

(750 ILCS 5/505) (from Ch. 40, par. 505)

Sec. 505. Child support; contempt; penalties.

(a) In a proceeding for dissolution of marriage, legal separation, declaration of invalidity of marriage, a proceeding for child support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, a proceeding for modification of a previous order for child support under Section 510 of this Act, or any proceeding authorized under Section 501 or 601 of this Act, the court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable and necessary for his support, without regard to marital misconduct. The duty of support owed to a child includes the obligation to provide for the reasonable and necessary physical, mental and emotional health needs of the child. For purposes of this Section, the term "child" shall include any child under age 18 and any child under age 19 who is still attending high school.

(1) The Court shall determine the minimum amount of support by using the following guidelines:

Number of Children	Percent of Supporting Party's Net Income
1	20%
2	28%
3	32%
4	40%
5	45%
6 or more	50%

(2) The above guidelines shall be applied in each case unless the court makes a finding that application of the guidelines would be inappropriate, after considering the best interests of the child in light of evidence including but not limited to one or more of the following relevant factors:

- (a) the financial resources and needs of the child;
- (b) the financial resources and needs of the custodial parent;
- (c) the standard of living the child would have enjoyed had the marriage not been dissolved;
- (d) the physical and emotional condition of the child, and his educational needs; and
- (e) the financial resources and needs of the non-custodial parent.

If the court deviates from the guidelines, the court's finding shall state the amount of support that would have been required under the guidelines, if determinable. The court shall include the reason or reasons for the variance from the guidelines.

(3) "Net income" is defined as the total of all income from all sources, minus the following deductions:

- (a) Federal income tax (properly calculated withholding or estimated payments);
- (b) State income tax (properly calculated withholding or estimated payments);
- (c) Social Security (FICA payments);
- (d) Mandatory retirement contributions required

by law or as a condition of employment;

(e) Union dues;

(f) Dependent and individual health/hospitalization insurance premiums;

(g) Prior obligations of support or maintenance actually paid pursuant to a court order;

(h) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income, medical expenditures necessary to preserve life or health, reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts. The court shall reduce net income in determining the minimum amount of support to be ordered only for the period that such payments are due and shall enter an order containing provisions for its self-executing modification upon termination of such payment period;

(i) Foster care payments paid by the Department of Children and Family Services for providing licensed foster care to a foster child.

(4) In cases where the court order provides for health/hospitalization insurance coverage pursuant to Section 505.2 of this Act, the premiums for that insurance, or that portion of the premiums for which the supporting party is responsible in the case of insurance provided through an employer's health insurance plan where the employer pays a portion of the premiums, shall be subtracted from net income in determining the minimum amount of support to be ordered.

(4.5) In a proceeding for child support following dissolution of the marriage by a court that lacked personal jurisdiction over the absent spouse, and in which the court is requiring payment of support for the period before the date an order for current support is entered, there is a rebuttable presumption that the supporting party's net income for the prior period was the same as his or her net income at the time the order for current support is entered.

(5) If the net income cannot be determined because of default or any other reason, the court shall order support in an amount considered reasonable in the particular case. The final order in all cases shall state the support level in dollar amounts. However, if the court finds that the child support amount cannot be expressed exclusively as a dollar amount because all or a portion of the payor's net income is uncertain as to source, time of payment, or amount, the court may order a percentage amount of support in addition to a specific dollar amount and enter such other orders as may be necessary to determine and enforce, on a timely basis, the applicable support ordered.

(6) If (i) the non-custodial parent was properly served with a request for discovery of financial information relating to the non-custodial parent's ability to provide child support, (ii) the non-custodial parent failed to comply with the request, despite having been ordered to do so by the court, and (iii) the non-custodial parent is not present at the hearing to determine support

despite having received proper notice, then any relevant financial information concerning the non-custodial parent's ability to provide child support that was obtained pursuant to subpoena and proper notice shall be admitted into evidence without the need to establish any further foundation for its admission.

(a-5) In an action to enforce an order for support based on the respondent's failure to make support payments as required by the order, notice of proceedings to hold the respondent in contempt for that failure may be served on the respondent by personal service or by regular mail addressed to the respondent's last known address. The respondent's last known address may be determined from records of the clerk of the court, from the Federal Case Registry of Child Support Orders, or by any other reasonable means.

