

**SB2594**



**95TH GENERAL ASSEMBLY**

**State of Illinois**

**2007 and 2008**

**SB2594**

Introduced 2/15/2008, by Sen. John J. Millner

**SYNOPSIS AS INTRODUCED:**

750 ILCS 45/14

from Ch. 40, par. 2514

Amends the Illinois Parentage Act of 1984. Provides that in an action brought within 2 years after a judicial determination of parentage (now, within 2 years after a child's birth), the judgment or order shall (now, may) direct either parent to pay the reasonable expenses incurred by either parent or the Department of Healthcare and Family Services (now, either parent) related to the mother's pregnancy and the delivery of the child.

LRB095 17419 AJO 43491 b

FISCAL NOTE ACT  
MAY APPLY

**A BILL FOR**

1 AN ACT concerning civil law.

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

4 Section 5. The Illinois Parentage Act of 1984 is amended by  
5 changing Section 14 as follows:

6 (750 ILCS 45/14) (from Ch. 40, par. 2514)

7 Sec. 14. Judgment.

8 (a) (1) The judgment shall contain or explicitly reserve  
9 provisions concerning any duty and amount of child support and  
10 may contain provisions concerning the custody and guardianship  
11 of the child, visitation privileges with the child, the  
12 furnishing of bond or other security for the payment of the  
13 judgment, which the court shall determine in accordance with  
14 the relevant factors set forth in the Illinois Marriage and  
15 Dissolution of Marriage Act and any other applicable law of  
16 Illinois, to guide the court in a finding in the best interests  
17 of the child. In determining custody, joint custody, removal,  
18 or visitation, the court shall apply the relevant standards of  
19 the Illinois Marriage and Dissolution of Marriage Act,  
20 including Section 609. Specifically, in determining the amount  
21 of any child support award or child health insurance coverage,  
22 the court shall use the guidelines and standards set forth in  
23 subsection (a) of Section 505 and in Section 505.2 of the

1 Illinois Marriage and Dissolution of Marriage Act. For purposes  
2 of Section 505 of the Illinois Marriage and Dissolution of  
3 Marriage Act, "net income" of the non-custodial parent shall  
4 include any benefits available to that person under the  
5 Illinois Public Aid Code or from other federal, State or local  
6 government-funded programs. The court shall, in any event and  
7 regardless of the amount of the non-custodial parent's net  
8 income, in its judgment order the non-custodial parent to pay  
9 child support to the custodial parent in a minimum amount of  
10 not less than \$10 per month, as long as such an order is  
11 consistent with the requirements of Title IV, Part D of the  
12 Social Security Act. In an action brought within 2 years after  
13 a judicial determination of parentage ~~a child's birth~~, the  
14 judgment or order shall ~~may~~ direct either parent to pay the  
15 reasonable expenses incurred by either parent or the Department  
16 of Healthcare and Family Services related to the mother's  
17 pregnancy and the delivery of the child. The judgment or order  
18 shall contain the father's social security number, which the  
19 father shall disclose to the court; however, failure to include  
20 the father's social security number on the judgment or order  
21 does not invalidate the judgment or order.

22 (2) If a judgment of parentage contains no explicit award  
23 of custody, the establishment of a support obligation or of  
24 visitation rights in one parent shall be considered a judgment  
25 granting custody to the other parent. If the parentage judgment  
26 contains no such provisions, custody shall be presumed to be

1 with the mother; however, the presumption shall not apply if  
2 the father has had physical custody for at least 6 months prior  
3 to the date that the mother seeks to enforce custodial rights.

4 (b) The court shall order all child support payments,  
5 determined in accordance with such guidelines, to commence with  
6 the date summons is served. The level of current periodic  
7 support payments shall not be reduced because of payments set  
8 for the period prior to the date of entry of the support order.  
9 The Court may order any child support payments to be made for a  
10 period prior to the commencement of the action. In determining  
11 whether and the extent to which the payments shall be made for  
12 any prior period, the court shall consider all relevant facts,  
13 including the factors for determining the amount of support  
14 specified in the Illinois Marriage and Dissolution of Marriage  
15 Act and other equitable factors including but not limited to:

16 (1) The father's prior knowledge of the fact and  
17 circumstances of the child's birth.

18 (2) The father's prior willingness or refusal to help  
19 raise or support the child.

20 (3) The extent to which the mother or the public agency  
21 bringing the action previously informed the father of the  
22 child's needs or attempted to seek or require his help in  
23 raising or supporting the child.

