Illinois Marriage and Dissolution of Marriage Act – Effective 1/1/16 with Technical Corrections Effective 1/1/17 and Income Shares

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Summary: Illinois Marriage and Dissolution of Marriage Act Based on PA 99-90. The technical corrections legislation have now been signed into law. Note that this summary underlines the additional language in PA-99-90 but generally for the sake of readability it does not include those strike-throughs for those portions removed. [The highlighted language that is either bracketed or contains a separate courier font addresses the prospective technical corrections with HB 3898 (and in italics and yellow highlighter per the income shares legislation)].

See: http://www.ilga.gov/legislation/publicacts/99/PDF/099-0090.pdf (Public Act 99-90 pdf)

Three New Illinois Family Law Acts Signed into Law August 2016:
HB 3898 / Pub. Act 99-0763 (eff. Jan 1, 2017): IMDMA Technical Corrections Omnibus Bill
Note: Senate Amendments 1 and 2.
Amendment to HB 3898:
http://www.ilga.gov/legislation/99/HB/PDF/09900HB3898sam001.pdf

HB 3982 / Pub. Act 99-0764 (eff. Jul 1, 2018): Income Shares Model – Amendments to Section 505 (re child support).

HB 4447 / Pub. Act 99-0769: Parentage Act of 2015 Technical Corrections Omnibus Bill

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See also: HB 3898: Non-employee withholding
http://www.ilga.gov/legislation/BillStatus.asp?DocNum=3898&GAID=13&DocTypeID=HB&LegId=90111&SessionID=88&GA=99

(750 ILCS 5/Pt. I heading)

PART I – GENERAL PROVISIONS

(750 ILCS 5/101) (from Ch. 40, par. 101)

Sec. 101. **Short Title**.) This Act may be cited as the **"Illinois Marriage and Dissolution of Marriage Act".** (Source: P.A. 86-649.)

(Text of Section after amendment by P.A. 99-90)

Sec. 102. **Purposes; Rules of Construction**. This Act shall be liberally construed and applied to promote its underlying purposes, which are to:

(1) provide adequate procedures for the solemnization and registration of marriage;

(2) strengthen and preserve the integrity of marriage and safeguard family relationships;

(3) promote the amicable settlement of disputes that have arisen between parties to a marriage;

(4) mitigate the potential harm to spouses and their children caused by the process of an action brought under this Act, and protect children from exposure to conflict and violence;

(5) ensure predictable decision-making for the care of children and for the allocation of parenting time and other parental responsibilities, and avoid prolonged uncertainty by expeditiously resolving issues involving children;

(6) recognize the right of children to a healthy relationship with parents, and the responsibility of parents to ensure such a relationship;

(7) acknowledge that the determination of children's best interests, and the allocation of parenting time and significant decision-making responsibilities, are among the paramount responsibilities of our system of justice, and to that end:

(A) recognize children's right to a strong and healthy relationship with parents, and parents' concomitant right and responsibility to create and maintain such relationships;

(B) recognize that, in the absence of domestic violence or any other factor that the court expressly finds to be relevant, proximity to, and frequent contact with, both parents promotes healthy development of children;

(C) facilitate parental planning and agreement about the children's upbringing and allocation of parenting time and other parental responsibilities;

(D) continue existing parent-child relationships, and secure the maximum involvement and cooperation of parents regarding the physical, mental, moral, and emotional well-being of the children during and after the litigation; and

(E) promote or order parents to participate in programs designed to educate parents to:

(i) minimize or eliminate rancor and the detrimental effect of litigation in any proceeding involving children; and

(ii) facilitate the maximum cooperation of parents in raising their children;

(8) make reasonable provision for support during and after an underlying dissolution of marriage, legal separation, parentage, or parental responsibility allocation action, including provision for timely advances of interim fees and costs to all attorneys, experts, and opinion witnesses including guardians ad litem and children's representatives, to achieve substantial parity in parties' access to funds for **pre-judgment litigation costs** in an action for dissolution of marriage or legal separation;

(9) eliminate the consideration of marital misconduct in the adjudication of rights and duties incident to dissolution of marriage, legal separation and declaration of invalidity of marriage; and

(10) make provision for the preservation and conservation of marital assets during the litigation. (Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/103) (from Ch. 40, par. 103)

Sec. 103. Trial by Jury.) There shall be no trial by jury under this Act. (Source: P.A. 80-923.)

(750 ILCS 5/104) (from Ch. 40, par. 104)

(Text of Section after amendment by P.A. 99-90)

Sec. 104. **Venue**. The proceedings shall be had in the county where the plaintiff or defendant resides, except as otherwise provided herein, but process may be directed to any county in the State. Objection to venue is barred if not made within such time as the defendant's response is due. In no event shall venue be deemed jurisdictional.

In any case brought pursuant to this Act where neither the petitioner nor respondent resides in the county in which the initial pleading is filed, the petitioner shall file with the initial pleading a written motion, which shall be set for hearing and ruled upon before any other issue is taken up, advising that the forum selected is not one of proper venue and seeking an appropriate order from the court allowing a waiver of the venue requirements of this Section.

(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/105) (from Ch. 40, par. 105)

(Text of Section after amendment by P.A. 99-90)

Sec. 105. **Application of Civil Practice Law**.)

(a) The provisions of the Civil Practice Law shall apply to all proceedings under this Act, except as otherwise provided in this Act.

(b) A proceeding for dissolution of marriage, legal separation or declaration of invalidity of marriage shall be entitled "In re the Marriage of ... and ...". A parental responsibility allocation or support proceeding shall be entitled "In re the (Parental Responsibility) (Support) of ...".

(c) The initial pleading in all proceedings under this Act shall be denominated a petition. A responsive pleading shall be denominated a response. If new matter by way of defense is pleaded in the response, a reply may be filed by the petitioner, but the failure to reply is not an admission of the legal sufficiency of the new matter. All other pleadings under this Act shall be denominated as provided in the Civil Practice Law.

(d) As used in this Section, "pleadings" includes any petition or motion filed in the dissolution of marriage case which, if independently filed, would constitute a separate cause of action, including, but not limited to, actions for declaratory judgment, injunctive relief, and orders of protection. Actions under this subsection are subject to motions filed pursuant to Sections 2-615 and 2-619 of the Code of Civil Procedure.

(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/106) (from Ch. 40, par. 106) Sec. 106. Employment of Administrative Aides.) ***

(Text of Section after amendment by P.A. 99-90)

Sec. 107. **Order of protection; status**. Whenever relief is sought under Part V, Part VI or Part VII of this Act, the court shall inquire and parties shall advise the court whether any order of protection has

previously been entered in the instant proceeding or any other proceeding in which any party, or a child of any party, or both, if relevant, has been designated as either a petitioner, respondent, or protected person.
(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/Pt. II heading)
PART II – MARRIAGE

(750 ILCS 5/201) (from Ch. 40, par. 201)
Sec. 201. **Formalities**.) A marriage between 2 persons licensed, solemnized and registered as provided in this Act is valid in this State.
(Source: P.A. 98-597, eff. 6-1-14.)

(750 ILCS 5/202) (from Ch. 40, par. 202)
Sec. 202. Marriage License and Marriage Certificate.) ***

(750 ILCS 5/209) (from Ch. 40, par. 209)
(Text of Section after amendment by P.A. 99-90)
Sec. 209. **Solemnization and Registration**. ***

(750 ILCS 5/212) (from Ch. 40, par. 212)
Sec. 212. Prohibited Marriages.
(a) The following marriages are prohibited:
(1) a marriage entered into prior to the dissolution of an earlier marriage, civil union, or substantially similar legal relationship of one of the parties, unless the parties to the marriage are the same as the parties to a civil union and are seeking to convert their civil union to a marriage pursuant to Section 65 of the Illinois Religious Freedom Protection and Civil Union Act;
(2) a marriage between an ancestor and a descendant or between siblings, whether the relationship is by the half or the whole blood or by adoption;
(3) a marriage between an uncle and a niece, between an uncle and a nephew, between an aunt and a nephew, or between an aunt and a niece, whether the relationship is by the half or the whole blood;
(4) a marriage between cousins of the first degree; however, a marriage between first cousins is not prohibited if:
(i) both parties are 50 years of age or older; or
(ii) either party, at the time of application for a marriage license, presents for filing with the county clerk of the county in which the marriage is to be solemnized, a certificate signed by a licensed physician stating that the party to the proposed marriage is permanently and irreversibly sterile;
(5) (blank).
(b) Parties to a marriage prohibited under subsection (a) of this Section who cohabit after removal of the impediment are lawfully married as of the date of the removal of the impediment.
(c) Children born or adopted of a prohibited or common law marriage are the lawful children of the parties.
(**Source: P.A. 98-597, eff. 6-1-14.)**

(750 ILCS 5/216) (from Ch. 40, par. 216)

Sec. 216. Prohibited Marriages Void if Contracted in Another State.) That if any person residing and intending to continue to reside in this state and who is a person with a disability or prohibited from contracting marriage under the laws of this state, shall go into another state or country and there contract a marriage prohibited and declared void by the laws of this state, such marriage shall be null and void for all purposes in this state with the same effect as though such prohibited marriage had been entered into in this state.
(Source: P.A. 99-143, eff. 7-27-15.)

(750 ILCS 5/220)
Sec. 220. **Consent to jurisdiction**. Members of a same-sex couple who enter into a marriage in this State consent to the jurisdiction of the courts of this State for the purpose of any action relating to the marriage, even if one or both parties cease to reside in this State. A court shall enter a judgment of dissolution of marriage if, at the time the action is commenced, it meets the grounds for dissolution of marriage set forth in this Act.
(Source: P.A. 98-597, eff. 6-1-14; 99-78, eff. 7-20-15.)

(750 ILCS 5/Pt. III heading)
PART III – DECLARATION OF INVALIDITY OF MARRIAGE

(750 ILCS 5/304) (from Ch. 40, par. 304)
(Text of Section after amendment by P.A. 99-90)
Sec. 304. **Retroactivity**. Unless the court finds, after a consideration of all relevant circumstances, including the effect of a retroactive judgment on third parties, that the interests of justice would be served by making the judgment not retroactive, it shall declare the marriage invalid as of the date of the marriage. The provisions of this Act relating to property rights of the spouses, maintenance, support of children, and allocation of parental responsibilities on dissolution of marriage are applicable to non-retroactive judgments of invalidity of marriage only.
(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/Pt. IV heading)
PART IV – DISSOLUTION AND LEGAL SEPARATION

(750 ILCS 5/401) (from Ch. 40, par. 401)
(Text of Section after amendment by P.A. 99-90)
Sec. 401. **Dissolution of marriage**.
(a) **[Residency and Pure No Fault]** The court shall enter a judgment of dissolution of marriage when at the time the action was commenced one of the spouses was a resident of this State or was stationed in this State while a member of the armed services, and the residence or military presence had been maintained for 90 days next preceding the commencement of the action or the making of the finding:
Irreconcilable differences have caused the irretrievable breakdown of the marriage and the court determines that efforts at reconciliation have failed or that future attempts at reconciliation would be impracticable and not in the best interests of the family.

(a-5) **[No Fault – Irrebuttable Presumption]** If the parties live separate and apart for a continuous period of not less than 6 months immediately preceding the entry of the judgment dissolving the marriage, there is an irrebuttable presumption that the requirement of irreconcilable differences has been met.

(b) Judgment shall not be entered unless, to the extent it has jurisdiction to do so, the court has considered, approved, reserved or made provision for the *allocation of parental responsibilities*, the support of any child of the marriage entitled to support, the maintenance of either spouse and the disposition of property. The court *shall* enter a judgment for dissolution that reserves any of these issues either upon (i) agreement of the parties, or (ii) motion of either party and a finding by the court that appropriate circumstances exist.

The death of a party subsequent to entry of a judgment for dissolution but before judgment on reserved issues shall not abate the proceedings.

If any provision of this Section or its application shall be adjudged unconstitutional or invalid for any reason by any court of competent jurisdiction, that judgment shall not impair, affect or invalidate any other provision or application of this Section, which shall remain in full force and effect.
(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/402) (from Ch. 40, par. 402)
(Text of Section after amendment by P.A. 99-90)
Sec. 402. **Legal Separation**.

(a) Any person living separate and apart from his or her spouse ~~without fault~~ may have a remedy for reasonable support and maintenance while they so live apart.

(b) Such action shall be brought in the circuit court of the county in which the petitioner or respondent resides or in which the parties last resided together as husband and wife. Commencement of the action, temporary relief and trials shall be the same as in actions for dissolution of marriage, except that temporary relief in an action for legal separation shall be limited to the relief set forth in subdivision (a)(1) and items (ii), (iii), and (iv) of subdivision (a)(2) of Section 501. If the court deems it appropriate to enter a judgment for legal separation, the court shall consider the applicable factors in Section 504 in awarding maintenance. If the court deems it appropriate to enter a judgment for legal separation, the court may approve a property settlement agreement that the parties have requested the court to incorporate into the judgment, subject to the following provisions:

(1) the court may not value or allocate property in the absence of such an agreement;

(2) the court may disapprove such an agreement only if it finds that the agreement is unconscionable; and

(3) such an agreement is final and non-modifiable.

(c) A proceeding or judgment for legal separation shall not bar either party from instituting an action for dissolution of marriage, and if the party so moving has met the requirements of Section 401, a judgment for dissolution shall be granted. Absent an agreement set forth in a separation agreement that provides for non-modifiable permanent maintenance, if a party to a judgment for legal separation files an action for dissolution of marriage, the issues of temporary and permanent maintenance shall be decided de novo.
(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/403) (from Ch. 40, par. 403)

(Text of Section after amendment by P.A. 99-90)

Sec. 403. **Pleadings - Commencement - Abolition of Existing Defenses - Procedure**.

(a) The complaint or petition for dissolution of marriage *or legal separation* shall be verified and shall minimally set forth:

(1) the age, occupation and residence of each party and his length of residence in this State;

(2) the date of the marriage and the place at which it was registered;

(2.5) whether a petition for dissolution of marriage is pending in any other county or state;

(3) that the jurisdictional requirements of subsection (a) of Section 401 have been met and that irreconcilable differences have caused the irretrievable breakdown of the marriage;

(4) the names, ages and addresses of all living children of the marriage and whether a spouse is pregnant;

(5) any arrangements as to support, allocation of parental responsibility of the children and maintenance of a spouse; and

(6) the relief sought.

(b) Either or both parties to the marriage may initiate the proceeding.

(c) (Blank).

(d) The court may join additional parties necessary and proper for the exercise of its authority under this Act.

(e) Contested trials shall be on a bifurcated basis with the issue of whether irreconcilable differences have caused the irretrievable breakdown of the marriage, as described in Section 401, being tried first, regardless of whether that issue is contested or uncontested. Upon the court determining that irreconcilable differences have caused the irretrievable breakdown of the marriage, the court may allow additional time for the parties to settle amicably the remaining issues before resuming the trial, or may proceed immediately to trial on the remaining issues. The court has the discretion to use the date of the trial or such other date as agreed upon by the parties, or ordered by the court within its discretion, for purposes of determining the value of assets or property. In cases where the requirements of Section 401 are uncontested and proved as in cases of default, the trial on all other remaining issues shall proceed immediately, if so ordered by the court or if the parties so stipulate. Except as provided in subsection (b) of Section 401, the court shall enter a judgment of dissolution of marriage, including an order dissolving the marriage, incorporation of a marital settlement agreement if applicable, and any other appropriate findings or orders, only at the conclusion of the case and not after hearing only the testimony as to whether irreconcilable differences have caused the irretrievable breakdown of the marriage.

(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/404) (from Ch. 40, par. 404)

(Text of Section after amendment by P.A. 99-90)

Sec. 404. **Conciliation**.

(a) If the court concludes that there is a prospect of reconciliation, the court, at the request of either party, or on its own motion, may order a conciliation conference. The conciliation conference and counseling shall take place at the established court conciliation service of that judicial district or at any similar service or facility where no court conciliation service has been established.

(b) The facts adduced at any conciliation conference resulting from a referral hereunder, shall not be considered in the adjudication of a pending or subsequent action, nor shall any report resulting from such conference become part of the record of the case unless the parties have stipulated in writing to the contrary.

The court, upon good cause shown, may prohibit conciliation or other process that requires the parties to meet and confer without counsel.
(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/405) (from Ch. 40, par. 405)
(Text of Section after amendment by P.A. 99-90)
Sec. 405. **Hearing on Default - Notice**. If the respondent is in default, the court shall proceed to hear the cause upon testimony of petitioner taken in open court, and in no case of default shall the court grant a dissolution of marriage or legal separation or declaration of invalidity of marriage, unless the judge is satisfied that all proper means have been taken to notify the respondent of the pendency of the suit. Whenever the judge is satisfied that the interests of the respondent require it, the court may order such additional notice as may be required. All of the provisions of the Code of Civil Procedure relating to default hearings are applicable to hearings on default.
(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/406) (from Ch. 40, par. 406)
(Section scheduled to be repealed on January 1, 2016)
Sec. 406. **Fault or Conduct of Petitioner**.) ***
(Source: P.A. 81-231. Repealed by P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/407) (from Ch. 40, par. 407)
(Section scheduled to be repealed on January 1, 2016)
Sec. 407. **Admission of Respondent**.) ***
(Source: P.A. 84-551. Repealed by P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/408) (from Ch. 40, par. 408)
(Section scheduled to be repealed on January 1, 2016)
Sec. 408. **Collusion - Assent or Consent of Petitioner.)** ***
(Source: P.A. 80-923. Repealed by P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/409) (from Ch. 40, par. 409)
(Text of Section after amendment by P.A. 99-90)
Sec. 409. **Proof of Foreign Marriage**. *** (Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/410) (from Ch. 40, par. 410)
Sec. 410. **Process - Practice - Proceedings - Publication**.) ***

(750 ILCS 5/411) (from Ch. 40, par. 411)
(Text of Section after amendment by P.A. 99-90)
Sec. 411. **Commencement of Action**.
(a) Actions for dissolution of marriage or legal separation shall be commenced as in other civil cases or, at the option of petitioner, by filing a praecipe for summons with the clerk of the court and paying the regular filing fees, in which latter case, a petition shall be filed within 6 months thereafter*, or any extension for good cause shown granted by the court.*
(b) When a praecipe for summons is filed without the petition, the summons shall recite that petitioner has commenced suit for dissolution of marriage or legal separation and shall require the

respondent to file his or her appearance not later than 30 days from the day the summons is served and to plead to the petitioner's petition within 30 days from the day the petition is filed.

Until a petition has been filed, the court, pursuant to subsections (c) and (d) herein, may dismiss the suit, order the filing of a petition, or grant leave to the respondent to file a petition in the nature of a counter petition.

After the filing of the petition, the party filing the same shall, within 2 days, serve a copy thereof upon the other party, in the manner provided by rule of the Supreme Court for service of notices in other civil cases.

(c) Unless a respondent voluntarily files an appearance, a praecipe for summons filed without the petition shall be served on the respondent not later than 30 days after its issuance, and upon failure to obtain service upon the respondent within the 30 day period, or any extension for good cause shown granted by the court, the court shall dismiss the suit.

(d) An action for dissolution of marriage or legal separation commenced by the filing a praecipe for summons without the petition *may* be dismissed if a petition for dissolution of marriage or legal separation has not been filed within 6 months after the commencement of the action or within the extension granted under subsection (a) of this Section.

(e) The filing of a praecipe for summons under this Section constitutes the commencement of an action that serves as grounds for involuntary dismissal under subdivision (a)(3) of Section 2-619 of the Code of Civil Procedure of a subsequently filed petition for dissolution of marriage or legal separation in another county.

(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/413) (from Ch. 40, par. 413)

(Text of Section after amendment by P.A. 99-90)

Sec. 413. **Judgment**.

(a) **[Judgment to be Entered within 60 Days of Close of Proofs / Appeals Generally]** A judgment of dissolution of marriage or of legal separation or of declaration of invalidity of marriage shall be entered within 60 days of the closing of proofs; however, if the court enters an order specifying good cause as to why the court needs an additional 30 days, the judgment shall be entered within 90 days of the closing of proofs, including any hearing under subsection (j) of Section 503 of this Act and submission of closing arguments. A judgment of dissolution of marriage or of legal separation or of declaration of invalidity of marriage is final when entered, subject to the right of appeal. An appeal from the judgment of dissolution of marriage that does not challenge the finding as to grounds does not delay the finality of that provision of the judgment which dissolves the marriage, beyond the time for appealing from that provision, and either of the parties may remarry pending appeal. An order requiring maintenance or support of a spouse or a minor child or children entered under this Act or any other law of this State shall not be suspended or the enforcement thereof stayed pending the filing and resolution of post-judgment motions or an appeal.

(b) The clerk of the court shall ***

(c) Upon request by a wife whose marriage is dissolved or declared invalid, the court shall order her maiden name or a former name restored.

(d) A judgment of dissolution of marriage or legal separation, if made, shall be awarded to both of the parties, and shall provide that it affects the status previously existing between the parties in the manner adjudged.

