the Child and Spouse Support Unit
23 determines that a court has entered such an order, the Unit
24 must ensure that its order entered under this Section does not
25 require the responsible relative to make any payment of support
26 that duplicates a payment ordered by the court.

1 If a responsible relative or a person receiving child
2 support enforcement services under this Article fails to
3 petition the Illinois Department for release from or
4 modification of the administrative order, as provided in
5 Section 10-12 or Section 10-12.1, the order shall become final
6 and there shall be no further administrative or judicial
7 remedy. Likewise a decision by the Illinois Department as a
8 result of an administrative hearing, as provided in Sections
9 10-13 to 10-13.10, shall become final and enforceable if not
10 judicially reviewed under the Administrative Review Law, as
11 provided in Section 10-14.

12 Any new or existing support order entered by the Illinois
13 Department under this Section shall be deemed to be a series of
14 judgments against the person obligated to pay support
15 thereunder, each such judgment to be in the amount of each
16 payment or installment of support and each such judgment to be
17 deemed entered as of the date the corresponding payment or
18 installment becomes due under the terms of the support order.
19 Each such judgment shall have the full force, effect and
20 attributes of any other judgment of this State, including the
21 ability to be enforced. Any such judgment is subject to
22 modification or termination only in accordance with Section 510
23 of the Illinois Marriage and Dissolution of Marriage Act. A
24 lien arises by operation of law against the real and personal
25 property of the noncustodial parent for each installment of
26 overdue support owed by the noncustodial parent.

1 An order for support shall include a date on which the
2 current support obligation terminates. The termination date
3 shall be no earlier than the date on which the child covered by
4 the order will attain the age of majority or is otherwise
5 emancipated. The order for support shall state that the
6 termination date does not apply to any arrearage that may
7 remain unpaid on that date. Nothing in this paragraph shall be
8 construed to prevent modification of the order by the
9 Department.

10 If there is an unpaid arrearage or delinquency (as those
11 terms are defined in the Income Withholding for Support Act)
12 equal to at least one month's support obligation on the
13 termination date stated in the order for support or, if there
14 is no termination date stated in the order, on the date the
15 child attains the age of majority or is otherwise emancipated,
16 then the periodic amount required to be paid for current
17 support of that child immediately prior to that date shall
18 automatically continue to be an obligation, not as current
19 support but as periodic payment toward satisfaction of the
20 unpaid arrearage or delinquency. That periodic payment shall be
21 in addition to any periodic payment previously required for
22 satisfaction of the arrearage or delinquency. The total
23 periodic amount to be paid toward satisfaction of the arrearage
24 or delinquency may be enforced and collected by any method
25 provided by law for the enforcement and collection of child
26 support, including but not limited to income withholding under

1 the Income Withholding for Support Act. Each order for support
2 entered or modified on or after the effective date of this
3 amendatory Act of the 93rd General Assembly must contain a
4 statement notifying the parties of the requirements of this
5 paragraph. Failure to include the statement in the order for
6 support does not affect the validity of the order or the
7 operation of the provisions of this paragraph with regard to
8 the order. This paragraph shall not be construed to prevent or
9 affect the establishment or modification of an order for the
10 support of a minor child or the establishment or modification
11 of an order for the support of a non-minor child or educational
12 expenses under Section 513 of the Illinois Marriage and
13 Dissolution of Marriage Act.

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

1 (Source: P.A. 92-590, eff. 7-1-02; 92-876, eff. 6-1-03;
2 93-1061, eff. 1-1-05.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.