(b) Failure of either parent to comply with an order to pay support shall be punishable as in other cases of contempt. In addition to other penalties provided by law the Court may, after finding the parent guilty of contempt, order that the parent be:

(1) placed on probation with such conditions of probation as the Court deems advisable;

(2) sentenced to periodic imprisonment for a period not to exceed 6 months; provided, however, that the Court may permit the parent to be released for periods of time during the day or night to:

(A) work; or

(B) conduct a business or other self-employed occupation.

The Court may further order any part or all of the earnings of a parent during a sentence of periodic imprisonment paid to the Clerk of the Circuit Court or to the parent having custody or to the guardian having custody of the children of the sentenced parent for the support of said children until further order of the Court.

If there is a unity of interest and ownership sufficient to render no financial separation between a non-custodial parent and another person or persons or business entity, the court may pierce the ownership veil of the person, persons, or business entity to discover assets of the non-custodial parent held in the name of that person, those persons, or that business entity. The following circumstances are sufficient to authorize a court to order discovery of the assets of a person, persons, or business entity and to compel the application of any discovered assets toward payment on the judgment for support:

(1) the non-custodial parent and the person, persons, or business entity maintain records together.

(2) the non-custodial parent and the person, persons, or business entity fail to maintain an arms length relationship between themselves with regard to any assets.

(3) the non-custodial parent transfers assets to the person, persons, or business entity with the intent to perpetrate a fraud on the custodial parent.

With respect to assets which are real property, no order entered under this paragraph shall affect the rights of bona fide purchasers, mortgagees, judgment creditors, or other lien

holders who acquire their interests in the property prior to the time a notice of lis pendens pursuant to the Code of Civil Procedure or a copy of the order is placed of record in the office of the recorder of deeds for the county in which the real property is located.

The court may also order in cases where the parent is 90 days or more delinquent in payment of support or has been adjudicated in arrears in an amount equal to 90 days obligation or more, that the parent's Illinois driving privileges be suspended until the court determines that the parent is in compliance with the order of support. The court may also order that the parent be issued a family financial responsibility driving permit that would allow limited driving privileges for employment and medical purposes in accordance with Section 7-702.1 of the Illinois Vehicle Code. The clerk of the circuit court shall certify the order suspending the driving privileges of the parent or granting the issuance of a family financial responsibility driving permit to the Secretary of State on forms prescribed by the Secretary. Upon receipt of the authenticated documents, the Secretary of State shall suspend the parent's driving privileges until further order of the court and shall, if ordered by the court, subject to the provisions of Section 7-702.1 of the Illinois Vehicle Code, issue a family financial responsibility driving permit to the parent.

In addition to the penalties or punishment that may be imposed under this Section, any person whose conduct constitutes a violation of Section 15 of the Non-Support Punishment Act may be prosecuted under that Act, and a person convicted under that Act may be sentenced in accordance with that Act. The sentence may include but need not be limited to a requirement that the person perform community service under Section 50 of that Act or participate in a work alternative program under Section 50 of that Act. A person may not be required to participate in a work alternative program under Section 50 of that Act if the person is currently participating in a work program pursuant to Section 505.1 of this Act.

A support obligation, or any portion of a support obligation, which becomes due and remains unpaid as of the end of each month, excluding the child support that was due for that month to the extent that it was not paid in that month, shall accrue simple interest as set forth in Section 12-109 of the Code of Civil Procedure. An order for support entered or modified on or after January 1, 2006 shall contain a statement that a support obligation required under the order, or any portion of a support obligation required under the order, that becomes due and remains unpaid as of the end of each month, excluding the child support that was due for that month to the extent that it was not paid in that month, shall accrue simple interest as set forth in Section 12-109 of the Code of Civil Procedure. Failure to include the statement in the order for support does not affect the validity of the order or the accrual of interest as provided in this Section.

(c) A one-time charge of 20% is imposable upon the amount of past-due child support owed on July 1, 1988 which has accrued under a support order entered by the court. The charge

shall be imposed in accordance with the provisions of Section 10-21 of the Illinois Public Aid Code and shall be enforced by the court upon petition.

(d) Any new or existing support order entered by the court under this Section shall be deemed to be a series of judgments against the person obligated to pay support thereunder, each such judgment to be in the amount of each payment or installment of support and each such judgment to be deemed entered as of the date the corresponding payment or installment becomes due under the terms of the support order. Each such judgment shall have the full force, effect and attributes of any other judgment of this State, including the ability to be enforced. A lien arises by operation of law against the real and personal property of the noncustodial parent for each installment of overdue support owed by the noncustodial parent.