(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/452)
Sec. 452. **Petition**. The parties to a dissolution proceeding may file a **joint petition for simplified dissolution** if they certify that all of the following conditions exist when the proceeding is commenced:
(a) Neither party is dependent on the other party for support or each party is willing to waive the right to support; and the parties understand that consultation with attorneys may help them determine eligibility for spousal support.
(b) Either party has met the residency or military presence requirement of Section 401 of this Act.
(c) The requirements of Section 401 regarding proof of irreconcilable differences have been met.
(d) No children were born of the relationship of the parties or adopted by the parties during the marriage, and the wife, to her knowledge, is not pregnant by the husband. (e) The duration of the marriage does not exceed 8 years.
(f) Neither party has any interest in real property or retirement benefits unless the retirement benefits are exclusively held in individual retirement accounts and the combined value of the accounts is less than $10,000.
(g) The parties waive any rights to maintenance.
(h) The total fair market value of all marital property, after deducting all encumbrances, is less than $50,000, the combined gross annualized income from all sources is less than $60,000, and neither party has a gross annualized income from all sources in excess of $30,000.
(i) The parties have disclosed to each other all assets and liabilities and their tax returns for all years of the marriage.
(j) The parties have executed a written agreement dividing all assets in excess of $100 in value and allocating responsibility for debts and liabilities between the parties.

(750 ILCS 5/Pt. IV-A heading)
PART IV-A: JOINT SIMPLIFIED DISSOLUTION PROCEDURE ***

(750 ILCS 5/Pt. V heading)
PART V – PROPERTY, SUPPORT AND ATTORNEY FEES

(750 ILCS 5/501) (from Ch. 40, par. 501)
(Text of Section after amendment by P.A. 99-90)
Sec. 501. **Temporary Relief**. In all proceedings under this Act, temporary relief shall be as follows:
(a) [Petitions] Either party may petition or move for:
(1) [Temporary Maintenance or Child Support] temporary maintenance or temporary support of a child of the marriage entitled to support, accompanied by an affidavit as to the factual basis for the relief requested. One form of financial affidavit, as determined by the Supreme Court, shall be used statewide. The financial affidavit shall be supported by documentary evidence including, but not limited to, income tax returns, pay stubs, and banking statements. Unless the court otherwise directs, any affidavit or supporting documentary evidence submitted pursuant to this paragraph shall *not* be made part of the public record of the proceedings but shall be available to the court or an appellate court in which the proceedings are subject to review, to the parties, their attorneys, and such other persons as the court may direct. Upon motion of a party, a court may hold a hearing to determine whether and why

there is a disparity between a party's sworn affidavit and the supporting documentation. If a party intentionally or recklessly files an inaccurate or misleading financial affidavit, the court shall impose significant penalties and sanctions including, but not limited to, costs and attorney's fees;

(2) [Restraining Orders or Preliminary Injunction] a temporary restraining order or preliminary injunction, accompanied by affidavit showing a factual basis for any of the following relief:

(i) restraining any person from transferring, encumbering, concealing or otherwise disposing of any property except in the usual course of business or for the necessities of life, and, if so restrained, requiring him to notify the moving party and his attorney of any proposed extraordinary expenditures made after the order is issued; however, an order need not include an exception for transferring, encumbering, or otherwise disposing of property in the usual course of business or for the necessities of life if the court enters appropriate orders that enable the parties to pay their necessary personal and business expenses including, but not limited to, appropriate professionals to assist the court pursuant to subsection (l) of Section 503 to administer the payment and accounting of such living and business expenses;

(ii) enjoining a party from removing a child from the jurisdiction of the court;

(iii) enjoining a party from striking or interfering with the personal liberty of the other party or of any child; or

(iv) providing other injunctive relief proper in the circumstances; or

(3) **[Other Appropriate Temporary Relief]** other appropriate temporary relief including, in the discretion of the court, ordering the purchase or sale of assets and requiring that a party or parties borrow funds in the appropriate circumstances.

Issues concerning temporary maintenance or temporary support of a child entitled to support shall be dealt with on a summary basis based on allocated parenting time, financial affidavits, tax returns, pay stubs, banking statements, and other relevant documentation, except an evidentiary hearing may be held upon a showing of good cause. If a party intentionally or recklessly files an inaccurate or misleading financial affidavit, the court shall impose significant penalties and sanctions including, but not limited to, costs and attorney's fees resulting from the improper representation.

(b) **[Temporary Restraining Order Issuance]** The court may issue a temporary restraining order without requiring notice to the other party only if it finds, on the basis of the moving affidavit or other evidence, that irreparable injury will result to the moving party if no order is issued until the time for responding has elapsed.

(c) A response hereunder may be filed within 21 days after service of notice of motion or at the time specified in the temporary restraining order.

(c-1) **[Interim Attorney's Fees]** As used in this subsection (c-1), "interim attorney's fees and costs" means attorney's fees and costs assessed from time to time while a case is pending, in favor of the petitioning party's current counsel, for reasonable fees and costs either already incurred or to be incurred, and "interim award" means an award of interim attorney's fees and costs.

Interim awards shall be governed by the following:

(1) Except for good cause shown, a proceeding for (or relating to) interim attorney's fees and costs in a **pre-judgment dissolution** proceeding shall be nonevidentiary and summary in nature. All hearings for or relating to interim attorney's fees and costs under this subsection shall be scheduled expeditiously by the court. When a party files a petition for interim attorney's fees and costs supported by one or more affidavits that delineate relevant factors, the court (or a hearing officer) shall assess an interim award

after affording the opposing party a reasonable opportunity to file a responsive pleading. A responsive pleading shall set out the amount of each retainer or other payment or payments, or both, previously paid to the responding party's counsel by or on behalf of the responding party. A responsive pleading shall include costs incurred, and shall indicate whether the costs are paid or unpaid. In assessing an interim award, the court shall consider all relevant factors, as presented, that appear reasonable and necessary, including to the extent applicable:

(A) the income and property of each party, including alleged marital property within the sole control of one party and alleged non-marital property within access to a party;

(B) the needs of each party;

(C) the realistic earning capacity of each party;

(D) any impairment to present earning capacity of either party, including age and physical and emotional health;

(E) the standard of living established during the marriage;

(F) the degree of complexity of the issues, including allocation of parental responsibility, valuation or division (or both) of closely held businesses, and tax planning, as well as reasonable needs for expert investigations or expert witnesses, or both;

(G) each party's access to relevant information;

(H) the amount of the payment or payments made or reasonably expected to be made to the attorney for the other party; and

(I) any other factor that the court expressly finds to be just and equitable.

(2) Any assessment of an interim award (including one pursuant to an agreed order) shall be without prejudice to any final allocation and without prejudice as to any claim or right of either party or any counsel of record at the time of the award. Any such claim or right may be presented by the appropriate party or counsel at a hearing on contribution under subsection (j) of Section 503 or a hearing on counsel's fees under subsection (c) of Section 508. Unless otherwise ordered by the court at the final hearing between the parties or in a hearing under subsection (j) of Section 503 or subsection (c) of Section 508, interim awards, as well as the aggregate of all other payments by each party to counsel and related payments to third parties, shall be deemed to have been advances from the parties' marital estate. Any portion of any interim award constituting an overpayment shall be remitted back to the appropriate party or parties, or, alternatively, to successor counsel, as the court determines and directs, after notice in a form designated by the Supreme Court. An order for the award of interim attorney's fees shall be a standardized form order and labeled "Interim Fee Award Order".

(3) In any proceeding under this subsection (c-1), the court (or hearing officer) shall assess an interim award against an opposing party in an amount necessary to enable the petitioning party to participate adequately in the litigation, upon findings that the party from whom attorney's fees and costs are sought has the financial ability to pay reasonable amounts and that the party seeking attorney's fees and costs lacks sufficient access to assets or income to pay reasonable amounts. In determining an award, the court shall consider whether adequate participation in the litigation requires expenditure of more fees and costs for a party that is not in control of assets or relevant information. Except for good cause shown, an interim award shall not be less than payments made or reasonably expected to be made to the counsel for the other party. If the court finds that both parties lack financial ability or access to assets or income for reasonable attorney's fees and costs, the court (or hearing officer) shall enter an order that allocates available funds for each party's counsel, including retainers or interim payments, or both, previously paid, in a manner that achieves substantial parity between the parties.

(4) The changes to this Section 501 made by this amendatory Act of 1996 apply to cases pending on or after June 1, 1997, except as otherwise provided in Section 508.

(c-2) [New - Relocated] **Allocation of use of marital residence**. Where there is on file a verified complaint or verified petition seeking temporary eviction from the marital residence, the court may, during the pendency of the proceeding, only in cases where the physical or mental well-being of either spouse or his or her children is jeopardized by occupancy of the marital residence by both spouses, and only upon due notice and full hearing, unless waived by the court on good cause shown, enter orders granting the exclusive possession of the marital residence to either spouse, by eviction from, or restoration of, the marital residence, until the final determination of the cause pursuant to the factors listed in Section 602.7 of this Act. No such order shall in any manner affect any estate in homestead property of either party. In entering orders under this subsection (c-2), the court shall balance hardships to the parties.

(d) A temporary order entered under this Section:

(1) does not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings in the proceeding;

(2) may be revoked or modified before final judgment, on a showing by affidavit and upon hearing; and

(3) terminates when the final judgment is entered or when the petition for dissolution of marriage or legal separation or declaration of invalidity of marriage is dismissed.

(e) The fees or costs of mediation shall be borne by the parties and may be assessed by the court as it deems equitable without prejudice and are subject to reallocation at the conclusion of the case.
(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/501.1) (from Ch. 40, par. 501.1)

(Text of Section after amendment by P.A. 99-90)

Sec. 501.1. **Dissolution action stay**.

(a) Upon service of a summons and petition or praecipe filed under the Illinois Marriage and Dissolution of Marriage Act or upon the filing of the respondent's appearance in the proceeding, whichever first occurs, a dissolution action stay shall be in effect against both parties, without bond or further notice, until a final judgement is entered, the proceeding is dismissed, or until further order of the court:

(1) restraining both parties from physically abusing, harassing, intimidating, striking, or interfering with the personal liberty of the other party or the minor children of either party; and

(2) restraining both parties from [concealing a minor child of either party from the child's other parent] *removing any minor child of either party from the State of Illinois or from concealing any such child from the other party, without the consent of the other party or an order of the court.*[1]

The restraint provided in this subsection (a) does not operate to make unavailable any of the remedies provided in the Illinois Domestic Violence Act of 1986.

(b) - (d) (Blank).

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[1]HB 3898 would eliminate the language in italics.

(e) In a proceeding filed under this Act, the summons shall provide notice of the entry of the automatic dissolution action stay in a form as required by applicable rules.
(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/502) (from Ch. 40, par. 502)
(Text of Section after amendment by P.A. 99-90)
Sec. 502. **Agreement**.
(a) To promote amicable settlement of disputes between parties to a marriage attendant upon the dissolution of their marriage, the parties may enter into an agreement containing provisions for disposition of any property owned by either of them, maintenance of either of them, support, parental responsibility allocation of their children, and support of their children as provided in Section[s] 513 and 513.5] after the children attain majority. Any agreement pursuant to this Section must be in writing, except for good cause shown with the approval of the court, before proceeding to an oral prove up.

(b) The terms of the agreement, except those providing for the support and parental responsibility allocation of children, are binding upon the court unless it finds, after considering the economic circumstances of the parties and any other relevant evidence produced by the parties, on their own motion or on request of the court, that the agreement is unconscionable. The terms of the agreement incorporated into the judgment are binding if there is any conflict between the terms of the agreement and any testimony made at an uncontested prove-up hearing on the grounds or the substance of the agreement.

(c) If the court finds the agreement unconscionable, it may request the parties to submit a revised agreement or upon hearing, may make orders for the disposition of property, maintenance, child support and other matters.

(d) Unless the agreement provides to the contrary, its terms shall be set forth in the judgment, and the parties shall be ordered to perform under such terms, or if the agreement provides that its terms shall not be set forth in the judgment, the judgment shall identify the agreement and state that the court has approved its terms.

(e) Terms of the agreement set forth in the judgment are enforceable by all remedies available for enforcement of a judgment, including contempt, and are enforceable as contract terms.

(f) Child support, support of children as provided in Section[s] 513 [and 513.5] after the children attain majority, and parental responsibility allocation of children may be modified upon a showing of a substantial change in circumstances. The parties may provide that maintenance is non-modifiable in amount, duration, or both. If the parties do not provide that maintenance is non-modifiable in amount, duration, or both, then those terms are modifiable upon a substantial change of circumstances. Property provisions of an agreement are never modifiable. The judgment may expressly preclude or limit modification of other terms set forth in the judgment if the agreement so provides. Otherwise, terms of an agreement set forth in the judgment are automatically modified by modification of the judgment.
(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/503) (from Ch. 40, par. 503)
(Text of Section after amendment by P.A. 99-90)

Sec. 503. **Disposition of property and debts**.

(a) **[Marital Property and Non-Marital Property Generally]** For purposes of this Act, "marital property" means all property, including debts and other obligations, acquired by either spouse subsequent to the marriage, except the following, which is known as "non-marital property":

(1) property acquired by gift, legacy or descent or property acquired in exchange for such property;

(2) property acquired in exchange for property acquired before the marriage;

(3) property acquired by a spouse after a judgment of legal separation;

(4) property excluded by valid agreement of the parties, including a premarital agreement or a postnuptial agreement;

(5) any judgment or property obtained by judgment awarded to a spouse from the other spouse except, however, when a spouse is required to sue the other spouse in order to obtain insurance coverage or otherwise recover from a third party and the recovery is directly related to amounts advanced by the marital estate, the judgment shall be considered marital property;

(6) property acquired before the marriage, except as it relates to retirement plans that may have both marital and non-marital characteristics;

(6.5) all property acquired by a spouse by the sole use of non-marital property as collateral for a loan that then is used to acquire property during the marriage; to the extent that the marital estate repays any portion of the loan, it shall be considered a contribution from the marital estate to the non-marital estate subject to reimbursement;

(7) the increase in value of non-marital property, irrespective of whether the increase results from a contribution of marital property, non-marital property, the personal effort of a spouse, or otherwise, subject to the right of reimbursement provided in subsection (c) of this Section; and

(8) income from property acquired by a method listed in paragraphs (1) through (7) of this subsection if the income is not attributable to the personal effort of a spouse.

Property acquired prior to a marriage that would otherwise be non-marital property shall not be deemed to be marital property solely because the property was acquired in contemplation of marriage. @@@

The court shall make specific factual findings as to its classification of assets as marital or non-marital property, values, and other factual findings supporting its property award.

(b)(1) For purposes of distribution of property, all property acquired by either spouse after the marriage and before a judgment of dissolution of marriage or declaration of invalidity of marriage is presumed marital property. This presumption includes non-marital property transferred into some form of co-ownership between the spouses, regardless of whether title is held individually or by the spouses in some form of co-ownership such as joint tenancy, tenancy in common, tenancy by the entirety, or community property. A spouse may overcome [T]he presumption of marital property [is overcome] by showing through clear and convincing evidence that the property was acquired by a method listed in subsection (a) of this Section or was done for estate or tax planning purposes or for other reasons that establish that ~~the transfer~~ [a transfer between spouses] was not intended to be a gift.

(2) For purposes of distribution of property pursuant to this Section, all pension benefits (including pension benefits under the Illinois Pension Code, defined benefit plans, defined contribution plans and accounts, individual retirement accounts, and non-qualified plans) acquired by or participated in by either spouse after the marriage and before a judgment of dissolution of marriage or legal separation or declaration of invalidity of the marriage are presumed to be marital property. A spouse may overcome

the presumption that these pension benefits are marital property by showing through clear and convincing evidence that the pension benefits were acquired by a method listed in subsection (a) of this Section. The right to a division of pension benefits in just proportions under this Section is enforceable under Section 1-119 of the Illinois Pension Code.

The value of pension benefits in a retirement system subject to the Illinois Pension Code shall be determined in accordance with the valuation procedures established by the retirement system.

The recognition of pension benefits as marital property and the division of those benefits pursuant to a Qualified Illinois Domestic Relations Order shall not be deemed to be a diminishment, alienation, or impairment of those benefits. The division of pension benefits is an allocation of property in which each spouse has a species of common ownership.

(3) For purposes of distribution of property under this Section, all stock options and restricted stock or similar form of benefit granted to either spouse after the marriage and before a judgment of dissolution of marriage or legal separation or declaration of invalidity of marriage, whether vested or non-vested or whether their value is ascertainable, are presumed to be marital property. This presumption of marital property is overcome by a showing that the stock options or restricted stock or similar form of benefit were acquired by a method listed in subsection (a) of this Section. The court shall allocate stock options and restricted stock or similar form of benefit between the parties at the time of the judgment of dissolution of marriage or declaration of invalidity of marriage recognizing that the value of the stock options and restricted stock or similar form of benefit may not be then determinable and that the actual division of the options may not occur until a future date. In making the allocation between the parties, the court shall consider, in addition to the factors set forth in subsection (d) of this Section, the following:

(i) All circumstances underlying the grant of the stock option and restricted stock or similar form of benefit including but not limited to the vesting schedule, whether the grant was for past, present, or future efforts, whether the grant is designed to promote future performance or employment, or any combination thereof.

(ii) The length of time from the grant of the option to the time the option is exercisable.

(b-5) As to any existing policy of life insurance insuring the life of either spouse, or any interest in such policy, that constitutes marital property, whether whole life, term life, group term life, universal life, or other form of life insurance policy, and whether or not the value is ascertainable, the court shall allocate ownership, death benefits or the right to assign death benefits, and the obligation for premium payments, if any, equitably between the parties at the time of the judgment for dissolution or declaration of invalidity of marriage.

(c) **Commingled marital and non-marital property** shall be treated in the following manner, unless otherwise agreed by the spouses:

(1)(A) If marital and non-marital property are commingled by one estate being contributed into the other, the following shall apply:

(i) If the contributed property loses its identity, the contributed property transmutes to the estate receiving the property, subject to the provisions of paragraph (2) of this subsection (c).

(ii) If the contributed property retains its identity, it does not transmute and remains property of the contributing estate.

(B) If marital and non-marital property are commingled into newly acquired property resulting in a loss of identity of the contributing estates, the commingled property shall be deemed transmuted to

marital property, subject to the provisions of paragraph (2) of this subsection (c).

(2)(A) When one estate of property makes a contribution to another estate of property, the contributing estate shall be reimbursed from the estate receiving the contribution notwithstanding any transmutation. No such reimbursement shall be made with respect to a contribution that is not traceable by clear and convincing evidence or that was a gift. The court may provide for reimbursement out of the marital property to be divided or by imposing a lien against the non-marital property that received the contribution.

(B) When a spouse contributes personal effort to non-marital property, it shall be deemed a contribution from the marital estate, which shall receive reimbursement for the efforts if the efforts are significant and result in substantial appreciation to the non-marital property except that if the marital estate reasonably has been compensated for his or her efforts, it shall not be deemed a contribution to the marital estate and there shall be no reimbursement to the marital estate. The court may provide for reimbursement out of the marital property to be divided or by imposing a lien against the non-marital property which received the contribution.

(d) **[Factors in Dividing Marital Property]** In a proceeding for dissolution of marriage or declaration of invalidity of marriage, or in a proceeding for disposition of property following dissolution of marriage by a court that lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall assign each spouse's non-marital property to that spouse. It also shall divide the marital property without regard to marital misconduct in just proportions considering all relevant factors, including:

(1) each party's contribution to the acquisition, preservation, or increase or decrease in value of the marital or non-marital property, including (i) any decrease attributable to an advance from the parties' marital estate under subsection (c-1)(2) of Section 501; (ii) the contribution of a spouse as a homemaker or to the family unit; and (iii) whether the contribution is after the commencement of a proceeding for dissolution of marriage or declaration of invalidity of marriage;

(2) the dissipation by each party of the marital ~~or non-marital property~~, provided that a party's claim of dissipation is subject to the following conditions:

(i) **[Notice of Intent to Claim Dissipation]** a notice of intent to claim dissipation shall be given no later than 60 days before trial or 30 days after discovery closes, whichever is later;

(ii) the notice of intent to claim dissipation shall contain, at a minimum, a date or period of time during which the marriage began undergoing an irretrievable breakdown, an identification of the property dissipated, and a date or period of time during which the dissipation occurred;

(iii) a certificate or service of the notice of intent to claim dissipation shall be filed with the clerk of the court and be served pursuant to applicable rules;

(iv) no dissipation shall be deemed to have occurred prior to 3 years after the party claiming dissipation knew or should have known of the dissipation, but in no event prior to 5 years before the filing of the petition for dissolution of marriage;

(3) the value of the property assigned to each spouse;

(4) the duration of the marriage;

(5) the relevant economic circumstances of each spouse when the division of property is to become effective, including the desirability of awarding the family home, or the right to live therein for reasonable periods, to the spouse having the primary residence of the children;

(6) any obligations and rights arising from a prior marriage of either party;

(7) any prenuptial or postnuptial [~~antenuptial~~] agreement of the parties;

(8) the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, and needs of each of the parties;

(9) the custodial provisions for any children;

(10) whether the apportionment is in lieu of or in addition to maintenance;

(11) the reasonable opportunity of each spouse for future acquisition of capital assets and income; and

(12) the tax consequences of the property division upon the respective economic circumstances of the parties.

(e) Each spouse has a species of common ownership in the marital property which vests at the time dissolution proceedings are commenced and continues only during the pendency of the action. Any such interest in marital property shall not encumber that property so as to restrict its transfer, assignment or conveyance by the title holder unless such title holder is specifically enjoined from making such transfer, assignment or conveyance.

(f) In a proceeding for dissolution of marriage or declaration of invalidity of marriage or in a proceeding for disposition of property following dissolution of marriage by a court that lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court, in determining the value of the marital and non-marital property for purposes of dividing the property, has the discretion to use the date of the trial or such other date as agreed upon by the parties, or ordered by the court within its discretion, for purposes of determining the value of assets or property ~~shall value the property as of the date of trial or some other date as close to the date of trial as is practicable~~.