24 (4) The reasons the mother or the public agency did not  
25 file the action earlier.

26 (5) The extent to which the father would be prejudiced

1 by the delay in bringing the action.

2 For purposes of determining the amount of child support to  
3 be paid for any period before the date the order for current  
4 child support is entered, there is a rebuttable presumption  
5 that the father's net income for the prior period was the same  
6 as his net income at the time the order for current child  
7 support is entered.

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

20 (c) Any new or existing support order entered by the court  
21 under this Section shall be deemed to be a series of judgments  
22 against the person obligated to pay support thereunder, each  
23 judgment to be in the amount of each payment or installment of  
24 support and each such judgment to be deemed entered as of the  
25 date the corresponding payment or installment becomes due under  
26 the terms of the support order. Each judgment shall have the

1 full force, effect and attributes of any other judgment of this  
2 State, including the ability to be enforced. A lien arises by  
3 operation of law against the real and personal property of the  
4 noncustodial parent for each installment of overdue support  
5 owed by the noncustodial parent.

6 (d) If the judgment or order of the court is at variance  
7 with the child's birth certificate, the court shall order that  
8 a new birth certificate be issued under the Vital Records Act.

9 (e) On request of the mother and the father, the court  
10 shall order a change in the child's name. After hearing  
11 evidence the court may stay payment of support during the  
12 period of the father's minority or period of disability.

13 (f) If, upon a showing of proper service, the father fails  
14 to appear in court, or otherwise appear as provided by law, the  
15 court may proceed to hear the cause upon testimony of the  
16 mother or other parties taken in open court and shall enter a  
17 judgment by default. The court may reserve any order as to the  
18 amount of child support until the father has received notice,  
19 by regular mail, of a hearing on the matter.

20 (g) A one-time charge of 20% is imposable upon the amount  
21 of past-due child support owed on July 1, 1988 which has  
22 accrued under a support order entered by the court. The charge  
23 shall be imposed in accordance with the provisions of Section  
24 10-21 of the Illinois Public Aid Code and shall be enforced by  
25 the court upon petition.

26 (h) All orders for support, when entered or modified, shall

1 include a provision requiring the non-custodial parent to  
2 notify the court and, in cases in which party is receiving  
3 child support enforcement services under Article X of the  
4 Illinois Public Aid Code, the Department of Healthcare and  
5 Family Services, within 7 days, (i) of the name and address of  
6 any new employer of the non-custodial parent, (ii) whether the  
7 non-custodial parent has access to health insurance coverage  
8 through the employer or other group coverage and, if so, the  
9 policy name and number and the names of persons covered under  
10 the policy, and (iii) of any new residential or mailing address  
11 or telephone number of the non-custodial parent. In any  
12 subsequent action to enforce a support order, upon a sufficient  
13 showing that a diligent effort has been made to ascertain the  
14 location of the non-custodial parent, service of process or  
15 provision of notice necessary in the case may be made at the  
16 last known address of the non-custodial parent in any manner  
17 expressly provided by the Code of Civil Procedure or this Act,  
18 which service shall be sufficient for purposes of due process.

19 (i) An order for support shall include a date on which the  
20 current support obligation terminates. The termination date  
21 shall be no earlier than the date on which the child covered by  
22 the order will attain the age of 18. However, if the child will  
23 not graduate from high school until after attaining the age of  
24 18, then the termination date shall be no earlier than the  
25 earlier of the date on which the child's high school graduation  
26 will occur or the date on which the child will attain the age

1 of 19. The order for support shall state that the termination  
2 date does not apply to any arrearage that may remain unpaid on  
3 that date. Nothing in this subsection shall be construed to  
4 prevent the court from modifying the order or terminating the  
5 order in the event the child is otherwise emancipated.

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



1 statement in the order for support does not affect the validity  
2 of the order or the operation of the provisions of this  
3 subsection with regard to the order. This subsection shall not  
4 be construed to prevent or affect the establishment or  
5 modification of an order for support of a minor child or the  
6 establishment or modification of an order for support of a  
7 non-minor child or educational expenses under Section 513 of  
8 the Illinois Marriage and Dissolution of Marriage Act.

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

1 endangered by disclosure of the party's address.

2 (Source: P.A. 94-923, eff. 1-1-07; 94-1061, eff. 1-1-07;

3 95-331, eff. 8-21-07.)