(e) When child support is to be paid through the clerk of the court in a county of 1,000,000 inhabitants or less, the order shall direct the obligor to pay to the clerk, in addition to the child support payments, all fees imposed by the county board under paragraph (3) of subsection (u) of Section 27.1 of the Clerks of Courts Act. Unless paid in cash or pursuant to an order for withholding, the payment of the fee shall be by a separate instrument from the support payment and shall be made to the order of the Clerk.

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

(g) An order for support shall include a date on which the current support obligation terminates. The termination date shall be no earlier than the date on which the child covered by the order will attain the age of 18. However, if the child will not graduate from high school until after attaining the age of 18, then the termination date shall be no earlier than the earlier of the date on which the child's high school graduation will occur or the date on which the child will attain the age of 19. The order for support shall state that the termination date does not apply to any arrearage that may remain unpaid on that date. Nothing in this subsection shall be construed to prevent the court from modifying the order or terminating the order in the event the child is otherwise

emancipated.

(g-5) If there is an unpaid arrearage or delinquency (as those terms are defined in the Income Withholding for Support Act) equal to at least one month's support obligation on the termination date stated in the order for support or, if there is no termination date stated in the order, on the date the child attains the age of majority or is otherwise emancipated, the periodic amount required to be paid for current support of that child immediately prior to that date shall automatically continue to be an obligation, not as current support but as periodic payment toward satisfaction of the unpaid arrearage or delinquency. That periodic payment shall be in addition to any periodic payment previously required for satisfaction of the arrearage or delinquency. The total periodic amount to be paid toward satisfaction of the arrearage or delinquency may be enforced and collected by any method provided by law for enforcement and collection of child support, including but not limited to income withholding under the Income Withholding for Support Act. Each order for support entered or modified on or after the effective date of this amendatory Act of the 93rd General Assembly must contain a statement notifying the parties of the requirements of this subsection. Failure to include the statement in the order for support does not affect the validity of the order or the operation of the provisions of this subsection with regard to the order. This subsection shall not be construed to prevent or affect the establishment or modification of an order for support of a minor child or the establishment or modification of an order for support of a non-minor child or educational expenses under Section 513 of this Act.

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

(i) The court does not lose the powers of contempt, driver's license suspension, or other child support enforcement mechanisms, including, but not limited to, criminal prosecution as set forth in this Act, upon the emancipation of the minor child or children.

(Source: P.A. 95-331, eff. 8-21-07; 96-1134, eff. 7-21-10.)

(750 ILCS 5/505.2) (from Ch. 40, par. 505.2)

Sec. 505.2. Health insurance.

(a) Definitions. As used in this Section:

(1) "Obligee" means the individual to whom the duty of support is owed or the individual's legal representative.

(2) "Obligor" means the individual who owes a duty of support pursuant to an order for support.

(3) "Public office" means any elected official or any State or local agency which is or may become responsible by law for enforcement of, or which is or may become authorized to enforce, an order for support, including, but not limited to: the Attorney General, the Illinois Department of Healthcare and Family Services, the Illinois Department of Human Services, the Illinois Department of Children and Family Services, and the various State's Attorneys, Clerks of the Circuit Court and supervisors of general assistance.

(4) "Child" shall have the meaning ascribed to it in Section 505.

(b) Order.

(1) Whenever the court establishes, modifies or enforces an order for child support or for child support and maintenance the court shall include in the order a provision for the health care coverage of the child which shall, upon request of the obligee or Public Office, require that any child covered by the order be named as a beneficiary of any health insurance plan that is available to the obligor through an employer or labor union or trade union. If the court finds that such a plan is not available to the obligor, or that the plan is not accessible to the obligee, the court may, upon request of the obligee or Public Office, order the obligor to name the child covered by the order as a beneficiary of any health insurance plan that is available to the obligor on a group basis, or as a beneficiary of an independent health insurance plan to be obtained by the obligor, after considering the following factors:

(A) the medical needs of the child;

(B) the availability of a plan to meet those needs; and

(C) the cost of such a plan to the obligor.

(2) If the employer or labor union or trade union offers more than one plan, the order shall require the obligor to name the child as a beneficiary of the plan in which the obligor is enrolled.