(g) The court if necessary to protect and promote the best interests of the children may set aside a portion of the jointly or separately held estates of the parties in a separate fund or trust for the support, maintenance, education, physical and mental health, and general welfare of any minor, dependent, or incompetent child of the parties. In making a determination under this subsection, the court may consider, among other things, the conviction of a party of any of the offenses set forth in Section *** if the victim is a child of one or both of the parties, and there is a need for, and cost of, care, healing and counseling for the child who is the victim of the crime.

(h) Unless specifically directed by a reviewing court, or upon good cause shown, the court shall not on remand consider any increase or decrease in the value of any "marital" or "non-marital" property occurring since the assessment of such property at the original trial or hearing, but shall use only that assessment made at the original trial or hearing.

(i) The court may make such judgments affecting the marital property as may be just and may enforce such judgments by ordering a sale of marital property, with proceeds therefrom to be applied as determined by the court.

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(j) **[Contribution Hearings]** After proofs have closed in the final hearing on all other issues between the parties (or in conjunction with the final hearing, if all parties so stipulate) and before judgment is entered, a party's petition for contribution to fees and costs incurred in the proceeding shall be heard and decided, in accordance with the following provisions:

(1) A petition for contribution, if not filed before the final hearing on other issues between the

parties, shall be filed no later than 14 ~~30~~ days after the closing of proofs in the final hearing or within such other period as the court orders.

(2) Any award of contribution to one party from the other party shall be based on the criteria for division of marital property under this Section 503 and, if maintenance has been awarded, on the criteria for an award of maintenance under Section 504.

(3) The filing of a petition for contribution shall not be deemed to constitute a waiver of the attorney-client privilege between the petitioning party and current or former counsel; and such a waiver shall not constitute a prerequisite to a hearing for contribution. If either party's presentation on contribution, however, includes evidence within the scope of the attorney-client privilege, the disclosure or disclosures shall be narrowly construed and shall not be deemed by the court to constitute a general waiver of the privilege as to matters beyond the scope of the presentation.

(4) No finding on which a contribution award is based or denied shall be asserted against counsel or former counsel for purposes of any hearing under subsection (c) or (e) of Section 508.

(5) A contribution award (payable to either the petitioning party or the party's counsel, or jointly, as the court determines) may be in the form of either a set dollar amount or a percentage of fees and costs (or a portion of fees and costs) to be subsequently agreed upon by the petitioning party and counsel or, alternatively, thereafter determined in a hearing pursuant to subsection (c) of Section 508 or previously or thereafter determined in an independent proceeding under subsection (e) of Section 508.

(6) The changes to this Section 503 made by this amendatory Act of 1996 apply to cases pending on or after June 1, 1997, except as otherwise provided in Section 508.

(k) **[FMV Standard / Date of Valuation]** In determining the value of assets or property under this Section, the court shall employ a fair market value standard. The date of valuation for the purposes of division of assets shall be the date of trial or such other date as agreed by the parties or ordered by the court, within its discretion. If the court grants a petition brought under Section 2-1401 of the Code of Civil Procedure, then the court has the discretion to use the date of the trial or such other date as agreed upon by the parties, or ordered by the court within its discretion, for purposes of determining the value of assets or property.

(l) **[Advice of Financial Experts or Other Professionals]** The court may seek the advice of financial experts or other professionals, whether or not employed by the court on a regular basis. The advice given shall be in writing and made available by the court to counsel. Counsel may examine as a witness any professional consulted by the court designated as the court's witness. Professional personnel consulted by the court are subject to subpoena for the purposes of discovery, trial, or both. The court shall allocate the costs and fees of those professional personnel between the parties based upon the financial ability of each party and any other criteria the court considers appropriate, and the allocation is subject to reallocation under subsection (a) of Section 508. Upon the request of any party or upon the court's own motion, the court may conduct a hearing as to the reasonableness of those fees and costs.

(m) ***

(Source: P.A. 99-78, eff. 7-20-15; 99-90, eff. 1-1-16.)

(750 ILCS 5/504) (from Ch. 40, par. 504)

(Text of Section after amendment by P.A. 99-90)

Sec. 504. **Maintenance**.

(a) Entitlement to maintenance. In a proceeding for dissolution of marriage or legal separation or

declaration of invalidity of marriage, or a proceeding for maintenance following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, the court may grant a maintenance award for either spouse in amounts and for periods of time as the court deems just, without regard to marital misconduct, and the maintenance may be paid from the income or property of the other spouse.

[Maintenance Factors] The court shall first determine whether a maintenance award is appropriate, after consideration of all relevant factors, including:

(1) the income and property of each party, including marital property apportioned and non-marital property assigned to the party seeking maintenance as well as all financial obligations imposed on the parties as a result of the dissolution of marriage;

(2) the needs of each party;

(3) the realistic present and future earning capacity of each party;

(4) any impairment of the present and future earning capacity of the party seeking maintenance due to that party devoting time to domestic duties or having forgone or delayed education, training, employment, or career opportunities due to the marriage;

(5) any impairment of the realistic present or future earning capacity of the party against whom maintenance is sought;

(6) the time necessary to enable the party seeking maintenance to acquire appropriate education, training, and employment, and whether that party is able to support himself or herself through appropriate employment or any parental responsibility arrangements and its effect on the party seeking employment;

(7) the standard of living established during the marriage;

(8) the duration of the marriage;

(9) the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, and the needs of each of the parties;

(10) all sources of public and private income including, without limitation, disability and retirement income;

(11) the tax consequences of the property division upon the respective economic circumstances of the parties;

(12) contributions and services by the party seeking maintenance to the education, training, career or career potential, or license of the other spouse;

(13) any valid agreement of the parties; and

(14) any other factor that the court expressly finds to be just and equitable.

(b) (Blank).

(b-1) Amount and duration of maintenance. If the court determines that a maintenance award is appropriate, the court shall order maintenance in accordance with either paragraph (1) or (2) of this subsection (b-1):

(1) Maintenance award in accordance with guidelines. In situations when the combined gross income of the parties is less than $250,000 and the payor has no obligation to pay child support or maintenance or both from a prior relationship, maintenance payable after the date the parties' marriage is dissolved shall be in accordance with subparagraphs (A) and (B) of this paragraph (1), unless the court makes a finding that the application of the guidelines would be inappropriate.

(A) The **amount** of maintenance under this paragraph (1) shall be calculated by taking 30% of the payor's gross income minus 20% of the payee's gross income. The amount calculated as

maintenance, however, when added to the gross income of the payee, may not result in the payee receiving an amount that is in excess of 40% of the combined gross income of the parties.

(B) The **duration** of an award under this paragraph (1) shall be calculated by multiplying the length of the marriage at the time the action was commenced by whichever of the following factors applies: 5 years or less (.20); more than 5 years but less than 10 years (.40); 10 years or more but less than 15 years (.60); or 15 years or more but less than 20 years (.80). For a marriage of 20 or more years, the court, in its discretion, shall order either permanent maintenance or maintenance for a period equal to the length of the marriage.

(2) **Maintenance award not in accordance with guidelines**. Any non-guidelines award of maintenance shall be made after the court's consideration of all relevant factors set forth in subsection (a) of this Section.

(b-2) **Findings**. In each case involving the issue of maintenance, the court shall make specific findings of fact, as follows:

(1) the court shall state its reasoning for awarding or not awarding maintenance and shall include references to each relevant factor set forth in subsection (a) of this Section; and

(2) if the court deviates from otherwise applicable guidelines under paragraph (1) of subsection (b-1), it shall state in its findings the amount of maintenance (if determinable) or duration that would have been required under the guidelines and the reasoning for any variance from the guidelines.

(b-3) **Gross income**. For purposes of this Section, the term "gross income" means all income from all sources, within the scope of that [phrase] in Section 505 of this Act.

(b-4) **Unallocated maintenance**. Unless the parties otherwise agree, the court may not order unallocated maintenance and child support in any dissolution judgment or in any post-dissolution order. In its discretion, the court may order unallocated maintenance and child support in any pre-dissolution temporary order.

(b-4.5) **Fixed-term maintenance in marriages of less than 10 years**. If a court grants maintenance for a fixed period under subsection (a) of this Section at the conclusion of a case commenced before the tenth anniversary of the marriage, the court may also designate the termination of the period during which this maintenance is to be paid as a "permanent termination". The effect of this designation is that maintenance is barred after the ending date of the period during which maintenance is to be paid.

(b-5) **Interest on maintenance**. Any maintenance obligation including any unallocated maintenance and child support obligation, or any portion of any support obligation, that becomes due and remains unpaid shall accrue simple interest as set forth in Section 505 of this Act.

(b-7) **Maintenance judgments**. Any new or existing maintenance order including any unallocated maintenance and child 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, except no judgment shall arise as to any installment coming due after the termination of maintenance as provided by Section 510 of the Illinois Marriage and Dissolution of Marriage Act or the provisions of

any order for maintenance. Each such judgment shall have the full force, effect and attributes of any other judgment of this State, including the ability to be enforced. Notwithstanding any other State or local law to the contrary, a lien arises by operation of law against the real and personal property of the obligor for each installment of overdue support owed by the obligor.

[(b-8) Upon review of any previously ordered maintenance award, the court may extend maintenance for further review, extend maintenance for a fixed non-modifiable term, extend maintenance for an indefinite term, or permanently terminate maintenance in accordance with subdivision (b-1)(1)(A) of this Section.]

(c) **Maintenance during an appeal**. The court may grant and enforce the payment of maintenance during the pendency of an appeal as the court shall deem reasonable and proper.

(d) **Maintenance during imprisonment**. No maintenance shall accrue during the period in which a party is imprisoned for failure to comply with the court's order for the payment of such maintenance.

(e) **Fees when maintenance is paid through the clerk**. ***

(f) **Maintenance secured by life insurance**. An award ordered by a court upon entry of a dissolution judgment or upon entry of an award of maintenance following a reservation of maintenance in a dissolution judgment may be reasonably secured, in whole or in part, by life insurance on the payor's life on terms as to which the parties agree, or, if they do not agree, on such terms determined by the court, subject to the following:

(1) With respect to **existing life insurance**, provided the court is apprised through evidence, stipulation, or otherwise as to level of death benefits, premium, and other relevant data and makes findings relative thereto, the court may allocate death benefits, the right to assign death benefits, or the obligation for future premium payments between the parties as it deems just.

(2) To the extent the court determines that its award should be secured, in whole or in part, by **new life insurance** on the payor's life, the court may only order:

(i) that the payor cooperate on all appropriate steps for the payee to obtain such new life insurance; and

(ii) that the payee, at his or her sole option and expense, may obtain such new life insurance on the payor's life up to a maximum level of death benefit coverage, or descending death benefit coverage, as is set by the court, such level not to exceed a reasonable amount in light of the court's award, with the payee or the payee's designee being the beneficiary of such life insurance.

In determining the maximum level of death benefit coverage, the court shall take into account all relevant facts and circumstances, including the impact on access to life insurance by the maintenance payor. If in resolving any issues under paragraph (2) of this subsection (f) a court reviews any submitted or proposed application for new insurance on the life of a maintenance payor, the review shall be in camera.

(3) A judgment shall expressly set forth that all death benefits paid under life insurance on a payor's life maintained or obtained pursuant to this subsection to secure maintenance are designated as excludable from the gross income of the maintenance payee under Section 71(b)(1)(B) of the Internal Revenue Code, unless an agreement or stipulation of the parties otherwise provides.
(Source: P.A. 98-961, eff. 1-1-15; 99-90, eff. 1-1-16.)

(750 ILCS 5/505) (from Ch. 40, par. 505)
(Text of Section after amendment by P.A. 99-90)

Sec. 505. **Child support; contempt; penalties.**

(a) In a proceeding for dissolution of marriage, legal separation, declaration of invalidity of marriage, *dissolution of a civil union*, a proceeding for child support following dissolution of the marriage *or civil union*, by a court that 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 the support of the child, without regard to marital misconduct. The duty of support owed to a child includes the obligation to provide for the reasonable and necessary educational, 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. For purposes of this Section, the term "supporting parent" means the parent obligated to pay support to the other parent.

Current Law Pending Potential Adoption of HB 3982:

(1) **[Guidelines Amount]** 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) **[Deviations from the Support Guidelines]** The above guidelines shall be applied in each case unless the court finds that a deviation from the guidelines is appropriate after considering the best interest of the child in light of the 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 parents;
(c) the standard of living the child would have enjoyed had the marriage not been dissolved;
(d) the physical, mental, and emotional needs of the child; and
(d-5) the educational needs of the child.

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.

(2.5) **[Add-Ons to Child Support – See Section 3.6 and 3.7 of HB 3982]** The court, in its discretion, in addition to setting child support pursuant to the guidelines and factors, may order either or both parents owing a duty of support to a child of the marriage to contribute to the following expenses, if determined by the court to be reasonable:

(a) health needs not covered by insurance;
(b) child care;
(c) education; and
(d) extracurricular activities.

(3) **[Net Income Defined]** "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 and premiums for life insurance ordered by the court to reasonably secure payment of ordered child support;

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

(g-5) Obligations pursuant to a court order for maintenance in the pending proceeding actually paid or payable under Section 504 to the same party to whom child support is to be payable;

(h) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income including, but not limited to, student loans, medical expenditures necessary to preserve life or health, reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts. Th 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.

Portions of Section 505 Not Effected by HB 3982:

(4.5) In a proceeding for child support following dissolution of the marriage *[or civil union]* 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 supporting parent'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 supporting parent was properly served with a request for discovery of financial information relating to the supporting parent's ability to provide child support, (ii) the supporting parent failed to comply with the request, despite having been ordered to do so by the court, and (iii) the

supporting parent is not present at the hearing to determine support despite having received proper notice, then any relevant financial information concerning the supporting 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 failure [of the supporting parent] to make support payments as required by the order, notice of proceedings to hold the [supporting parent] in contempt for that failure may be served on the [supporting parent] by personal service or by regular mail addressed to the last known address of the [supporting parent]. The last known address of the [supporting parent] 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 to Comply with Support Order]** 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 *[c]ourt* may, after finding the parent guilty of contempt, order that the parent be:

(1) placed on probation with such conditions of probation as the *[c]ourt* deems advisable;

(2) sentenced to periodic imprisonment for a period not to exceed 6 months; provided, however, that the *[c]ourt* 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 *[c]ourt* 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 receiving the support or to the guardian receiving the support of the children of the sentenced parent for the support of said children until further order of the *[c]ourt*.

If a parent who is found guilty of contempt for failure to comply with an order to pay support is a person who conducts a business or who is self-employed, the court in addition to other penalties provided by law may order that the parent do one or more of the following: (i) provide to the court monthly financial statements showing income and expenses from the business or the self-employment; (ii) seek employment and report periodically to the court with a diary, listing, or other memorandum of his or her employment search efforts; or (iii) report to the Department of Employment Security for job search services to find employment that will be subject to withholding for child support.

[Alter Ego Provisions and Enforcement of Support] If there is a unity of interest and ownership sufficient to render no financial separation between a supporting 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 supporting 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 supporting parent and the person, persons, or business entity maintain records together.

(2) the supporting parent and the person, persons, or business entity fail to maintain an arm's length relationship between themselves with regard to any assets.

(3) the supporting parent transfers assets to the person, persons, or business entity with the intent to perpetrate a fraud on the parent receiving the support.

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 *[C]lerk of the [C]ircuit [C]ourt* 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. Notwithstanding any other State or local law to the contrary, a lien arises by operation of law against the real and personal property of the supporting parent for each installment of overdue support owed by the supporting 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 supporting parent 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 supporting parent 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 supporting parent 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, except only the initials of any covered minors shall be included, and
(iii) of any new residential or mailing address or telephone number of the supporting 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 supporting parent, service of process or provision of notice necessary in the case may be made at the last known address of the supporting 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) **[Termination of Support Dates]** 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 either parent to report to the other parent and to the clerk of court within 10 days each time either parent obtains new employment, and each time either parent'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 either parent 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 either parent to advise the 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. 98-463, eff. 8-16-13; 98-961, eff. 1-1-15; 99-90, eff. 1-1-16.)

(750 ILCS 5/505.1) (from Ch. 40, par. 505.1)
Sec. 505.1. **[Unemployed Duty to Report]**
(a) Whenever it is determined in a proceeding to establish or enforce a child support or maintenance obligation that the person owing a duty of support is unemployed, the court may order the person to seek employment and report periodically to the court with a diary, listing or other memorandum of his or her efforts in accordance with such order. Additionally, the court may order the unemployed person to report to the Department of Employment Security for job search services or to make application with the local Job Training Partnership Act provider for participation in job search, training or work programs and where the duty of support is owed to a child receiving child support enforcement services under Article X of the Illinois Public Aid Code, as amended, the court may order the unemployed person to report to the Department of Healthcare and Family Services for participation in job search, training or work programs established under Section 9-6 and Article IXA of that Code.
(b) Whenever it is determined that a person owes past-due support for a child or for a child and the parent with whom the child is living, and the child is receiving assistance under the Illinois Public Aid Code, the court shall order at the request of the Department of Healthcare and Family Services:
(1) that the person pay the past-due support in accordance with a plan approved by the court; or
(2) if the person owing past-due support is unemployed, is subject to such a plan, and is not incapacitated, that the person participate in such job search, training, or work programs established under Section 9-6 and Article IXA of the Illinois Public Aid Code as the court deems appropriate.
(Source: P.A. 95-331, eff. 8-21-07.)

(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.)

(750 ILCS 5/505.3)

Sec. 505.3. **Information to State Case Registry**.

(a) In this Section:

"Order for support", "obligor", "obligee", and "business day" are defined as set forth in the Income Withholding for Support Act.

"State Case Registry" means the State Case Registry established under Section 10-27 of the Illinois Public Aid Code.

(b) Each order for support entered or modified by the circuit court under this Act shall require that the obligor and obligee (i) file with the clerk of the circuit court the information required by this Section (and any other information required under Title IV, Part D of the Social Security Act or by the federal Department of Health and Human Services) at the time of entry or modification of the order for support and (ii) file updated information with the clerk within 5 business days of any change. Failure of the obligor or obligee to file or update the required information shall be punishable as in cases of contempt. The failure shall not prevent the court from entering or modifying the order for support, however.

(c) The obligor shall file the following information: the obligor's name, date of birth, social security number, and mailing address.

If either the obligor or the obligee receives child support enforcement services from the Department of Healthcare and Family Services under Article X of the Illinois Public Aid Code, the obligor shall also file the following information: the obligor's telephone number, driver's license number, and residential address (if different from the obligor's mailing address), and the name, address, and telephone number of the obligor's employer or employers.

(d) The obligee shall file the following information:

(1) The names of the obligee and the child or children covered by the order for support.

(2) The dates of birth of the obligee and the child or children covered by the order for support.

(3) The social security numbers of the obligee and the child or children covered by the order for support.

(4) The obligee's mailing address.

(e) In cases in which the obligee receives child support enforcement services from the Department of Healthcare and Family Services under Article X of the Illinois Public Aid Code, the order for support shall (i) require that the obligee file the information required under subsection (d) with the Department of Healthcare and Family Services for inclusion in the State Case Registry, rather than file the information with the clerk, and (ii) require that the obligee include the following additional information:

(1) The obligee's telephone and driver's license numbers.

(2) The obligee's residential address, if different from the obligee's mailing address.

(3) The name, address, and telephone number of the obligee's employer or employers.

The order for support shall also require that the obligee update the information filed with the Department of Healthcare and Family Services within 5 business days of any change.

(f) The clerk shall provide the information filed under this Section, together with the court docket number and county in which the order for support was entered, to the State Case Registry within 5

business days after receipt of the information.

(g) In a case in which a party is receiving child support enforcement services under Article X of the Illinois Public Aid Code, the clerk shall provide the following additional information to the State Case Registry within 5 business days after entry or modification of an order for support or request from the Department of Healthcare and Family Services:

(1) The amount of monthly or other periodic support owed under the order for support and other amounts, including arrearage, interest, or late payment penalties and fees, due or overdue under the order.

(2) Any such amounts that have been received by the clerk, and the distribution of those amounts by the clerk.

(h) Information filed by the obligor and obligee under this Section that is not specifically required to be included in the body of an order for support under other laws is not a public record and shall be treated as confidential and subject to disclosure only in accordance with the provisions of this Section, Section 10-27 of the Illinois Public Aid Code, and Title IV, Part D of the Social Security Act.
(Source: P.A. 95-331, eff. 8-21-07.)

(750 ILCS 5/506) (from Ch. 40, par. 506)

(Text of Section after amendment by P.A. 99-90)

Sec. 506. **Representation of child.**

(a) **Duties**. In any proceedings involving the support, custody, visitation, allocation of parental responsibilities, education, parentage, property interest, or general welfare of a minor or dependent child, the court may, on its own motion or that of any party, appoint an attorney to serve in one of the following capacities to address the issues the court delineates:

(1) **Attorney**. The attorney shall provide independent legal counsel for the child and shall owe the same duties of undivided loyalty, confidentiality, and competent representation as are due an adult client.

(2) **Guardian ad litem**. The guardian ad litem shall testify or submit a written report to the court regarding his or her recommendations in accordance with the best interest of the child. The report shall be made available to all parties. The guardian ad litem may be called as a witness for purposes of cross-examination regarding the guardian ad litem's report or recommendations. The guardian ad litem shall investigate the facts of the case and interview the child and the parties.

(3) **Child representative**. The child representative shall advocate what the child representative finds to be in the best interests of the child after reviewing the facts and circumstances of the case. The child representative shall meet with the child and the parties, investigate the facts of the case, and encourage settlement and the use of alternative forms of dispute resolution. The child representative shall have the same authority and obligation to participate in the litigation as does an attorney for a party and shall possess all the powers of investigation as does a guardian ad litem. The child representative shall consider, but not be bound by, the expressed wishes of the child. A child representative shall have received training in child advocacy or shall possess such experience as determined to be equivalent to such training by the chief judge of the circuit where the child representative has been appointed. The child representative shall not disclose confidential communications made by the child, except as required by law or by the Rules of Professional Conduct. The child representative shall not render an opinion, recommendation, or report to the court and shall not be called as a witness, but shall offer evidence-based legal arguments. The child representative shall disclose the position as to what the child representative intends to advocate in a pre-trial memorandum

that shall be served upon all counsel of record prior to the trial. The position disclosed in the pre-trial memorandum shall not be considered evidence. The court and the parties may consider the position of the child representative for purposes of a settlement conference.

(a-3) **Additional appointments**. During the proceedings the court may appoint an additional attorney to serve in the capacity described in subdivision (a)(1) or an additional attorney to serve in another of the capacities described in subdivision (a)(2) or (a)(3) on the court's own motion or that of a party only for good cause shown and when the reasons for the additional appointment are set forth in specific findings.

(a-5) **Appointment considerations**. In deciding whether to make an appointment of an attorney for the minor child, a guardian ad litem, or a child representative, the court shall consider the nature and adequacy of the evidence to be presented by the parties and the availability of other methods of obtaining information, including social service organizations and evaluations by mental health professions, as well as resources for payment.

In no event is this Section intended to or designed to abrogate the decision making power of the trier of fact. Any appointment made under this Section is not intended to nor should it serve to place any appointed individual in the role of a surrogate judge.

(b) **Fees and costs**. The court shall enter an order as appropriate for costs, fees, and disbursements, including a retainer, when the attorney, guardian ad litem, or child's representative is appointed. Any person appointed under this Section shall file with the court within 90 days of his or her appointment, and every subsequent 90-day period thereafter during the course of his or her representation, a detailed invoice for services rendered with a copy being sent to each party. The court shall review the invoice submitted and approve the fees, if they are reasonable and necessary. Any order approving the fees shall require payment by either or both parents, by any other party or source, or from the marital estate or the child's separate estate. The court may not order payment by the Department of Healthcare and Family Services in cases in which the Department is providing child support enforcement services under Article X of the Illinois Public Aid Code. Unless otherwise ordered by the court at the time fees and costs are approved, all fees and costs payable to an attorney, guardian ad litem, or child representative under this Section are by implication deemed to be in the nature of support of the child and are within the exceptions to discharge in bankruptcy under 11 U.S.C.A. 523. The provisions of Sections 501 and 508 of this Act shall apply to fees and costs for attorneys appointed under this Section.
(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/507) (from Ch. 40, par. 507)
Sec. 507. Payment of maintenance or support to court. [No Changes] ***

(750 ILCS 5/507.1)
Sec. 507.1. Payment of Support to State Disbursement Unit. [No Changes] ***

(750 ILCS 5/508) (from Ch. 40, par. 508)
(Text of Section after amendment by P.A. 99-90)
Sec. 508. **Attorney's Fees; Client's Rights and Responsibilities Respecting Fees and Costs**.
(a) **[Fee Awards Generally]** The court from time to time, after due notice and hearing, and after considering the financial resources of the parties, may order any party to pay a reasonable amount for his own or the other party's costs and attorney's fees. Interim attorney's fees and costs may be awarded

from the opposing party, in a pre-judgment dissolution proceeding in accordance with subsection (c-1) of Section 501 and in any other proceeding under this subsection. At the conclusion of any pre-judgment dissolution proceeding under this subsection, contribution to attorney's fees and costs may be awarded from the opposing party in accordance with subsection (j) of Section 503 and in any other proceeding under this subsection. Fees and costs may be awarded in any proceeding to counsel from a former client in accordance with subsection (c) of this Section.

[Types of Fee Awards] Awards may be made in connection with the following:

(1) The maintenance or defense of any proceeding under this Act.

(2) The enforcement or modification of any order or judgment under this Act.

(3) The defense of an appeal of any order or judgment under this Act, including the defense of appeals of post-judgment orders.

(3.1) The prosecution of any claim on appeal (if the prosecuting party has substantially prevailed).

(4) The maintenance or defense of a petition brought under Section 2-1401 of the Code of Civil Procedure seeking relief from a final order or judgment under this Act. Fees incurred with respect to motions under Section 2-1401 of the Code of Civil Procedure may be granted only to the party who substantially prevails.

(5) The costs and legal services of an attorney rendered in preparation of the commencement of the proceeding brought under this Act.

(6) Ancillary litigation incident to, or reasonably connected with, a proceeding under this Act.

(7) Costs and attorney's fees incurred in an action under the Hague Convention on the Civil Aspects of International Child Abduction.

All petitions for or relating to interim fees and costs under this subsection shall be accompanied by an affidavit as to the factual basis for the relief requested and all hearings relative to any such petition shall be scheduled expeditiously by the court. All provisions for contribution under this subsection shall also be subject to paragraphs (3), (4), and (5) of subsection (j) of Section 503.

The court may order that the award of attorney's fees and costs (including an interim or contribution award) shall be paid directly to the attorney, who may enforce the order in his or her name, or that it shall be paid to the appropriate party. Judgment may be entered and enforcement had accordingly. Except as otherwise provided in subdivision (e)(1) of this Section, subsection (c) of this Section is exclusive as to the right of any counsel (or former counsel) of record to petition a court for an award and judgment for final fees and costs during the pendency of a proceeding under this Act.

A petition for temporary attorney's fees in a post-judgment case may be heard on a non-evidentiary, summary basis.

(b) **[Non-Compliance / Improper Purpose Fees]** In every proceeding for the enforcement of an order or judgment when the court finds that the failure to comply with the order or judgment was without compelling cause or justification, the court shall order the party against whom the proceeding is brought to pay promptly the costs and reasonable attorney's fees of the prevailing party. If non-compliance is with respect to a discovery order, the non-compliance is presumptively without compelling cause or justification, and the presumption may only be rebutted by clear and convincing evidence. If at any time a court finds that a hearing under this Act was precipitated or conducted for any improper purpose, the court shall allocate fees and costs of all parties for the hearing to the party or counsel found to have acted improperly. Improper purposes include, but are not limited to, harassment, unnecessary delay, or other acts needlessly increasing the cost of litigation.

(c) **[Final Hearings Against Lawyer's Own Client]** Final hearings for attorney's fees and costs against an attorney's own client, pursuant to a Petition for Setting Final Fees and Costs of either a counsel or a client, shall be governed by the following:

(1) No petition of a counsel of record may be filed against a client unless the filing counsel previously has been granted leave to withdraw as counsel of record or has filed a motion for leave to withdraw as counsel. On receipt of a petition of a client under this subsection (c), the counsel of record shall promptly file a motion for leave to withdraw as counsel. If the client and the counsel of record agree, however, a hearing on the motion for leave to withdraw as counsel filed pursuant to this subdivision (c)(1) may be deferred until completion of any alternative dispute resolution procedure under subdivision (c)(4). As to any Petition for Setting Final Fees and Costs against a client or counsel over whom the court has not obtained jurisdiction, a separate summons shall issue. Whenever a separate summons is not required, original notice as to a Petition for Setting Final Fees and Costs may be given, and documents served, in accordance with Illinois Supreme Court Rules 11 and 12.

(2) No final hearing under this subsection (c) is permitted unless:

(i) the counsel and the client had entered into a written engagement agreement at the time the client retained the counsel (or reasonably soon thereafter) and the agreement meets the requirements of subsection (f);

(ii) the written engagement agreement is attached to an affidavit of counsel that is filed with the petition or with the counsel's response to a client's petition;

(iii) judgment in any contribution hearing on behalf of the client has been entered or the right to a contribution hearing under subsection (j) of Section 503 has been waived;

(iv) the counsel has withdrawn as counsel of record; and (v) the petition seeks adjudication of all unresolved claims for fees and costs between the counsel and the client.

Irrespective of a Petition for Setting Final Fees and Costs being heard in conjunction with an original proceeding under this Act, the relief requested under a Petition for Setting Final Fees and Costs constitutes a distinct cause of action. A pending but undetermined Petition for Setting Final Fees and Costs shall not affect appealability or enforceability of any judgment or other adjudication in the original proceeding.

(3) The determination of reasonable attorney's fees and costs either under this subsection (c), whether initiated by a counsel or a client, or in an independent proceeding for services within the scope of subdivisions (1) through (5) of subsection (a), is within the sound discretion of the trial court. The court shall first consider the written engagement agreement and, if the court finds that the former client and the filing counsel, pursuant to their written engagement agreement, entered into a contract which meets applicable requirements of court rules and addresses all material terms, then the contract shall be enforceable in accordance with its terms, subject to the further requirements of this subdivision (c)(3). Before ordering enforcement, however, the court shall consider the performance pursuant to the contract. Any amount awarded by the court must be found to be fair compensation for the services, pursuant to the contract, that the court finds were reasonable and necessary. Quantum meruit principles shall govern any award for legal services performed that is not based on the terms of the written engagement agreement (except that, if a court expressly finds in a particular case that aggregate billings to a client were unconscionably excessive, the court in its discretion may reduce the award otherwise determined appropriate or deny fees altogether).

(4) No final hearing under this subsection (c) is permitted unless any controversy over fees and costs (that is not otherwise subject to some form of alternative dispute resolution) has first been submitted to mediation, arbitration, or any other court approved alternative dispute resolution

procedure, except as follows:

(A) In any circuit court for a single county with a population in excess of 1,000,000, the requirement of the controversy being submitted to an alternative dispute resolution procedure is mandatory unless the client and the counsel both affirmatively opt out of such procedures; or

(B) In any other circuit court, the requirement of the controversy being submitted to an alternative dispute resolution procedure is mandatory only if neither the client nor the counsel affirmatively opts out of such procedures.

After completion of any such procedure (or after one or both sides has opted out of such procedures), if the dispute is unresolved, any pending motion for leave to withdraw as counsel shall be promptly granted and a final hearing under this subsection (c) shall be expeditiously set and completed.

(5) A petition (or a praecipe for fee hearing without the petition) shall be filed no later than the end of the period in which it is permissible to file a motion pursuant to Section 2-1203 of the Code of Civil Procedure. A praecipe for fee hearing shall be dismissed if a Petition for Setting Final Fees and Costs is not filed within 60 days after the filing of the praecipe. A counsel who becomes a party by filing a Petition for Setting Final Fees and Costs, or as a result of the client filing a Petition for Setting Final Fees and Costs, shall not be entitled to exercise the right to a substitution of a judge without cause under subdivision (a)(2) of Section 2-1001 of the Code of Civil Procedure. Each of the foregoing deadlines for the filing of a praecipe or a petition shall be:

(A) tolled if a motion is filed under Section 2-1203 of the Code of Civil Procedure, in which instance a petition (or a praecipe) shall be filed no later than 30 days following disposition of all Section 2-1203 motions; or

(B) tolled if a notice of appeal is filed, in which instance a petition (or praecipe) shall be filed no later than 30 days following the date jurisdiction on the issue appealed is returned to the trial court.

If a praecipe has been timely filed, then by timely filed written stipulation between counsel and client (or former client), the deadline for the filing of a petition may be extended for a period of up to one year.

(d) **[Consent Judgments]** A consent judgment, in favor of a current counsel of record against his or her own client for a specific amount in a marital settlement agreement, dissolution judgment, or any other instrument involving the other litigant, is prohibited. A consent judgment between client and counsel, however, is permissible if it is entered pursuant to a verified petition for entry of consent judgment, supported by an affidavit of the counsel of record that includes the counsel's representation that the client has been provided an itemization of the billing or billings to the client, detailing hourly costs, time spent, and tasks performed, and by an affidavit of the client acknowledging receipt of that documentation, awareness of the right to a hearing, the right to be represented by counsel (other than counsel to whom the consent judgment is in favor), and the right to be present at the time of presentation of the petition, and agreement to the terms of the judgment. The petition may be filed at any time during which it is permissible for counsel of record to file a petition (or a praecipe) for a final fee hearing, except that no such petition for entry of consent judgment may be filed before adjudication (or waiver) of the client's right to contribution under subsection (j) of Section 503 or filed after the filing of a petition (or a praecipe) by counsel of record for a fee hearing under subsection (c) if the petition (or praecipe) remains pending. No consent security arrangement between a client and a counsel of record, pursuant to which assets of a client are collateralized to secure payment of legal fees or costs, is permissible unless approved in advance by the court as being reasonable under the circumstances.

(e) **[Independent Actions]** Counsel may pursue an award and judgment against a former client for legal fees and costs in an independent proceeding in the following circumstances:

(1) While a case under this Act is still pending, a former counsel may pursue such an award and judgment at any time subsequent to 90 days after the entry of an order granting counsel leave to withdraw; and

(2) After the close of the period during which a petition (or praecipe) may be filed under subdivision (c)(5), if no such petition (or praecipe) for the counsel remains pending, any counsel or former counsel may pursue such an award and judgment in an independent proceeding.

In an independent proceeding, the prior applicability of this Section shall in no way be deemed to have diminished any other right of any counsel (or former counsel) to pursue an award and judgment for legal fees and costs on the basis of remedies that may otherwise exist under applicable law; and the limitations period for breach of contract shall apply. In an independent proceeding under subdivision (e)(1) in which the former counsel had represented a former client in a dissolution case that is still pending, the former client may bring in his or her spouse as a third-party defendant, provided on or before the final date for filing a petition (or praecipe) under subsection (c), the party files an appropriate third-party complaint under Section 2-406 of the Code of Civil Procedure. In any such case, any judgment later obtained by the former counsel shall be against both spouses or ex-spouses, jointly and severally (except that, if a hearing under subsection (j) of Section 503 has already been concluded and the court hearing the contribution issue has imposed a percentage allocation between the parties as to fees and costs otherwise being adjudicated in the independent proceeding, the allocation shall be applied without deviation by the court in the independent proceeding and a separate judgment shall be entered against each spouse for the appropriate amount). After the period for the commencement of a proceeding under subsection (c), the provisions of this Section (other than the standard set forth in subdivision (c)(3) and the terms respecting consent security arrangements in subsection (d) of this Section 508) shall be inapplicable.

The changes made by this amendatory Act of the 94th General Assembly are declarative of existing law.

(f) Unless the Supreme Court by rule addresses the matters set out in this subsection (f), a written engagement agreement within the scope of subdivision (c)(2) shall have appended to it verbatim the following Statement:

"STATEMENT OF CLIENT'S RIGHTS AND RESPONSIBILITIES

***

(5) FEES. The counsel's fee for services may not be contingent upon the securing of a dissolution of marriage or upon being allocated parental responsibility or be based upon the amount of maintenance, child support, or property settlement received, except as specifically permitted under Supreme Court rules. ***

(g) The changes to this Section 508 made by this amendatory Act of 1996 apply to cases pending on or after June 1, 1997, except as follows:

(1) Subdivisions (c)(1) and (c)(2) of this Section 508, as well as provisions of subdivision (c)(3) of this Section 508 pertaining to written engagement agreements, apply only to cases filed on or after June 1, 1997.

(2) The following do not apply in the case of a hearing under this Section that began before June 1, 1997:

(A) Subsection (c-1) of Section 501.

(B) Subsection (j) of Section 503.

(C) The changes to this Section 508 made by this amendatory Act of 1996 pertaining to the final setting of fees.

(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/509) (from Ch. 40, par. 509)

(Text of Section after amendment by P.A. 99-90)

Sec. 509. **Independence of Provisions of Judgment or Temporary Order**. If a party fails to comply with a provision of a judgment, order or injunction, the obligation of the other party to make payments for support or maintenance or to permit visitation or parenting time is not suspended; but he may move the court to grant an appropriate order.

(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/510) (from Ch. 40, par. 510)

(Text of Section after amendment by P.A. 99-90)

Sec. 510. **Modification and termination of provisions for maintenance, support, educational expenses, and property disposition**.

(a) Except as otherwise provided in paragraph (f) of Section 502 and in subsection (b), clause (3) of Section 505.2, the provisions of any judgment respecting *maintenance or support* may be modified only as to installments accruing subsequent to due notice by the moving party of the filing of the motion for modification. [**Child Support Modification]** An order for child support may be modified as follows:

(1) upon a showing of a substantial change in circumstances; and

(2) without the necessity of showing a substantial change in circumstances, as follows:

(A) upon a showing of an inconsistency of at least 20%, but no less than $10 per month, between the amount of the existing order and the amount of child support that results from application of the guidelines specified in Section 505 of this Act unless the inconsistency is due to the fact that the amount of the existing order resulted from a deviation from the guideline amount and there has not been a change in the circumstances that resulted in that deviation; or

(B) upon a showing of a need to provide for the health care needs of the child under the order through health insurance or other means. In no event shall the eligibility for or receipt of medical assistance be considered to meet the need to provide for the child's health care needs.

The provisions of subparagraph (a)(2)(A) shall apply only in cases in which a party is receiving child support enforcement services from the Department of Healthcare and Family Services under Article X of the Illinois Public Aid Code, and only when at least 36 months have elapsed since the order for child support was entered or last modified.

(a-5) **[Factors in Modification and Review Proceedings regarding Maintenance in Addition to 504 Factors]** An order for maintenance may be modified or terminated only upon a showing of a substantial change in circumstances. In all such proceedings, as well as in proceedings in which maintenance is being reviewed, the court shall consider the applicable factors set forth in subsection (a) of Section 504 and the following factors:

(1) any change in the employment status of either party and whether the change has been made in good faith;

(2) the efforts, if any, made by the party receiving maintenance to become self-supporting, and the reasonableness of the efforts where they are appropriate;

(3) any impairment of the present and future earning capacity of either party;

(4) the tax consequences of the maintenance payments upon the respective economic

circumstances of the parties;

(5) the duration of the maintenance payments previously paid (and remaining to be paid) relative to the length of the marriage;

(6) the property, including retirement benefits, awarded to each party under the judgment of dissolution of marriage, judgment of legal separation, or judgment of declaration of invalidity of marriage and the present status of the property;

(7) the increase or decrease in each party's income since the prior judgment or order from which a review, modification, or termination is being sought;

(8) the property acquired and currently owned by each party after the entry of the judgment of dissolution of marriage, judgment of legal separation, or judgment of declaration of invalidity of marriage; and

(9) any other factor that the court expressly finds to be just and equitable.

(a-6) **[Fixed Term Maintenance Permissible in cases Where Marriage is 10 Years or Less]** In a review under subsection (b-4.5) of Section 504 of this Act, the court may enter a fixed-term maintenance award that bars future maintenance only if, at the time of the entry of the award, the marriage had lasted 10 years or less at the time the original action was commenced.

(b) **[Revocation or Modification of Property Judgments]** The provisions as to property disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of this State.

(c) **[Termination of Maintenance Events]** Unless otherwise agreed by the parties in a written agreement set forth in the judgment or otherwise approved by the court, the obligation to pay future maintenance is terminated upon the death of either party, or the remarriage of the party receiving maintenance, or if the party receiving maintenance cohabits with another person on a resident, continuing conjugal basis. A payor's obligation to pay maintenance or unallocated maintenance terminates by operation of law on the date the recipient remarries or the date the court finds cohabitation began. The payor is entitled to reimbursement for all maintenance paid from that date forward. Any termination of an obligation for maintenance as a result of the death of the payor party, however, shall be inapplicable to any right of the other party or such other party's designee to receive a death benefit under such insurance on the payor party's life. A party receiving maintenance must advise the payor of his or her intention to marry at least 30 days before the remarriage, unless the decision is made within this time period. In that event, he or she must notify the other party within 72 hours of getting married.

(c-5) In an adjudicated case, the court shall make specific factual findings as to the reason for the modification as well as the amount, nature, and duration of the modified maintenance award.

(d) **[Child Support Termination]** Unless otherwise provided in this Act, or as agreed in writing or expressly provided in the judgment, provisions for the support of a child are terminated by emancipation of the child, or if the child has attained the age of 18 and is still attending high school, provisions for the support of the child are terminated upon the date that the child graduates from high school or the date the child attains the age of 19, whichever is earlier, but not by the death of a parent obligated to support or educate the child. An existing obligation to pay for support or educational

expenses, or both, is not terminated by the death of a parent. When a parent obligated to pay support or educational expenses, or both, dies, the amount of support or educational expenses, or both, may be enforced, modified, revoked or commuted to a lump sum payment, as equity may require, and that determination may be provided for at the time of the dissolution of the marriage or thereafter.

(e) **[Death of a Parent and Obligation for Support Including Educational Support]** The right to petition for support or educational expenses, or both, under Sections 505 and 513 is not extinguished by the death of a parent. Upon a petition filed before or after a parent's death, the court may award sums of money out of the decedent's estate for the child's support or educational expenses, or both, as equity may require. The time within which a claim may be filed against the estate of a decedent under Sections 505 and 513 and subsection (d) and this subsection shall be governed by the provisions of the Probate Act of 1975, as a barrable, noncontingent claim.