(3) Nothing in this Section shall be construed to limit the authority of the court to establish or modify a support order to provide for payment of expenses, including deductibles, copayments and any other health expenses, which are in addition to expenses covered by an insurance plan of which a child is ordered to be named a beneficiary pursuant to this Section.

(c) Implementation and enforcement.

(1) When the court order requires that a minor child be named as a beneficiary of a health insurance plan,

other than a health insurance plan available through an employer or labor union or trade union, the obligor shall provide written proof to the obligee or Public Office that the required insurance has been obtained, or that application for insurability has been made, within 30 days of receiving notice of the court order. Unless the obligor was present in court when the order was issued, notice of the order shall be given pursuant to Illinois Supreme Court Rules. If an obligor fails to provide the required proof, he may be held in contempt of court.

(2) When the court requires that a child be named as a beneficiary of a health insurance plan available through an employer or labor union or trade union, the court's order shall be implemented in accordance with the Income Withholding for Support Act.

(2.5) The court shall order the obligor to reimburse the obligee for 50% of the premium for placing the child on his or her health insurance policy if:

(i) a health insurance plan is not available to the obligor through an employer or labor union or trade union and the court does not order the obligor to cover the child as a beneficiary of any health insurance plan that is available to the obligor on a group basis or as a beneficiary of an independent health insurance plan to be obtained by the obligor; or

(ii) the obligor does not obtain medical insurance for the child within 90 days of the date of the court order requiring the obligor to obtain insurance for the child.

The provisions of subparagraph (i) of paragraph 2.5 of subsection (c) shall be applied, unless the court makes a finding that to apply those provisions would be inappropriate after considering all of the factors listed in paragraph 2 of subsection (a) of Section 505.

The court may order the obligor to reimburse the obligee for 100% of the premium for placing the child on his or her health insurance policy.

(d) Failure to maintain insurance. The dollar amount of the premiums for court-ordered health insurance, or that portion of the premiums for which the obligor is responsible in the case of insurance provided under a group health insurance plan through an employer or labor union or trade union where the employer or labor union or trade union pays a portion of the premiums, shall be considered an additional child support obligation owed by the obligor. Whenever the obligor fails to provide or maintain health insurance pursuant to an order for support, the obligor shall be liable to the obligee for the dollar amount of the premiums which were not paid, and shall also be liable for all medical expenses incurred by the child which would have been paid or reimbursed by the health insurance which the obligor was ordered to provide or maintain. In addition, the obligee may petition the court to modify the order based solely on the obligor's failure to pay the premiums for court-ordered health insurance.

(e) Authorization for payment. The signature of the

obligee is a valid authorization to the insurer to process a claim for payment under the insurance plan to the provider of the health care services or to the obligee.

(f) Disclosure of information. The obligor's employer or labor union or trade union shall disclose to the obligee or Public Office, upon request, information concerning any dependent coverage plans which would be made available to a new employee or labor union member or trade union member. The employer or labor union or trade union shall disclose such information whether or not a court order for medical support has been entered.

(g) Employer obligations. If a parent is required by an order for support to provide coverage for a child's health care expenses and if that coverage is available to the parent through an employer who does business in this State, the employer must do all of the following upon receipt of a copy of the order of support or order for withholding:

(1) The employer shall, upon the parent's request, permit the parent to include in that coverage a child who is otherwise eligible for that coverage, without regard to any enrollment season restrictions that might otherwise be applicable as to the time period within which the child may be added to that coverage.

(2) If the parent has health care coverage through the employer but fails to apply for coverage of the child, the employer shall include the child in the parent's coverage upon application by the child's other parent or the Department of Healthcare and Family Services.

(3) The employer may not eliminate any child from the parent's health care coverage unless the employee is no longer employed by the employer and no longer covered under the employer's group health plan or unless the employer is provided with satisfactory written evidence of either of the following:

(A) The order for support is no longer in effect.

(B) The child is or will be included in a comparable health care plan obtained by the parent under such order that is currently in effect or will take effect no later than the date the prior coverage is terminated.

The employer may eliminate a child from a parent's health care plan obtained by the parent under such order if the employer has eliminated dependent health care coverage for all of its employees.

(Source: P.A. 94-923, eff. 1-1-07; 95-331, eff. 8-21-07.)