(f) A petition to modify or terminate child support or allocation of parental responsibilities shall not delay any child support enforcement litigation or supplementary proceeding on behalf of the obligee, including, but not limited to, a petition for a rule to show cause, for non-wage garnishment, or for a restraining order.
(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/511) (from Ch. 40, par. 511)
Sec. 511. **Procedure**. [No changes] ***

(750 ILCS 5/512) (from Ch. 40, par. 512)
(Text of Section after amendment by P.A. 99-90)
Sec. 512. **Post-Judgment Venue**. After 30 days from the entry of a judgment of dissolution of marriage or legal separation or the last modification thereof, any further proceedings to enforce or modify the judgment shall be as follows:

(a) If the respondent does not then reside within this State, further proceedings shall be had either in the judicial circuit wherein the moving party resides or where the judgment was entered or last modified.

(b) If one or both of the parties then resides in the judicial circuit wherein the judgment was entered or last modified, further proceedings shall be had in the judicial circuit that last exercised jurisdiction in the matter; provided, however, that the court may in its discretion, transfer matters involving a change in the allocation of parental responsibility to the judicial circuit where the minor or dependent child resides.

(c) If neither party then resides in the judicial circuit wherein the judgment was entered or last modified, further proceedings shall be had in that circuit or in the judicial circuit wherein either party resides; provided, however, that the court may, in its discretion, transfer matters involving a change in the allocation of parental responsibility to the judicial circuit where the minor or dependent child resides.

(d) Objection to venue is waived if not made within such time as the respondent's answer is due. Counter relief shall be heard and determined by the court hearing any matter already pending.
(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/513) (from Ch. 40, par. 513)
Sec. 513. **Educational Expenses for a Non-Minor Child.**

(a) **[Educational Expenses Generally and Cut-off Dates]** The court may award sums of money out

of the property and income of either or both parties or the estate of a deceased parent, as equity may require, for the educational expenses of any child of the parties. Unless otherwise agreed to by the parties, all educational expenses which are the subject of a petition brought pursuant to this Section shall be incurred no later than the student's 23rd birthday, except for good cause shown, but in no event later than the child's 25th birthday.

(b) **[Submission of FAFSAs, Costs for Applications, etc.]** Regardless of whether an award has been made under subsection (a), the court may require both parties and the child to complete the Free Application for Federal Student Aid (FAFSA) and other financial aid forms and to submit any form of that type prior to the designated submission deadline for the form. The court may require either or both parties to provide funds for the child so as to pay for the cost of up to 5 college applications, the cost of 2 standardized college entrance examinations, and the cost of one standardized college entrance examination preparatory course.

(c) The authority under this Section to make provision for educational expenses extends not only to periods of college education or vocational or professional or other training after graduation from high school, but also to any period during which the child of the parties is still attending high school, even though he or she attained the age of 19.

(d) **[Inclusive List of Educational Expenses]** Educational expenses may include, but shall not be limited to, the following:

(1) [Presumptive Tuition and Fee Limitation to U of I] except for good cause shown, the actual cost of the child's post-secondary expenses, including tuition and fees, provided that the cost for tuition and fees does not exceed the amount of [in-state] tuition and fees paid by a student at the University of Illinois at Urbana-Champaign for the same academic year;

(2) [Presumptive Room and Boarding Expenses Limitation to U of I] except for good cause shown, the actual costs of the child's housing expenses, whether on-campus or off-campus, provided that the housing expenses do not exceed the cost for the same academic year of a double-occupancy student room, with a standard meal plan, in a residence hall operated by the University of Illinois at Urbana-Champaign;

(3) [Insurance, Medical and Dental] the actual costs of the child's medical expenses, including medical insurance, and dental expenses;

(4) [Reasonable Living Expenses] the reasonable living expenses of the child during the academic year and periods of recess:

(A) if the child is a resident student attending a post-secondary educational program; or

(B) if the child is living with one party at that party's home and attending a post-secondary educational program as a non-resident student, in which case the living expenses include an amount that pays for the reasonable cost of the child's food, utilities, and transportation; and

(5) [Books and Supplies] the cost of books and other supplies necessary to attend college.

(e) Sums may be ordered payable to the child, to either party, or to the educational institution, directly or through a special account or trust created for that purpose, as the court sees fit.

(f) [Consents] If educational expenses are ordered payable, each party and the child shall sign any consent necessary for the educational institution to provide a supporting party with access to the child's academic transcripts, records, and grade reports. The consent shall not apply to any non-academic records. Failure to execute the required consent may be a basis for a modification or termination of any order entered under this Section. Unless the court specifically finds that the child's safety would be jeopardized, each party is entitled to know the name of the educational institution the child attends.

(g) **[Child's Aptitude]** The authority under this Section to make provision for educational expenses terminates when the child either: fails to maintain a cumulative "C" grade point average, except in the event of illness or other good cause shown; attains the age of 23; receives a baccalaureate degree; or marries. A child's enlisting in the armed forces, being incarcerated, or becoming pregnant does not terminate the court's authority to make provisions for the educational expenses for the child under this Section.

(h) **[529 and Other College Savings Plans]** An account established prior to the dissolution that is to be used for the child's post-secondary education, that is an account in a state tuition program under Section 529 of the Internal Revenue Code, or that is some other college savings plan, is to be considered by the court to be a resource of the child, provided that any post-judgment contribution made by a party to such an account is to be considered a contribution from that party.

(i) The child is not a third party beneficiary to the settlement agreement or judgment between the parties after trial and is not entitled to file a petition for contribution. If the parties' settlement agreement describes the manner in which a child's educational expenses will be paid, or if the court makes an award pursuant to this Section, then the parties are responsible pursuant to that agreement or award for the child's educational expenses, but in no event shall the court consider the child a third party beneficiary of that provision. In the event of the death or legal disability of a party who would have the right to file a petition for contribution, the child of the party may file a petition for contribution.

Relevant factors are now in (j) and includes the first factor:
(j) **[Relevant Factors]** In making awards under paragraph (1) or (2) of subsection (a), or pursuant to a petition or motion to decrease, modify, or terminate any such award, the court shall consider all relevant factors that appear reasonable and necessary, including:

(1) The present and future financial resources of both parties to meet their needs, including, but not limited to, savings for retirement. The deleted phrase is, "The financial resources of both parents.

(2) The standard of living the child would have enjoyed had the marriage not been dissolved.

(3) The financial resources of the child.

(4) The child's academic performance.

(k) The establishment of an obligation to pay under this Section is retroactive only to the date of filing a petition. The right to enforce a prior obligation to pay may be enforced either before or after the obligation is incurred.

(Source: P.A. 95-954, eff. 8-29-08.)

(750 ILCS 5/513.5)
(This Section contain text with a delayed effective date of January 1, 2016)
Sec. 513.5. **Support for a non-minor child with a disability**.

(a) The court may award sums of money out of the property and income of either or both parties or the estate of a deceased parent, as equity may require, for the support of a child of the parties who has attained majority when the child is mentally or physically disabled and not otherwise emancipated. The sums awarded may be paid to one of the parents, to a trust created by the parties for the benefit of the non-minor child with a disability, or irrevocably to a special needs trust, established by the parties and for the sole benefit of the non-min(d)(4)(A) or (d)(4)(C) of 42 U.S.C. 1396p, Section 15.1 of the Trusts and Trustees Act(d)(4)(A) or (d)(4)(C) of 42 U.S.C. 1396p, Section 15.1 of the Trusts and Trustees Actor child with a disability, pursuant to subdivisions (d)(4)(A) or (d)(4)(C) of 42 U.S.C. 1396p, Section 15.1 of the Trusts and Trustees Act, and applicable provisions of the Social Security Administration Program Operating Manual System. An application for support for a non-minor disabled child may be made before or after the child has attained majority. Unless an application for educational expenses is made for a mentally or physically disabled child under Section 513, the disability that is the basis for the application for support must have arisen while the child was eligible for support under Section 505 or 513 of this Act.

(b) In making awards under this Section, or pursuant to a petition or motion to decrease, modify, or terminate any such award, the court shall consider all relevant factors that appear reasonable and necessary, including:

(1) the present and future financial resources of both parties to meet their needs, including, but not limited to, savings for retirement;

(2) the standard of living the child would have enjoyed had the marriage not been dissolved. The court may consider factors that are just and equitable;

(3) the financial resources of the child; and

(4) any financial or other resource provided to or for the child including, but not limited to, any Supplemental Security Income, any home-based support provided pursuant to the Home-Based Support Services Law for Mentally Disabled Adults, and any other State, federal, or local benefit available to the non-minor disabled child.

(c) As used in this Section:

A "disabled" individual means an individual who has a physical or mental impairment that substantially limits a major life activity, has a record of such an impairment, or is regarded as having such an impairment.

"Disability" means a mental or physical impairment that substantially limits a major life activity. (Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/Pt. VI heading)
(Text of Section after amendment by P.A. 99-90)

PART VI – ALLOCATION OF PARENTAL RESPONSIBILITIES

(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/600)

(This Section contain text with a delayed effective date of January 1, 2016)

Sec. 600. **Definitions**. For purposes of this Part VI:

(a) "Abuse" has the meaning ascribed to that term in Section 103 of the Illinois Domestic Violence Act of 1986.

(b) "**Allocation judgment**" means a judgment allocating parental responsibilities.

(c) "**Caretaking functions**" means tasks that involve interaction with a child or that direct, arrange,

and supervise the interaction with and care of a child provided by others, or for obtaining the resources allowing for the provision of these functions. The term includes, but is not limited to, the following:

(1) satisfying a child's nutritional needs; managing a child's bedtime and wake-up routines; caring for a child when the child is sick or injured; being attentive to a child's personal hygiene needs, including washing, grooming, and dressing; playing with a child and ensuring the child attends scheduled extracurricular activities; protecting a child's physical safety; and providing transportation for a child;

(2) directing a child's various developmental needs, including the acquisition of motor and language skills, toilet training, self-confidence, and maturation;

(3) providing discipline, giving instruction in manners, assigning and supervising chores, and performing other tasks that attend to a child's needs for behavioral control and self-restraint;

(4) ensuring the child attends school, including remedial and special services appropriate to the child's needs and interests, communicating with teachers and counselors, and supervising homework;

(5) helping a child develop and maintain appropriate interpersonal relationships with peers, siblings, and other family members;

(6) ensuring the child attends medical appointments and is available for medical follow-up and meeting the medical needs of the child in the home;

(7) providing moral and ethical guidance for a child; and

(8) arranging alternative care for a child by a family member, babysitter, or other child care provider or facility, including investigating such alternatives, communicating with providers, and supervising such care.

(d) "Parental responsibilities" means both parenting time and significant decision-making responsibilities with respect to a child.

(e) "Parenting time" means the time during which a parent is responsible for exercising caretaking functions and non-significant decision-making responsibilities with respect to the child.

(f) "**Parenting plan**" means a written agreement that allocates significant decision-making responsibilities, parenting time, or both.

(g) "**Relocation**" means:

(1) a change of residence from the child's current primary residence located in the county of Cook, DuPage, Kane, Lake, McHenry, or Will to a new residence within this State that is more than 25 miles from the child's current residence, as measured by an Internet mapping service;

(2) a change of residence from the child's current primary residence located in a county not listed in paragraph (1) to a new residence within this State that is more than 50 miles from the child's current primary residence, as measured by an Internet mapping service; or

(3) a change of residence from the child's current primary residence to a residence outside the borders of this State that is more than 25 miles from the current primary residence, as measured by an Internet mapping service.

(h) "Religious upbringing" means the choice of religion or denomination of a religion, religious schooling, religious training, or participation in religious customs or practices.

(i) "**Restriction of parenting time**" means any limitation or condition placed on parenting time, including supervision.

(j) "**Right of first refusal**" has the meaning provided in subsection (b) of Section 602.3 of this Act.

(k) "**Significant decision-making**" means deciding issues of long-term importance in the life of a child.

(l) "Step-parent" means a person married to a child's parent, including a person married to the child's parent immediately prior to the parent's death.

(m) "**Supervision**" means the presence of a third party during a parent's exercise of parenting time.

(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/601.2)
(This Section contain text with a delayed effective date of January 1, 2016)
Sec. 601.2. **Jurisdiction; commencement of proceeding**.
(a) A court of this State that is competent to allocate parental responsibilities has jurisdiction to make such an allocation in original or modification proceedings as provided in Section 201 of the Uniform Child-Custody Jurisdiction and Enforcement Act as adopted by this State.

(b) A proceeding for allocation of parental responsibilities with respect to a child is **commenced** in the court:
(1) by filing a petition for dissolution of marriage or legal separation or declaration of invalidity of marriage;
(2) by filing a petition for allocation of parental responsibilities with respect to the child in the county in which the child resides;
(3) by a **person other than a parent**, by filing a petition for allocation of parental responsibilities in the county in which the child is permanently resident or found, but only if he or she is not in the physical custody of one of his or her parents;
(4) by a **step-parent,** by filing a petition, if all of the following circumstances are met:
(A) the parent having the majority of parenting time is deceased or is disabled and cannot perform the duties of a parent to the child;
(B) the step-parent provided for the care, control, and welfare of the child prior to the initiation of proceedings for allocation of parental responsibilities;
(C) the child wishes to live with the step-parent; and
(D) it is alleged to be in the best interests and welfare of the child to live with the step-parent as provided in Section 602.5 of this Act; or
(5) when **one of the parents is deceased**, by a **grandparent** who is a parent or step-parent of a deceased parent, by filing a petition, if one or more of the following existed at the time of the parent's death:
(A) the surviving parent had been absent from the marital abode for more than one month without the spouse knowing his or her whereabouts;
(B) the surviving parent was in State or federal custody; or
(C) the surviving parent had: ***
(c) When a proceeding for allocation of parental responsibilities is commenced, the party commencing the action must, at least 30 days before any hearing on the petition, serve a written notice and a copy of the petition on the child's parent, guardian, person currently allocated parental responsibilities pursuant to subdivision (b)(4) or (b)(5) `this` Section ~~601.2~~, and any person with a pending motion for allocation of parental responsibilities with respect to the child. Nothing in this Section shall preclude a party in a proceeding for allocation of parental responsibilities from moving for a temporary order under Section 603.5.
(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/602.3)
(Text of Section after amendment by P.A. 99-90)
Sec. 602.3. **Care of minor children; right of first refusal**.
(a) If the court awards parenting time to both parents under Section 602.7 or 602.8, the court may consider, consistent with the best interests of the child as defined in Section 602.7, whether to award to

one or both of the parties the right of first refusal to provide child care for the minor child or children during the other parent's normal parenting time, unless the need for child care is attributable to an emergency.

(b) As used in this Section, "right of first refusal" means that if a party intends to leave the minor child or children with a substitute child-care provider for a significant period of time, that party must first offer the other party an opportunity to personally care for the minor child or children. The parties may agree to a right of first refusal that is consistent with the best interests of the minor child or children. If there is no agreement and the court determines that a right of first refusal is in the best interests of the minor child or children, the court shall consider and make provisions in its order for:

(1) the length and kind of child-care requirements invoking the right of first refusal;

(2) notification to the other parent and for his or her response;

(3) transportation requirements; and

(4) any other action necessary to protect and promote the best interest of the minor child or children.

(c) The right of first refusal may be enforced under Section 607.5 of this Act.

(d) The right of first refusal is terminated upon the termination of the allocation of parental responsibilities or parenting time.

(Source: P.A. 98-462, eff. 1-1-14; 99-90, eff. 1-1-16.)

(750 ILCS 5/602.5)

(This Section contain text with a delayed effective date of January 1, 2016)

Sec. 602.5. **Allocation of parental responsibilities: decision-making.**

(a) **Generally**. The court shall allocate decision-making responsibilities according to the child's best interests. Nothing in this Act requires that each parent be allocated decision-making responsibilities.

(b) **Allocation of significant decision-making responsibilities**. Unless the parents otherwise agree in writing on an allocation of significant decision-making responsibilities, or the issue of the allocation of parental responsibilities has been reserved under Section 401, the court shall make the determination. The court shall allocate to one or both of the parents the significant decision-making responsibility for each significant issue affecting the child.

[Significant Issues Include] Those significant issues shall include, without limitation, the following:

(1) Education, including the choice of schools and tutors.

(2) Health, including all decisions relating to the medical, dental, and psychological needs of the child and to the treatments arising or resulting from those needs.

(3) Religion, subject to the following provisions:

(A) The court shall allocate decision-making responsibility for the child's religious upbringing in accordance with any express or implied agreement between the parents.

(B) The court shall consider evidence of the parents' past conduct as to the child's religious upbringing in allocating decision-making responsibilities consistent with demonstrated past conduct in the absence of an express or implied agreement between the parents.

(C) The court shall not allocate any aspect of the child's religious upbringing if it determines that the parents do not or did not have an express or implied agreement for such religious upbringing or that there is insufficient evidence to demonstrate a course of conduct regarding the child's religious upbringing that could serve as a basis for any such order.

(4) Extracurricular activities.

(c) **Determination of child's best interests**. In determining the child's best interests for purposes of

allocating significant decision-making responsibilities, the court shall consider all relevant factors, including, without limitation, the following:

(1) the wishes of the child, taking into account the child's maturity and ability to express reasoned and independent preferences as to decision-making;

(2) the child's adjustment to his or her home, school, and community;

(3) the mental and physical health of all individuals involved;

(4) the ability of the parents to cooperate to make decisions, or the level of conflict between the parties that may affect their ability to share decision-making;

(5) the level of each parent's participation in past significant decision-making with respect to the child;

(6) any prior agreement or course of conduct between the parents relating to decision-making with respect to the child;

(7) the wishes of the parents;

(8) the child's needs;

(9) the distance between the parents' residences, the cost and difficulty of transporting the child, each parent's and the child's daily schedules, and the ability of the parents to cooperate in the arrangement;

(10) whether a restriction on decision-making is appropriate under Section 603.10;

(11) the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child;

(12) the physical violence or threat of physical violence by the child's parent directed against the child;

(13) the occurrence of abuse against the child or other member of the child's household;

(14) whether one of the parents is a sex offender, and if so, the exact nature of the offense and what, if any, treatment in which the parent has successfully participated; and

(15) any other factor that the court expressly finds to be relevant.

(d) A parent shall have sole responsibility for making routine decisions with respect to the child and for emergency decisions affecting the child's health and safety during that parent's parenting time.

(e) In allocating significant decision-making responsibilities, the court shall not consider conduct of a parent that does not affect that parent's relationship to the child.
(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/602.7)
(This Section contain text with a delayed effective date of January 1, 2016)
Sec. 602.7. **Allocation of parental responsibilities: parenting time**.

(a) Best interests. The court shall allocate parenting time to the child's best interests.

(b) **Allocation of parenting time**. Unless the parents present a mutually agreed written parenting plan and that plan is approved by the court, the court shall allocate parenting time. It is presumed both parents are fit and the court shall not place any restrictions on parenting time as defined in Section 600 and described in Section 603.10, unless it finds by a preponderance of the evidence that a parent's exercise of parenting time would seriously endanger the child's physical, mental, moral, or emotional health.

[Best Interest Factors in 2016 Law] In determining the child's best interests for purposes of

allocating parenting time, the court shall consider all relevant factors, including, without limitation, the following:

(1) the wishes of each parent seeking parenting time;

(2) the wishes of the child, taking into account the child's maturity and ability to express reasoned and independent preferences as to parenting time;

(3) the amount of time each parent spent performing caretaking functions with respect to the child in the 24 months preceding the filing of any petition for allocation of parental responsibilities or, if the child is under 2 years of age, since the child's birth;

(4) any prior agreement or course of conduct between the parents relating to caretaking functions with respect to the child;

(5) the interaction and interrelationship of the child with his or her parents and siblings and with any other person who may significantly affect the child's best interests;

(6) the child's adjustment to his or her home, school, and community;

(7) the mental and physical health of all individuals involved;

(8) the child's needs;

(9) the distance between the parents' residences, the cost and difficulty of transporting the child, each parent's and the child's daily schedules, and the ability of the parents to cooperate in the arrangement;

(10) whether a restriction on parenting time is appropriate;

(11) the physical violence or threat of physical violence by the child's parent directed against the child or other member of the child's household;

(12) the willingness and ability of each parent to place the needs of the child ahead of his or her own needs;

(13) the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child;

(14) the occurrence of abuse against the child or other member of the child's household;

(15) whether one of the parents is a convicted sex offender or lives with a convicted sex offender and, if so, the exact nature of the offense and what if any treatment the offender has successfully participated in; the parties are entitled to a hearing on the issues raised in this paragraph (15);

(16) the terms of a parent's military family-care plan that a parent must complete before deployment if a parent is a member of the United States Armed Forces who is being deployed; and

(17) any other factor that the court expressly finds to be relevant.

(c) In allocating parenting time, the court shall not consider conduct of a parent that does not affect that parent's relationship to the child.

(d) Upon motion, the court may allow a parent who is deployed or who has orders to be deployed as a member of the United States Armed Forces to designate a person known to the child to exercise reasonable substitute visitation on behalf of the deployed parent, if the court determines that substitute visitation is in the best interests of the child. In determining whether substitute visitation is in the best interests of the child, the court shall consider all of the relevant factors listed in subsection (b) of this Section and apply those factors to the person designated as a substitute for the deployed parent for visitation purposes. Visitation orders entered under this subsection are subject to subsections (e) and (f) of Section 602.9 and subsections (c) and (d) of Section 603.10.

(e) If the street address of a parent is not identified pursuant to Section 708 of this Act, the court shall require the parties to identify reasonable alternative arrangements for parenting time by the other parent

including, but not limited to, parenting time of the minor child at the residence of another person or at a local public or private facility.
(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/602.8)
(This Section contain text with a delayed effective date of January 1, 2016)
Sec. 602.8. **Parenting time by parents not allocated significant decision-making responsibilities.**
(a) A parent who has established parentage under the laws of this State and who is not granted significant decision-making responsibilities for a child is entitled to reasonable parenting time with the child, subject to subsections (d) and (e) of Section 603.10 of this Act, unless the court finds, after a hearing, that the parenting time would seriously endanger the child's mental, moral, or physical health or significantly impair the child's emotional development. The order setting forth parenting time shall be in the child's best interests pursuant to the factors set forth in subsection (b) of Section 602.7 of this Act.

(b) The court may modify an order granting or denying parenting time pursuant to Section 610.5 of this Act. The court may restrict parenting time, and modify an order restricting parenting time, pursuant to Section 603.10 of this Act.

(c) If the street address of the parent allocated parental responsibilities is not identified, pursuant to Section 708 of this Act, the court shall require the parties to identify reasonable alternative arrangements for parenting time by a parent not allocated parental responsibilities, including but not limited to parenting time of the minor child at the residence of another person or at a local public or private facility.
(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/602.9)
(This Section contain text with a delayed effective date of January 1, 2016)
Sec. 602.9. **Visitation by certain non-parents**.
(a) **[Definitions]** As used in this Section:
(1) "electronic communication" means time that a grandparent, great-grandparent, sibling, or step-parent spends with a child during which the child is not in the person's actual physical custody, but which is facilitated by the use of communication tools such as the telephone, electronic mail, instant messaging, video conferencing or other wired or wireless technologies via the Internet, or another medium of communication;
(2) "sibling" means a brother or sister either of the whole blood or the half blood, stepbrother, or stepsister of the minor child;
(3) "step-parent" means a person married to a child's parent, including a person married to the child's parent immediately prior to the parent's death; and
(4) "visitation" means in-person time spent between a child and the child's grandparent, great-grandparent, sibling, step-parent, or any person designated under subsection (d) of Section 602.7. In appropriate circumstances, visitation may include electronic communication under conditions and at times determined by the court.

(b) **General provisions.**
(1) An appropriate person, as identified in subsection (c) of this Section, may bring an action in circuit court by petition, or by filing a petition in a pending dissolution proceeding or any other

proceeding that involves parental responsibilities or visitation issues regarding the child, requesting visitation with the child pursuant to this Section. If there is not a pending proceeding involving parental responsibilities or visitation with the child, the petition for visitation with the child must be filed in the county in which the child resides. Notice of the petition shall be given as provided in subsection (c) of Section 601.2 of this Act.

(2) This Section does not apply to a child:

(A) in whose interests a petition is pending under Section 2-13 of the Juvenile Court Act of 1987; or

(B) in whose interests a petition to adopt by an unrelated person is pending under the Adoption Act; or

(C) who has been voluntarily surrendered by the parent or parents, except for a surrender to the Department of Children and Family Services or a foster care facility; or

(D) who has been previously adopted by an individual or individuals who are not related to the biological parents of the child or who is the subject of a pending adoption petition by an individual or individuals who are not related to the biological parents of the child; or

(E) who has been relinquished pursuant to the Abandoned Newborn Infant Protection Act.

(3) A petition for visitation may be filed under this Section only if there has been an unreasonable denial of visitation by a parent and the denial has caused the child undue mental, physical, or emotional harm.

(4) There is a rebuttable presumption that a fit parent's actions and decisions regarding grandparent, great-grandparent, sibling, or step-parent visitation are not harmful to the child's mental, physical, or emotional health. The burden is on the party filing a petition under this Section to prove that the parent's actions and decisions regarding visitation will cause undue harm to the child's mental, physical, or emotional health.

(5) In determining whether to grant visitation, the court shall consider the following:
(A) the wishes of the child, taking into account the child's maturity and ability to express reasoned and independent preferences as to visitation;
(B) the mental and physical health of the child;
(C) the mental and physical health of the grandparent, great-grandparent, sibling, or step-parent;
(D) the length and quality of the prior relationship between the child and the grandparent, great-grandparent, sibling, or step-parent;
(E) the good faith of the party in filing the petition;
(F) the good faith of the person denying visitation;
(G) the quantity of the visitation time requested and the potential adverse impact that visitation would have on the child's customary activities;
(H) any other fact that establishes that the loss of the relationship between the petitioner and the child is likely to unduly harm the child's mental, physical, or emotional health; and
(I) whether visitation can be structured in a way to minimize the child's exposure to conflicts between the adults.

(6) Any visitation rights granted under this Section before the filing of a petition for adoption of the child shall automatically terminate by operation of law upon the entry of an order terminating parental rights or granting the adoption of the child, whichever is earlier. If the person or persons who adopted the child are related to the child, as defined by Section 1 of the Adoption Act, any person who

was related to the child as grandparent, great-grandparent, or sibling prior to the adoption shall have standing to bring an action under this Section requesting visitation with the child.

(7) The court may order visitation rights for the grandparent, great-grandparent, sibling, or step-parent that include reasonable access without requiring overnight or possessory visitation.

(c) **Visitation by grandparents, great-grandparents, step-parents, and siblings**.

(1) Grandparents, great-grandparents, step-parents, and siblings of a minor child who is one year old or older may bring a petition for visitation and electronic communication under this Section if there is an unreasonable denial of visitation by a parent that causes undue mental, physical, or emotional harm to the child and if at least one of the following conditions exists:

(A) the child's other parent is deceased or has been missing for at least 90 days. For the purposes of this subsection a parent is considered to be missing if the parent's location has not been determined and the parent has been reported as missing to a law enforcement agency; or

(B) a parent of the child is incompetent as a matter of law; or

(C) a parent has been incarcerated in jail or prison for a period in excess of 90 days immediately prior to the filing of the petition; or

(D) the child's parents have been granted a dissolution of marriage or have been legally separated from each other or there is pending a dissolution proceeding involving a parent of the child or another court proceeding involving parental responsibilities or visitation of the child (other than an adoption proceeding of an unrelated child, a proceeding under Article II of the Juvenile Court Act of 1987, or an action for an order of protection under the Illinois Domestic Violence Act of 1986 or Article 112A of the Code of Criminal Procedure of 1963) and at least one parent does not object to the grandparent, great-grandparent, step-parent, or sibling having visitation with the child. The visitation of the grandparent, great-grandparent, step-parent, or sibling must not diminish the parenting time of the parent who is not related to the grandparent, great-grandparent, step-parent, or sibling seeking visitation; or

(E) the child is born to parents who are not married to each other, the parents are not living together, and the petitioner is a grandparent, great-grandparent, step-parent, or sibling of the child, and parentage has been established by a court of competent jurisdiction.

(2) In addition to the factors set forth in subdivision (b)(5) of this Section, the court should consider:

(A) whether the child resided with the petitioner for at least 6 consecutive months with or without a parent present;

(B) whether the child had frequent and regular contact or visitation with the petitioner for at least 12 consecutive months; and

(C) whether the grandparent, great-grandparent, sibling, or step-parent was a primary caretaker of the child for a period of not less than 6 consecutive months within the 24-month period immediately preceding the commencement of the proceeding.

(3) An order granting visitation privileges under this Section is subject to subsections (c) and (d) of Section 603.10.

(4) A petition for visitation privileges may not be filed pursuant to this subsection (c) by the parents or grandparents of a parent of the child if parentage between the child and the related parent has not been legally established.

(d) **Modification of visitation orders**.

(1) Unless by stipulation of the parties, no motion to modify a grandparent, great-grandparent, sibling, or step-parent visitation order may be made earlier than 2 years after the date the order was filed, unless the court permits it to be made on the basis of affidavits that there is reason to believe the child's present environment may endanger seriously the child's mental, physical, or emotional health.

(2) The court shall not modify an order that grants visitation to a grandparent, great-grandparent, sibling, or step-parent unless it finds by clear and convincing evidence, upon the basis of facts that have arisen since the prior visitation order or that were unknown to the court at the time of entry of the prior visitation order, that a change has occurred in the circumstances of the child or his or her parent, and that the modification is necessary to protect the mental, physical, or emotional health of the child. The court shall state in its decision specific findings of fact in support of its modification or termination of the grandparent, great-grandparent, sibling, or step-parent visitation. A child's parent may always petition to modify visitation upon changed circumstances when necessary to promote the child's best interests.

(3) Notice of a motion requesting modification of a visitation order shall be provided as set forth in subsection (c) of Section 601.2 of this Act.

(4) Attorney's fees and costs shall be assessed against a party seeking modification of the visitation order if the court finds that the modification action is vexatious and constitutes harassment.

(e) No child's grandparent, great-grandparent, sibling, or step-parent, or any person to whom the court is considering granting visitation privileges pursuant to subsection (d) of Section 602.7, who was convicted of any offense involving an illegal sex act perpetrated upon a victim less than 18 years of age including, ***

(f) No child's grandparent, great-grandparent, sibling, or step-parent, or any person to whom the court is considering granting visitation privileges pursuant to subsection (d) of Section 602.7, may be granted visitation if he or she has been convicted of first degree murder of a parent, grandparent, great-grandparent, or sibling of the child who is the subject of the visitation request. Pursuant to a motion to modify visitation, the court shall revoke visitation rights previously granted to any person who would otherwise be entitled to petition for visitation rights under this Section or granted visitation under subsection (d) of Section 602.7, if the person has been convicted of first degree murder of a parent, grandparent, great-grandparent, or sibling of the child who is the subject of the visitation order. Until an order is entered pursuant to this subsection, no person may visit, with the child present, a person who has been convicted of first degree murder of the parent, grandparent, great-grandparent, or sibling of the child without the consent of the child's parent, other than a parent convicted of first degree murder as set forth herein, or legal guardian.
(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/602.10)
(This Section contain text with a delayed effective date of January 1, 2016)
Sec. 602.10. **Parenting plan**.

(a) **Filing of parenting plan**. All parents, within 120 days after service or filing of any petition for allocation of parental responsibilities, must file with the court, either jointly or separately, a proposed parenting plan. The time period for filing a parenting plan may be extended by the court for good cause shown. If no appearance has been filed by the respondent, no parenting plan is required unless ordered by the court.

(b) No parenting plan filed. In the absence of filing of one or more parenting plans, the court must conduct an evidentiary hearing to allocate parental responsibilities.

(c) **Mediation**. The court shall order mediation to assist the parents in formulating or modifying a parenting plan or in implementing a parenting plan unless the court determines that impediments to mediation exist. Costs under this subsection shall be allocated between the parties pursuant to the applicable statute or Supreme Court Rule.

(d) **Parents' agreement on parenting plan**. The parenting plan must be in writing and signed by both paren@@@ts. The parents must submit the parenting plan to the court for approval within 120 days after service of a petition for allocation of parental responsibilities or the filing of an appearance, except for good cause shown. Notwithstanding the provisions above, the parents may agree upon and submit a parenting plan at any time after the commencement of a proceeding until prior to the entry of a judgment of dissolution of marriage. The agreement is binding upon the court unless it finds, after considering the circumstances of the parties and any other relevant evidence produced by the parties, that the agreement is not in the best interests of the child~~unconscionable~~. If the court does not approve the parenting plan, the court shall make express findings of the reason or reasons for its refusal to approve the plan. The court, on its own motion, may conduct an evidentiary hearing to determine whether the parenting plan is in the child's best interests.

(e) **Parents cannot agree on parenting plan**. When parents fail to submit an agreed parenting plan, each parent must file and submit a written, signed parenting plan to the court within 120 days after the filing of an appearance, except for good cause shown. The court's determination of parenting time should be based on the child's best interests. The filing of the plan may be excused by the court if:

(1) the parties have commenced mediation for the purpose of formulating a parenting plan; or

(2) the parents have agreed in writing to extend the time for filing a proposed plan and the court has approved such an extension; or

(3) the court orders otherwise for good cause shown.

(f) **Parenting plan contents**. At a minimum, a parenting plan **must set forth the following:**

(1) an allocation of significant decision-making responsibilities;

(2) provisions for the child's living arrangements and for each parent's parenting time, including either:

(A) a schedule that designates in which parent's home the minor child will reside on given days; or

(B) a formula or method for determining such a schedule in sufficient detail to be enforced in a subsequent proceeding;

(3) a mediation provision addressing any proposed reallocation of parenting time or regarding the terms of allocation of parental responsibilities, except that this provision is not required if one parent is allocated all significant decision-making responsibilities;

(4) each parent's right of access to medical, dental, and psychological records (subject to the Mental Health and Developmental Disabilities Confidentiality Act), child care records, and school and extracurricular records, reports, and schedules, unless expressly denied by a court order or denied under Section 602.11 ~~subsection (g) of Section 602.5~~;

(5) a designation of the parent who will be denominated as the parent with the majority of parenting time for purposes of Section 606.10;

(6) the child's residential address for school enrollment purposes only;

(7) each parent's residence address and phone number, and each parent's place of employment and employment address and phone number;

(8) a requirement that a parent changing his or her residence provide at least 60 days prior written notice of the change to any other parent under the parenting plan or allocation judgment, unless such

notice is impracticable or unless otherwise ordered by the court. If such notice is impracticable, written notice shall be given at the earliest date practicable. At a minimum, the notice shall set forth the following:

(A) the intended date of the change of residence; and

(B) the address of the new residence;

(9) provisions requiring each parent to notify the other of emergencies, health care, travel plans, or other significant child-related issues;

(10) transportation arrangements between the parents;

(11) provisions for communications, including electronic communications, with the child during the other parent's parenting time;

(12) provisions for resolving issues arising from a parent's future relocation, if applicable;

(13) provisions for future modifications of the parenting plan, if specified events occur;

(14) [Permissive Inclusion Right of First Refusal] provisions for the exercise of the right of first refusal, **if so desired**, that are consistent with the best interests of the minor child; provisions in the plan for the exercise of the right of first refusal must include:

(i) the length and kind of child-care requirements invoking the right of first refusal;

(ii) notification to the other parent and for his or her response;

(iii) transportation requirements; and

(iv) any other provision related to the exercise of the right of first refusal necessary to protect and promote the best interests of the minor child; and

(15) any other provision that addresses the child's best interests or that will otherwise facilitate cooperation between the parents.

The personal information under items (6), (7), and (8) of this subsection is not required if there is evidence of or the parenting plan states that there is a history of domestic violence or abuse, or it is shown that the release of the information is not in the child's or parent's best interests.

(g) The court shall conduct a trial or hearing to determine a plan which maximizes the child's relationship and access to both parents and shall ensure that the access and the overall plan are in the best interests of the child. The court shall take the parenting plans into consideration when determining parenting time and responsibilities at trial or hearing.

(h) The court may consider, consistent with the best interests of the child as defined in Section 602.7 of this Act, whether to award to one or both of the parties the right of first refusal in accordance with Section 602.3 of this Act.

(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/602.11)

(This Section contain text with a delayed effective date of January 1, 2016)

Sec. 602.11. **Access to health care, child care, and school records by parents**.

(a) Notwithstanding any other provision of law, access to records and information pertaining to a child including, but not limited to, medical, dental, child care, and school records shall not be denied to a parent for the reason that such parent has not been allocated parental responsibility; however, no parent shall have access to the school records of a child if the parent is prohibited by an order of protection from inspecting or obtaining such records pursuant to the Domestic Violence Act of 1986

or the Code of Criminal Procedure of 1963. A parent who is not allocated parenting time (not denied parental responsibility) is not entitled to access to the child's school or health care records unless a court finds that it is in the child's best interests to provide those records to the parent.

(b) Health care professionals and health care providers shall grant access to health care records and information pertaining to a child to both parents, unless the health care professional or health care provider receives a court order or judgment that denies access to a specific individual. Except as may be provided by court order, no parent who is a named respondent in an order of protection issued pursuant to the Illinois Domestic Violence Act of 1986 or the Code of Criminal Procedure of 1963 shall have access to the health care records of a child who is a protected person under the order of protection provided the health care professional or health care provider has received a copy of the order of protection. Access to health care records is denied under this Section for as long as the order of protection remains in effect as specified in the order of protection or as otherwise determined by court order.

(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/603.5)

(This Section contain text with a delayed effective date of January 1, 2016)

Sec. 603.5. **Temporary orders**.

(a) A court may order a temporary allocation of parental responsibilities in the child's best interests before the entry of a final allocation judgment. Any temporary allocation shall be made in accordance with the standards set forth in Sections 602.5 [Allocation of parental responsibilities: decision-making] and 602.7: (i) after a hearing; or (ii) if there is no objection, on the basis of a parenting plan that, at a minimum, complies with subsection (f) of Section 602.10.

(b) A temporary order allocating parental responsibilities shall be deemed vacated when the action in which it was granted is dismissed, unless a parent moves to continue the action for allocation of parental responsibilities filed under Section 601.5. [But note there is no §601.5.]

(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/603.10)

(This Section contain text with a delayed effective date of January 1, 2016)

Sec. 603.10. **Restriction of parental responsibilities**.

(a) After a hearing, if the court finds by a preponderance of the evidence that a parent engaged in any conduct that seriously endangered the child's mental, moral, or physical health or that significantly impaired the child's emotional development, the court shall enter orders as necessary to protect the child. Such orders may include, but are not limited to, orders for one or more of the following:

(1) a reduction, elimination, or other adjustment of the parent's decision-making responsibilities or parenting time, or both decision-making responsibilities and parenting time;

(2) supervision, including ordering the Department of Children and Family Services to exercise continuing supervision under Section 5 of the Children and Family Services Act;

(3) requiring the exchange of the child between the parents through an intermediary or in a protected setting;

(4) restraining a parent's communication with or proximity to the other parent or the child;

(5) requiring a parent to abstain from possessing or consuming alcohol or non-prescribed drugs while exercising parenting time with the child and within a specified period immediately preceding the exercise of parenting time;

(6) restricting the presence of specific persons while a parent is exercising parenting time with the

child;

(7) requiring a parent to post a bond to secure the return of the child following the parent's exercise of parenting time or to secure other performance required by the court;

(8) requiring a parent to complete a treatment program for perpetrators of abuse, for drug or alcohol abuse, or for other behavior that is the basis for restricting parental responsibilities under this Section; and

(9) any other constraints or conditions that the court deems necessary to provide for the child's safety or welfare.

(b) **[Modification of Orders Restricting Parental Responsibilities]** The court may modify an order restricting parental responsibilities if, after a hearing, the court finds by a preponderance of the evidence that a modification is in the child's best interests based on
(i) a change of circumstances that occurred after the entry of an order restricting parental responsibilities; or
(ii) conduct of which the court was previously unaware that seriously endangers the child.

In determining whether to modify an order under this subsection, the court must consider factors that include, but need not be limited to, the following:
(1) abuse, neglect, or abandonment of the child;
(2) abusing or allowing abuse of another person that had an impact upon the child;
(3) use of drugs, alcohol, or any other substance in a way that interferes with the parent's ability to perform caretaking functions with respect to the child; and
(4) persistent continuing interference with the other parent's access to the child, except for actions taken with a reasonable, good-faith belief that they are necessary to protect the child's safety pending adjudication of the facts underlying that belief, provided that the interfering parent initiates a proceeding to determine those facts as soon as practicable.

(c) An order granting parenting time to a parent or visitation to another person may be revoked by the court if that parent or other person is found to have knowingly used his or her parenting time or visitation to facilitate contact between the child and a parent who has been barred from contact with the child or to have knowingly used his or her parenting time or visitation to facilitate contact with the child that violates any restrictions imposed on a parent's parenting time by a court of competent jurisdiction. Nothing in this subsection limits a court's authority to enforce its orders in any other manner authorized by law.

(d) [Required Language] If parenting time of a parent is restricted, an order granting visitation to a non-parent with a child or an order granting parenting time to the other parent shall contain the following language:

> *"If a person granted parenting time or visitation under this order uses that time to facilitate contact between the child and a parent whose parenting time is restricted, or if such a person violates any restrictions placed on parenting time or visitation by the court, the parenting time or visitation granted under this order shall be revoked until further order of court."*

(e) A parent who, after a hearing, is determined by the court to have been convicted of any offense involving an illegal sex act perpetrated upon a victim less than 18 years of age, including but not

limited to ***

(f) A parent may not, while the child is present, visit any person granted visitation or parenting time who has been convicted of first degree murder, ***

(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/604.10)
(This Section contain text with a delayed effective date of January 1, 2016)
Sec. 604.10. **Interviews; evaluations; investigation**.
(a) **Court's interview of child**. The court may interview the child in chambers to ascertain the child's wishes as to the allocation of parental responsibilities. Counsel shall be present at the interview unless otherwise agreed upon by the parties.

The entire interview shall be recorded by a court reporter. The transcript of the interview shall be filed under seal and released only upon order of the court. The cost of the court reporter and transcript shall be paid by the court.§

Old language: The court shall cause a court reporter to be present who shall make a complete record of the interview instantaneously to be part of the record in the case.

(b) **Court's professional**. The court may seek the advice of any professional, whether or not regularly employed by the court, to assist the court in determining the child's best interests. The advice to the court shall be in writing and sent by the professional to counsel for the parties and to the court not later than 60 days before the date on which the trial court reasonably anticipates the hearing on the allocation of parental responsibilities will commence. The court may review the writing upon receipt under seal. The writing may be admitted into evidence without testimony from its author, unless a party objects. A professional consulted by the court shall testify as the court's witness and be subject to cross-examination. The court shall order all costs and fees of the professional to be paid by one or more of the parties, subject to reallocation in accordance with subsection (a) of Section 508.

The professional's report must, at a minimum, set forth the following:
(1) a description of the procedures employed during the evaluation;
(2) a report of the data collected;
(3) all test results;
(4) any conclusions of the professional relating to the allocation of parental responsibilities under Sections 602.5 and 602.7;
(5) any recommendations of the professional concerning the allocation of parental responsibilities or the child's relocation; and
(6) an explanation of any limitations in the evaluation or any reservations of the professional regarding the resulting recommendations.

The professional shall send his or her report to all attorneys of record, and to any party not represented, at least 60 days before the hearing on the allocation of parental responsibilities. The court shall examine and consider the professional's report only after it has been admitted into evidence or

after the parties have waived their right to cross-examine the professional.

(c) **Evaluation by a party's retained professional**. In a proceeding to allocate parental responsibilities or to relocate a child, upon notice and motion made by a parent or any party to the litigation within a reasonable time before trial, the court shall order an evaluation to assist the court in determining the child's best interests unless the court finds that an evaluation under this Section is untimely or not in the best interests of the child. The evaluation may be in place of or in addition to any advice given to the court by a professional under subsection (b). A motion for an evaluation under this subsection must, at a minimum, identify the proposed evaluator and the evaluator's specialty or discipline. An order for an evaluation under this subsection must set forth the evaluator's name, address, and telephone number and the time, place, conditions, and scope of the evaluation. No person shall be required to travel an unreasonable distance for the evaluation. The party requesting the evaluation shall pay the evaluator's fees and costs unless otherwise ordered by the court.

The evaluator's report must, at a minimum, set forth the following:

(1) a description of the procedures employed during the evaluation;

(2) a report of the data collected;

(3) all test results;

(4) any conclusions of the evaluator relating to the allocation of parental responsibilities under Sections 602.5 and 602.7;

(5) any recommendations of the evaluator concerning the allocation of parental responsibilities or the child's relocation; and

(6) an explanation of any limitations in the evaluation or any reservations of the evaluator regarding the resulting recommendations.

A party who retains a professional to conduct an evaluation under this subsection shall cause the evaluator's written report to be sent to the attorneys of record no less than 60 days before the hearing on the allocation of parental responsibilities, unless otherwise ordered by the court; if a party fails to comply with this provision, the court may not admit the evaluator's report into evidence and may not allow the evaluator to testify.

The party calling an evaluator to testify at trial shall disclose the evaluator as a controlled expert witness in accordance with the Supreme Court Rules.

Any party to the litigation may call the evaluator as a witness. That party shall pay the evaluator's fees and costs for testifying, unless otherwise ordered by the court.

(d) **Investigation**. Upon notice and a motion by a parent or any party to the litigation, or upon the court's own motion, the court may order an investigation and report to assist the court in allocating parental responsibilities. The investigation may be made by any agency, private entity, or individual deemed appropriate by the court. The agency, private entity, or individual appointed by the court must have expertise in the area of allocation of parental responsibilities. The court shall specify the purpose and scope of the investigation.

The investigator's report must, at a minimum, set forth the following:

(1) a description of the procedures employed during the investigation;

(2) a report of the data collected;

(3) all test results;

(4) any conclusions of the investigator relating to the allocation of parental responsibilities under Sections 602.5 and 602.7;

(5) any recommendations of the investigator concerning the allocation of parental responsibilities or the child's relocation; and

(6) an explanation of any limitations in the investigation or any reservations of the investigator regarding the resulting recommendations.

The investigator shall send his or her report to all attorneys of record, and to any party not represented, at least 60 days before the hearing on the allocation of parental responsibilities. The court shall examine and consider the investigator's report only after it has been admitted into evidence or after the parties have waived their right to cross-examine the investigator.

The investigator shall make available to all attorneys of record, and to any party not represented, the investigator's file, and the names and addresses of all persons whom the investigator has consulted, except that if such disclosure would risk abuse to the party or any member of the party's immediate family or household or reveal the confidential address of a shelter for domestic violence victims, that address may be omitted from the report. Any party to the proceeding may call the investigator, or any person consulted by the investigator as a court's witness, for cross-examination. No fees shall be paid for any investigation by a governmental agency. The fees incurred by any other investigator shall be allocated in accordance with Section 508.

(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/606.5)

(This Section contain text with a delayed effective date of January 1, 2016)

Sec. 606.5. **Hearings**.

(a) **[Priority]** Proceedings to allocate parental responsibilities shall receive priority in being set for hearing.

(a-5) The court may tax as costs the payment of necessary travel and other expenses incurred by any person whose presence at the hearing the court deems necessary to determine the best interest of the child.

(b) The court, without a jury, shall determine questions of law and fact.

(c) **[Hearsay Statements of Abuse or Neglect]**

(C) Previous statements made by the child relating to any allegations that the child is an abused or neglected child within the meaning of the Abused and Neglected Child Reporting Act, or an abused or neglected minor within the meaning of the Juvenile Court Act of 1987, shall be admissible in evidence in a hearing concerning allocation of parental responsibilities in accordance with Section 11.1 of the Abused and Neglected Child Reporting Act. No such statement, however, if uncorroborated and not subject to cross-examination, shall be sufficient in itself to support a finding of abuse or neglect.

(d) **[Exclusion of Public from Hearing]** If the court finds that a public hearing may be detrimental to the child's best interests, the court shall exclude the public from the hearing, but the court may admit any person having:

(1) a direct and legitimate interest in the case; or

(2) a legitimate educational or research interest in the work of the court, but only with the permission of both parties and subject to court approval.

(e) **[Sealing Records Relating to Children]** The court may make an appropriate order sealing the records of any interview, report, investigation, or testimony.
(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/606.10)
(This Section contain text with a delayed effective date of January 1, 2016)
Sec. 606.10. **Designation of custodian for purposes of other statutes**. Solely for the purposes of all State and federal statutes that require a designation or determination of custody or a custodian, a parenting plan shall designate the parent who is allocated the majority of parenting time. This designation shall not affect parents' rights and responsibilities under the parenting plan. For purposes of Section 10-20.12b of the School Code only, the parent with the majority of parenting time is considered to have legal custody.
(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/607.5)
(This Section contain text with a delayed effective date of January 1, 2016)
Sec. 607.5. **Abuse of allocated parenting time**.
(a) **[Expedited Procedure]** The court shall provide an expedited procedure for the enforcement of allocated parenting time.

(b) **[Petition's Contents]** An action for the enforcement of allocated parenting time may be commenced by a parent or a person appointed under Section 506 by filing a petition setting forth:
(i) the petitioner's name and residence address or mailing address, except that if the petition states that disclosure of petitioner's address would risk abuse of petitioner or any member of petitioner's family or household or reveal the confidential address of a shelter for domestic violence victims, that address may be omitted from the petition;
(ii) the respondent's name and place of residence, place of employment, or mailing address;
(iii) the terms of the parenting plan or allocation judgment then in effect;
(iv) the nature of the violation of the allocation of parenting time, giving dates and other relevant information; and
(v) that a reasonable attempt was made to resolve the dispute.

(c) **[Relief Available]** If the court finds by a preponderance of the evidence that a parent has not complied with allocated parenting time according to an approved parenting plan or a court order, the court, in the child's best interests, shall issue an order that may include one or more of the following:
(1) an imposition of additional terms and conditions consistent with the court's previous allocation of parenting time or other order;
(2) **[Parental Education Program]** a requirement that either or both of the parties attend a parental education program at the expense of the non-complying parent;
(3) **[Family or Individual Counseling]** upon consideration of all relevant factors, particularly a history or *possibility* of domestic violence, a requirement that the parties participate in family or individual counseling, the expense of which shall be allocated by the court; if counseling is ordered, all counseling sessions shall be confidential, and the communications in counseling shall not be used in any manner in litigation nor relied upon by an expert appointed by the court or retained by any party;

(4) **[Bond or Future Security to Enforce Compliance]** a requirement that the non-complying

parent post a cash bond or other security to ensure future compliance, including a provision that the bond or other security may be forfeited to the other parent for payment of expenses on behalf of the child as the court shall direct;

(5) **[Make-up Time]** a requirement that makeup parenting time be provided for the aggrieved parent or child under the following conditions:

(A) [Same type and duration] that the parenting time is of the same type and duration as the parenting time that was denied, including but not limited to parenting time during weekends, on holidays, and on weekdays and during times when the child is not in school;

(B) [Time Frame for Compliance] that the parenting time is made up within 6 months after the noncompliance occurs, unless the period of time or holiday cannot be made up within 6 months, in which case the parenting time shall be made up within one year after the noncompliance occurs;

(6) **[Contempt]** a finding that the non-complying parent is in contempt of court;

(7) **[Civil Fine per Incident]** an imposition on the non-complying parent of an appropriate civil fine per incident of denied parenting time;

(8) **[Reimbursement All Reasonable Expenses]** a requirement that the non-complying parent reimburse the other parent for all reasonable expenses incurred as a result of the violation of the parenting plan or court order; and

(9) any other provision that may promote the child's best interests.

(d) **[Attorney's Fees]** In addition to any other order entered under subsection (c), except for good cause shown, the court shall order a parent who has failed to provide allocated parenting time or to exercise allocated parenting time to pay the aggrieved party his or her reasonable attorney's fees, court costs, and expenses associated with an action brought under this Section. If the court finds that the respondent in an action brought under this Section has not violated the allocated parenting time, the court may order the petitioner to pay the respondent's reasonable attorney's fees, court costs, and expenses incurred in the action.

(e) Nothing in this Section precludes a party from maintaining any other action as provided by law.

(f) **[Contempt for Violation of Parenting Time Order and Finding of Abuse of Parenting Time – Remedies]** When the court issues an order holding a party in contempt for violation of a parenting time order and finds that the party engaged in parenting time abuse, the court may order one or more of the following:

(1) **[Driving Privileges]** Suspension of a party's Illinois driving privileges pursuant to Section 7-703 of the Illinois Vehicle Code until the court determines that the party is in compliance with the parenting time order. The court may also order that a party be issued a family financial responsibility driving permit that would allow limited driving privileges for employment, for medical purposes, and to transport a child to or from scheduled parenting time in order to comply with a parenting time order in accordance with subsection (a-1) of Section 7-702.1 of the Illinois Vehicle Code.

(2) **[Probation]** Placement of a party on probation with such conditions of probation as the court deems advisable.

(3) **[Imprisonment with Work and Parenting Time Release]** Sentencing of a party to periodic imprisonment for a period not to exceed 6 months; provided, that the court may permit the party 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.

(4) **[Petty Offence plus Fine]** Find that a party in engaging in parenting time abuse is guilty of a

petty offense and should be fined an amount of no more than $500 for each finding of parenting time abuse.

(g) When the court issues an order holding a party in contempt of court for violation of a parenting order, the clerk shall transmit a copy of the contempt order to the sheriff of the county. The sheriff shall furnish a copy of each contempt order to the Department of State Police on a daily basis in the form and manner required by the Department. The Department shall maintain a complete record and index of the contempt orders and make this data available to all local law enforcement agencies.

(h) Nothing contained in this Section shall be construed to limit the court's contempt power.
(Source: P.A. 99-90, eff. 1-1-16.)

750 ILCS 5/607.6 new)
Sec. 607.6. Counseling.
(a) The court may order individual counseling for the child, family counseling for one or more of the parties and the child, or parental education for one or more of the parties, if it finds one or more of the following:
(1) both parents or all parties agree to the order;
(2) the child's physical health is endangered or that the child's emotional development is impaired; (3) abuse of allocated parenting time under Section 607.5 has occurred; or
(4) one or both of the parties have violated the allocation judgment with regard to conduct affecting or in the presence of the child.
(b) The court may apportion the costs of counseling between the parties as appropriate.
(c) The remedies provided in this Section are in addition to, and do not diminish or abridge in any way, the court's power to exercise its authority through contempt or other proceedings.
(d) All counseling sessions shall be confidential. The communications in counseling shall not be used in any manner in litigation nor relied upon by any expert appointed by the court or retained by any party.

(750 ILCS 5/609.2)
(This Section contain text with a delayed effective date of January 1, 2016)
Sec. 609.2. **Parent's relocation**.
(a) **[Relocation and Substantial Change in Circumstances for Modification Purposes]** A parent's relocation constitutes a substantial change in circumstances for purposes of Section 610.5.

(b) **[Application – Parent with Equal or Majority of Parenting Time]** A parent who has been allocated a majority of parenting time or either parent who has been allocated equal parenting time may seek to relocate with a child.

(c) **[Requirement of Written Notice and Filing with Clerk]** A parent intending a relocation, as that term is defined in paragraph (1), (2), or (3) of subsection (g) of Section 600 of this Act, must provide written notice of the relocation to the other parent under the parenting plan or allocation judgment. A copy of the notice required under this Section shall be filed with the clerk of the circuit court. The court may waive or seal some or all of the information required in the notice if there is a history of domestic

violence.

(d) **[Notice before Relocation: Timing and Contents]** The notice must provide at least 60 days' written notice before the relocation unless such notice is impracticable (in which case written notice shall be given at the earliest date practicable) or unless otherwise ordered by the court. At a minimum, the notice must set forth the following:

(1) the intended date of the parent's relocation;

(2) the address of the parent's intended new residence, if known; and

(3) the length of time the relocation will last, if the relocation is not for an indefinite or permanent period.

The court may consider a parent's failure to comply with the notice requirements of this Section without good cause (i) as a factor in determining whether the parent's relocation is in good faith; and (ii) as a basis for awarding reasonable attorney's fees and costs resulting from the parent's failure to comply with these provisions.

(e) **[Notice Signed and Filed - Relocation Allowed]** If the non-relocating parent signs the notice that was provided pursuant to subsection (c) and the relocating parent files the notice with the court, relocation shall be allowed without any further court action. The court shall modify the parenting plan or allocation judgment to accommodate a parent's relocation as agreed by the parents, as long as the agreed modification is in the child's best interests.

(f) **[Petition Seeking Permission to Relocate]** If the non-relocating parent objects to the relocation, fails to sign the notice provided under subsection (c), or the parents cannot agree on modification of the parenting plan or allocation judgment, the parent seeking relocation must file a petition seeking permission to relocate.

(g) **[10 Plus Factors in Relocation Proceedings]** The court shall modify the parenting plan or allocation judgment in accordance with the child's best interests. The court shall consider the following factors:

(1) the Circumstances and Reasons for the Intended Relocation;

(2) the Reasons, If Any, Why a Parent Is Objecting to the Intended Relocation;

(3) the History and Quality of Each Parent's Relationship with the Child and Specifically Whether a Parent Has Substantially Failed or Refused to Exercise the Parental Responsibilities Allocated to Him or Her under the Parenting Plan or Allocation Judgment;

(4) the Educational Opportunities for the Child at the Existing Location and at the Proposed New Location;

(5) the Presence or Absence of Extended Family at the Existing Location and at the Proposed New Location;

(6) the Anticipated Impact of the Relocation on the Child;

(7) Whether the Court Will Be Able to Fashion a Reasonable Allocation of Parental Responsibilities Between All Parents If the Relocation Occurs;

(8) the Wishes of the Child, Taking into Account the Child's Maturity and Ability to Express Reasoned and Independent Preferences as to Relocation;

(9) Possible Arrangements for the Exercise of Parental Responsibilities Appropriate to the Parents' Resources and Circumstances and the Developmental Level of the Child;

(10) Minimization of the Impairment to a Parent-child Relationship Caused by a Parent's Relocation; and

(11) any other relevant factors bearing on the child's best interests.

(h) **[Move outside State and Retention of Jurisdiction]** If a parent moves with the child 25 miles or less from the child's current primary residence to a new primary residence outside Illinois, Illinois continues to be the home state of the child under subsection (c) of Section 202 of the Uniform Child-Custody Jurisdiction and Enforcement Act. Any subsequent move from the new primary residence outside Illinois greater than 25 miles from the child's original primary residence in Illinois must be in compliance with the provisions of this Section.
(Source: P.A. 99-90, eff. 1-1-16.)

(750 ILCS 5/609.5) / Sec. 609.5. **Notification of remarriage or residency with a sex offender**. ***

(750 ILCS 5/610.5)
(This Section contain text with a delayed effective date of January 1, 2016)
Sec. 610.5. **Modification**.
(a) **[Within Two Years]** Unless by stipulation of the parties or except as provided in ~~subsection (b) of this Section or~~ Section 603.10 of this Act, no motion to modify an order allocating parental responsibilities, not including parenting time, may be made earlier than 2 years after its date, unless the court permits it to be made on the basis of affidavits that there is reason to believe the child's present environment may endanger seriously his or her mental, moral, or physical health or significantly impair the child's emotional development. Parenting time may be modified at any time, without a showing of serious endangerment, upon a showing of changed circumstances that necessitates modification to serve the best interests of the child.
(b) (Blank). ~~A motion to modify an order allocating parental responsibilities may be made at any time by a party who has been informed of the existence of facts requiring notice to be given under Section 609.5 of this Act.~~
(c) **[Modification Generally: Preponderance Standard]** Except in a case concerning the modification of any restriction of parental responsibilities under Section 603.10, the court shall modify a parenting plan or allocation judgment when necessary to serve the child's best interests if the court finds, by a preponderance of the evidence, that on the basis of facts that have arisen since the entry of the existing parenting plan or allocation judgment or were not anticipated therein, a substantial change has occurred in the circumstances of the child or of either parent and that a modification is necessary to serve the child's best interests.
(d) The court shall modify a parenting plan or allocation judgment in accordance with a parental agreement, unless it finds that the modification is not in the child's best interests.
(e) **[Modification without Showing Changed Circumstances]** The court may modify a parenting plan or allocation judgment without a showing of changed circumstances if (i) the modification is in the child's best interests; and (ii) any of the following are proven as to the modification:
(1) the modification reflects the actual arrangement under which the child has been receiving care, without parental objection, for the 6 months preceding the filing of the petition for modification, provided that the arrangement is not the result of a parent's acquiescence resulting from circumstances that negated the parent's ability to give meaningful consent;
(2) the modification constitutes a minor modification in the parenting plan or allocation judgment;
(3) the modification is necessary to modify an agreed parenting plan or allocation judgment that the court would not have ordered or approved under Section 602.5 or 602.7 had the court been aware of the circumstances at the time of the order or approval; or

(4) the parties agree to the modification.

(f) **[Attorney's Fees in Modification Proceedings]** Attorney's fees and costs shall be assessed against a party seeking modification if the court finds that the modification action is vexatious or constitutes harassment. If the court finds that a parent has repeatedly filed frivolous motions for modification, the court may bar the parent from filing a motion for modification for a period of time. (Source: P.A. 99-90, eff. 1-1-16.)

750 ILCS 5/Pt. VII heading)
PART VII

MISCELLANEOUS

(750 ILCS 5/702) (from Ch. 40, par. 702)
Sec. 702. **Maintenance in Case of Bigamy.)** ***

(750 ILCS 5/704) (from Ch. 40, par. 704)
Sec. 704. **Public Aid Provisions.)** Except as provided in Sections 709 through 712, if maintenance, child support or both, is awarded to persons who are recipients of aid under "The Illinois Public Aid Code", the court shall direct the husband or wife, as the case may be, to make the payments to (1) the Department of Healthcare and Family Services if the persons are recipients under Articles III, IV or V of the Code, or (2) the local governmental unit responsible for their support if they are recipients under Article VI or VII of the Code. The order shall permit the Department of Healthcare and Family Services or the local governmental unit, as the case may be, to direct that subsequent payments be made directly to the former spouse, the children, or both, or to some person or agency in their behalf, upon removal of the former spouse or children from the public aid rolls; and upon such direction and removal of the recipients from the public aid rolls, the Department or local governmental unit, as the case requires, shall give written notice of such action to the court.
(Source: P.A. 95-331, eff. 8-21-07.)

(750 ILCS 5/705) (from Ch. 40, par. 705)
Sec. 705. **Support payments; receiving and disbursing agents.**
(1) The provisions of this Section shall apply, except as provided in Sections 709 through 712.
(2) In a dissolution of marriage action filed in a county of less than 3 million population in which an order or judgment for child support is entered, and in supplementary proceedings in any such county to enforce or vary the terms of such order or judgment arising out of an action for dissolution of marriage filed in such county, the court, except as it otherwise orders, under subsection (4) of this Section, may direct that child support payments be made to the clerk of the court.
(3) In a dissolution of marriage action filed in any county of 3 million or more population in which an order or judgment for child support is entered, and in supplementary proceedings in any such county to enforce or vary the terms of such order or judgment arising out of an action for dissolution of marriage filed in such county, the court, except as it otherwise orders under subsection (4) of this Section, may direct that child support payments be made either to the clerk of the court or to the Court Service Division of the County Department of Public Aid. After the effective date of this Act, the court, except as it otherwise orders under subsection (4) of this Section, may direct that child support payments be made either to the clerk of the court or to the Department of Healthcare and Family Services.

(4) In a dissolution of marriage action or supplementary proceedings involving maintenance or child support payments, or both, to persons who are recipients of aid under the Illinois Public Aid Code, the court shall direct that such payments be made to (a) the Department of Healthcare and Family Services if the persons are recipients under Articles III, IV, or V of the Code, or (b) the local governmental unit responsible for their support if they are recipients under Articles VI or VII of the Code. In accordance with federal law and regulations, the Department of Healthcare and Family Services may continue to collect current maintenance payments or child support payments, or both, after those persons cease to receive public assistance and until termination of services under Article X of the Illinois Public Aid Code. The Department of Healthcare and Family Services shall pay the net amount collected to those persons after deducting any costs incurred in making the collection or any collection fee from the amount of any recovery made. The order shall permit the Department of Healthcare and Family Services or the local governmental unit, as the case may be, to direct that payments be made directly to the former spouse, the children, or both, or to some person or agency in their behalf, upon removal of the former spouse or children from the public aid rolls or upon termination of services under Article X of the Illinois Public Aid Code; and upon such direction, the Department or local governmental unit, as the case requires, shall give notice of such action to the court in writing or by electronic transmission.

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

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

(6) No filing fee or costs will be required in any action brought at the request of the Department of Healthcare and Family Services in any proceeding under this Act. However, any such fees or costs may be assessed by the court against the respondent in the court's order of support or any modification thereof in a proceeding under this Act.

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

made thereunder directly into the Department's automated data processing system, the clerk shall account for, transmit and otherwise distribute child support payments in accordance with such agreement in lieu of the requirements contained herein.

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

(8) To the extent the provisions of this Section are inconsistent with the requirements pertaining to the State Disbursement Unit under Section 507.1 of this Act and Section 10-26 of the Illinois Public Aid Code, the requirements pertaining to the State Disbursement Unit shall apply.
(Source: P.A. 94-88, eff. 1-1-06; 95-331, eff. 8-21-07.)

(750 ILCS 5/706.1) (from Ch. 40, par. 706.1)

Sec. 706.1. **Withholding of Income to Secure Payment of Support. Orders for support entered under this Act are subject to the Income Withholding for Support Act.**
(Source: P.A. 90-18, eff. 7-1-97; 90-425, eff. 8-15-97; 90-655, eff. 7-30-98; 90-673, eff. 1-1-99; 90-790, eff. 8-14-98; 91-357, eff. 7-29-99.)

(750 ILCS 5/706.2) (from Ch. 40, par. 706.2)

Sec. 706.2. **Posting Security, Bond or Guarantee to Secure Payment**. The court may require a parent to post security, bond or give some other guarantee of a character and amount sufficient to assure payment of any amount of support due.
(Source: P.A. 84-758.)

(750 ILCS 5/706.3)

Sec. 706.3. **Information concerning obligors**.

(a) In this Section:

"Arrearage", "delinquency", "obligor", and "order for support" have the meanings attributed to those terms in the Income Withholding for Support Act.

"Consumer reporting agency" has the meaning attributed to that term in Section 603(f) of the Fair Credit Reporting Act, 15 U.S.C. 1681a(f).

(b) Whenever a court of competent jurisdiction finds that an obligor either owes an arrearage of more than $10,000, is delinquent in payment of an amount equal to at least 3 months' support obligation pursuant to an order for support, or fails to pay the child support annual fee for a period of 3 years, the court shall direct the clerk of the court to make information concerning the obligor available to consumer reporting agencies.

(c) Whenever a court of competent jurisdiction finds that an obligor either owes an arrearage of more than $10,000 or is delinquent in payment of an amount equal to at least 3 months' support obligation pursuant to an order for support, the court shall direct the clerk of the court to cause the obligor's name and address to be published in a newspaper of general circulation in the area in which the obligor resides. The clerk shall cause the obligor's name and address to be published only after sending to the obligor at the obligor's last known address, by certified mail, return receipt requested, a notice of intent to publish the information. This subsection (c) applies only if the obligor resides in the county in which the clerk of the court holds office.
(Source: P.A. 93-836, eff. 1-1-05.)

(750 ILCS 5/707) (from Ch. 40, par. 707)

Sec. 707. **Certificate of Dissolution or Invalidity of Marriage - Filing with Department of Public Health.**) A certificate of each dissolution of marriage or declaration of invalidity of marriage ordered in this State shall be filed with the Illinois Department of Public Health on a form furnished by such Department. The form shall contain the social security numbers of the parties whose marriage has been dissolved or declared invalid. This form shall be prepared by the person filing the petition for dissolution of marriage or declaration of invalidity of marriage and shall be presented to the judge of the court for his inspection prior to the entry of the final order. Failure to comply with this Act shall not invalidate any judgment of dissolution of marriage or declaration of invalidity of marriage. Immediately after the judgment is granted, the clerk of the court shall complete the remaining entries on the certificate. Within 45 days after the close of the month in which the judgment is rendered, the clerk shall forward the certificate to the Illinois Department of Public Health.
(Source: P.A. 90-18, eff. 7-1-97.)

(750 ILCS 5/708) (from Ch. 40, par. 708)

Sec. 708. In any proceeding brought under this Act, the identification of a party's street address shall not be required for any purpose if the court finds that the physical, mental or emotional health of a party or that of a minor child, or both, would be seriously endangered by disclosure of the party's address.
(Source: P.A. 81-419.)

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

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

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

The provisions of Sections 709 through 712 shall be applicable to any county with a population of 2 million or more and to any other county which notifies the Supreme Court of its desire to be included within the coverage of these Sections and is certified pursuant to Supreme Court Rules.

The effective date of inclusion, however, shall be subject to approval of the application for reimbursement of the costs of the support program by the Department of Healthcare and Family Services as provided in Section 712.

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

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

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

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

If the person entitled to payment is a recipient of aid under the Illinois Public Aid Code, the clerk, upon being informed of this fact by finding of the court, by notification by the party entitled to payment, by the Department of Healthcare and Family Services (formerly Illinois Department of Public Aid) or by the local governmental unit, shall make all payments to: (1) the Department of Healthcare and Family Services if the person is a recipient under Article III, IV, or V of the Code or (2) the local governmental unit responsible for his or her support if the person is a recipient under Article VI or VII of the Code. In accordance with federal law and regulations, the Department of Healthcare and Family Services may continue to collect current maintenance payments or child support payments, or both, after those persons cease to receive public assistance and until termination of services under Article X of the Illinois Public Aid Code. The Department of Healthcare and Family Services shall pay the net amount collected to those persons after deducting any costs incurred in making the collection or any collection fee from the amount of any recovery made. Upon termination of public aid payments to such a recipient or termination of services under Article X of the Illinois Public Aid Code, the Department of Healthcare and Family Services or the appropriate local governmental unit shall notify the clerk in writing or by electronic transmission that all subsequent payments are to be sent directly to the person entitled thereto.

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

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

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

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

(h) For those cases in which child support is payable to the clerk of the circuit court for transmittal to the Department of Healthcare and Family Services (formerly Illinois Department of Public Aid) by order of court or upon notification by the Department of Healthcare and Family Services (formerly Illinois Department of Public Aid), the clerk shall transmit all such payments, within 4 working days of receipt, to insure that funds are available for immediate distribution by the Department to the person or entity entitled thereto in accordance with standards of the Child Support Enforcement Program established under Title IV-D of the Social Security Act. The clerk shall notify the Department of the date of receipt and amount thereof at the time of transmittal. Where the clerk has entered into an agreement of cooperation with the Department to record the terms of child support orders and payments

made thereunder directly into the Department's automated data processing system, the clerk shall account for, transmit and otherwise distribute child support payments in accordance with such agreement in lieu of the requirements contained herein.

(i) To the extent the provisions of this Section are inconsistent with the requirements pertaining to the State Disbursement Unit under Section 507.1 of this Act and Section 10-26 of the Illinois Public Aid Code, the requirements pertaining to the State Disbursement Unit shall apply.
(Source: P.A. 94-88, eff. 1-1-06; 95-331, eff. 8-21-07.)

(750 ILCS 5/710) (from Ch. 40, par. 710)

Sec. 710. **Enforcement; Penalties.**

(a) In counties certified as included under the provisions of Sections 709 through 712 and whose application for reimbursement is approved, there shall be instituted a child support enforcement program to be conducted by the clerk of the circuit court and the state's attorney of the county. The program is to be limited to enforcement of child support orders entered pursuant to this Act.

The child support enforcement program is to be conducted only on behalf of dependent children included in a grant of financial aid under Article IV of The Illinois Public Aid Code and parties who apply and qualify for child support enforcement services pursuant to Section 10-1 of such Code.

Nothing in this Section shall be construed to prohibit the establishment of a child support enforcement program by the clerk of the circuit court in cooperation with the State's Attorney of the county.

(b) In the event of a delinquency in payment, as determined from the record maintained by the clerk in a county covered by the child support enforcement program, such clerk shall notify both the party obligated to make the payment, hereinafter called the payor, and the recipient of such payment, hereinafter called the payee, of such delinquency and that if the amount then due and owing is not remitted in the time period required by circuit court rules, the matter will be referred to the state's attorney for enforcement proceedings. Upon failure of the payor to remit as required, the clerk shall refer the matter to the state's attorney, except as provided by rule of the circuit court.

(c) Upon referral from the clerk, the state's attorney shall promptly initiate enforcement proceedings against the payor. Legal representation by the state's attorney shall be limited to child support and shall not extend to visitation, custody, property or other matters; however, if the payor properly files pleadings raising such matters during the course of the child support hearing and the court finds that it has jurisdiction of such matters, the payee shall be granted the opportunity to obtain a continuance in order to secure representation for those other matters, and the court shall not delay entry of an appropriate support order pending the disposition of such other matters.

If the state's attorney does not commence enforcement proceedings within 30 days, the clerk shall inform the court which, upon its own motion, shall appoint counsel for purposes of enforcement. The fees and expenses of such counsel shall be paid by the payor and shall not be paid by the State.

Nothing in this Section shall be construed to prevent a payee from instituting independent enforcement proceedings or limit the remedies available to payee in such proceedings. However, absent the exercise under this provision of a private right of enforcement, enforcement shall be as otherwise provided in this Section.

(d) At the time any support order is entered, the payee shall be informed of the procedure used for enforcement and shall be given the address and telephone number both of the clerk and of the Child and Spouse Support Unit as provided in Section 712.

The payee shall be informed that, if no action is taken within 2 months of any complaint to the clerk, payee may contact the Unit to seek assistance in obtaining enforcement.

(e) Upon a finding that payor is in default and that such non-payment is for a period of two months

and that such non-payment is without good cause, the court shall order the payor to pay a sum equal to 2% of the arrearage as a penalty along with his payment.

The court may further assess against the payor any fees and expenses incurred in the enforcement of any order or the reasonable value thereof and may impose any penalty otherwise available to it in a case of contempt.

All penalties, fees and expenses assessed against the payor pursuant to this subsection are to cover the expenses of enforcement, are to be paid to the clerk and are to be placed by him in the special fund provided for in Section 711.

(f) Any person not covered by the child support enforcement program may institute private and independent proceedings to enforce payment of support.
(Source: P.A. 92-590, eff. 7-1-02.)

(750 ILCS 5/711) (from Ch. 40, par. 711)
Sec. 711. **Fees**. ***(Source: P.A. 82-1002.)

(750 ILCS 5/712) (from Ch. 40, par. 712)
Sec. 712. (a) The Supreme Court may make Rules concerning the certification of counties for inclusion in the child support enforcement program and the application of the procedures created by Sections 709 through 712 in the various counties. ***

(750 ILCS 5/713) (from Ch. 40, par. 713)
Sec. 713. **Attachment of the Body**. As used in this Section, "obligor" has the same meaning ascribed to such term in the Income Withholding for Support Act.

(a) In any proceeding to enforce an order for support, where the obligor has failed to appear in court pursuant to order of court and after due notice thereof, the court may enter an order for the attachment of the body of the obligor. Notices under this Section shall be served upon the obligor by any means authorized under subsection (a-5) of Section 505. The attachment order shall fix an amount of escrow which is equal to a minimum of 20% of the total child support arrearage alleged by the obligee in sworn testimony to be due and owing. The attachment order shall direct the Sheriff of any county in Illinois to take the obligor into custody and shall set the number of days following release from custody for a hearing to be held at which the obligor must appear, if he is released under subsection (b) of this Section.

(b) If the obligor is taken into custody, the Sheriff shall take the obligor before the court which entered the attachment order. However, the Sheriff may release the person after he or she has deposited the amount of escrow ordered by the court pursuant to local procedures for the posting of bond. The Sheriff shall advise the obligor of the hearing date at which the obligor is required to appear.

(c) Any escrow deposited pursuant to this Section shall be transmitted to the Clerk of the Circuit Court for the county in which the order for attachment of the body of the obligor was entered. Any Clerk who receives money deposited into escrow pursuant to this Section shall notify the obligee, public office or legal counsel whose name appears on the attachment order of the court date at which the obligor is required to appear and the amount deposited into escrow. The Clerk shall disburse such money to the obligee only under an order from the court that entered the attachment order pursuant to this Section.

(d) Whenever an obligor is taken before the court by the Sheriff, or appears in court after the court has ordered the attachment of his body, the court shall:

(1) hold a hearing on the complaint or petition that gave rise to the attachment order. For purposes of determining arrearages that are due and owing by the obligor, the court shall accept the previous

sworn testimony of the obligee as true and the appearance of the obligee shall not be required. The court shall require sworn testimony of the obligor as to the last 4 digits of his or her Social Security number, income, employment, bank accounts, property and any other assets. If there is a dispute as to the total amount of arrearages, the court shall proceed as in any other case as to the undisputed amounts; and

(2) order the Clerk of the Circuit Court to disburse to the obligee or public office money held in escrow pursuant to this Section if the court finds that the amount of arrearages exceeds the amount of the escrow. Amounts received by the obligee or public office shall be deducted from the amount of the arrearages.

(e) If the obligor fails to appear in court after being notified of the court date by the Sheriff upon release from custody, the court shall order any monies deposited into escrow to be immediately released to the obligee or public office and shall proceed under subsection (a) of this Section by entering another order for the attachment of the body of the obligor.

(f) This Section shall apply to any order for support issued under the "Illinois Marriage and Dissolution of Marriage Act", approved September 22, 1977, as amended; the Illinois Parentage Act of 2015; the "Illinois Parentage Act of 1984", effective July 1, 1985, as amended; the "Revised Uniform Reciprocal Enforcement of Support Act", approved August 28, 1969, as amended; "The Illinois Public Aid Code", approved April 11, 1967, as amended; the Non-Support Punishment Act; and the "Non-support of Spouse and Children Act", approved June 8, 1953, as amended.

(g) Any escrow established pursuant to this Section for the purpose of providing support shall not be subject to fees collected by the Clerk of the Circuit Court for any other escrow.

(Source: P.A. 99-85, eff. 1-1-16.)

(750 ILCS 5/714)

Sec. 714. **Information to locate putative fathers and noncustodial parents.**

(a) Upon request by a public office, employers, labor unions, and telephone companies shall provide location information concerning putative fathers and noncustodial parents for the purpose of establishing a child's paternity or establishing, enforcing, or modifying a child support obligation. The term "public office" is defined as set forth in the Income Withholding for Support Act. In this Section, "location information" means information about (i) the physical whereabouts of a putative father or noncustodial parent, (ii) the employer of the putative father or noncustodial parent, or (iii) the salary, wages, and other compensation paid and the health insurance coverage provided to the putative father or noncustodial parent by the employer of the putative father or noncustodial parent or by a labor union of which the putative father or noncustodial parent is a member. An employer, labor union, or telephone company shall respond to the request of the public office within 15 days after receiving the request. Any employer, labor union, or telephone company that willfully fails to fully respond within the 15-day period shall be subject to a penalty of $100 for each day that the response is not provided to the public office after the 15-day period has expired. The penalty may be collected in a civil action, which may be brought against the employer, labor union, or telephone company in favor of the public office.

(b) Upon being served with a subpoena (including an administrative subpoena as authorized by law), a utility company or cable television company must provide location information to a public office for the purpose of establishing a child's paternity or establishing, enforcing, or modifying a child support obligation.

(c) Notwithstanding the provisions of any other State or local law to the contrary, an employer, labor union, telephone company, utility company, or cable television company shall not be liable to any person for disclosure of location information under the requirements of this Section, except for willful and wanton misconduct.

(Source: P.A. 93-116, eff. 7-10-03.)

(750 ILCS 5/Pt. VIII heading)
PART VIII – APPLICATION AND SEVERABILITY

(750 ILCS 5/801) (from Ch. 40, par. 801)
(Text of Section after amendment by P.A. 99-90)
Sec. 801. **Application**.
(a) This Act applies to all proceedings commenced on or after its effective date.
(b) This Act applies to all pending actions and proceedings commenced prior to its effective date with respect to issues on which a judgment has not been entered. Evidence adduced after the effective date of this Act shall be in compliance with this Act.
(c) This Act applies to all proceedings commenced after its effective date for the modification of a judgment or order entered prior to the effective date of this Act.
(d) In any action or proceeding in which an appeal was pending or a new trial was ordered prior to the effective date of this Act, the law in effect at the time of the order sustaining the appeal or the new trial governs the appeal, the new trial, and any subsequent trial or appeal.

(e) **[Previous Terminology]** On and after the effective date of this amendatory Act of the 99th General Assembly, the term "parenting time" is used in place of "visitation" with respect to time during which a parent is responsible for exercising caretaking functions and non-significant decision-making concerning the child. On and after the effective date of this amendatory Act of the 99th General Assembly, the term "parental responsibility" is used in place of "custody" and related terms such as "custodial" and "custodian". It is not the intent of the General Assembly to modify or change the rights arising under any order entered concerning custody or visitation prior to the effective date of this amendatory Act of the 99th General Assembly.
(Source: P.A. 99-90, eff. 1-1-16.)
(750 ILCS 5/802) (from Ch. 40, par. 802) Sec. 802. Court Rules.) ***

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750 ILCS 46/103
***
(d) "**Assisted reproduction**" means a method of achieving a pregnancy though an artificial insemination or an embryo transfer and includes gamete and embryo donation. "Assisted reproduction" does not include any pregnancy achieved through sexual intercourse. ***

(i) "**Donor**" means an individual who participates in an assisted reproductive technology arrangement by providing gametes and relinquishes all rights and responsibilities to the gametes so that another individual or individuals may become the legal parent or parents of any resulting child. "Donor" does not include a spouse in any assisted reproductive technology arrangement in which his or her spouse will parent any resulting child

(750 ILCS 46/Art. 7 heading)
ARTICLE 7. CHILD OF ASSISTED REPRODUCTION
(750 ILCS 46/701 new)
Sec. 701. **Scope of Article**. Except as described in this Article, this Article does not apply to the birth

of a child conceived by means of sexual intercourse or a child born as a result of a valid gestational surrogacy arrangement meeting the requirements of the Gestational Surrogacy Act.

(750 ILCS 46/702 new)
Sec. 702. **Parental status of donor**. Except as provided in this Act, a donor is not a parent of a child conceived by means of assisted reproduction.

(750 ILCS 46/703 new)
Sec. 703. **Parentage of child of assisted reproduction**.
(a) Any individual who is an intended parent as defined by this Act is the legal parent of any resulting child. If the donor and the intended parent have been represented by independent counsel and entered into a written legal agreement in which the donor relinquishes all rights and responsibilities to any resulting child, the intended parent is the parent of the child. An agreement under this subsection shall be entered into prior to any insemination or embryo transfer.
(b) If a person makes an anonymous gamete donation without a designated intended parent at the time of the gamete donation, the intended parent is the parent of any resulting child if the anonymous donor relinquished his or her parental rights in writing at the time of donation. The written relinquishment shall be directed to the entity to which the donor donated his or her gametes.
(c) An intended parent may seek a court order confirming the existence of a parent-child relationship prior to or after the birth of a child based on compliance with subsection (a) or (b) of this Section.
(d) If the requirements of subsection (a) of this Section are not met, or subsection (b) of this Section is found by a court to be inapplicable, a court of competent jurisdiction shall determine parentage based on evidence of the parties' intent at the time of donation.

(750 ILCS 46/704 new)
Sec. 704. **Withdrawal of consent of intended parent or donor**. An intended parent or donor may withdraw consent to use his or her gametes in a writing or legal pleading with notice to the other participants. An intended parent who withdraws consent under this Section prior to the insemination or embryo transfer is not a parent of any resulting child. If a donor withdraws consent to his or her donation prior to the insemination or the combination of gametes, the intended parent is not the parent of any resulting child.

(750 ILCS 46/705 new)
Sec. 705. Parental status of deceased individual. If an individual consents in a writing to be a parent of any child born of his or her gametes posthumously, and dies before the insemination of the individual's gametes or embryo transfer, the deceased individual is a parent of any resulting child born within 36 months of the death of the deceased individual.

(750 ILCS 46/706 new)
Sec. 706. Inheritance rights of posthumous child. Notwithstanding Section 705, the rights of a posthumous child to an inheritance or to property under an instrument shall be governed by the provisions of the Probate Act of 1975.

(750 ILCS 46/707 new)
Sec. 707. **Burden of proof**. Parentage established under Section 703, a withdrawal of consent under Section 704, or a proceeding to declare the non-existence of the parent-child relationship under Section 708 of this Act must be proven by clear and convincing evidence.

(750 ILCS 46/708 new)
Sec. 708. **Limitation on proceedings to declare the non-existence of the parent-child relationship**. An action to declare the non-existence of the parent-child relationship under this Article shall be barred if brought more than 2 years following the birth of the child.

(750 ILCS 46/709 new)
Sec. 709. **Establishment of parentage; requirements of Gestational Surrogacy Act**.
(a) In the event of gestational surrogacy, in addition to the requirements of the Gestational Surrogacy Act, a parent-child relationship is established between a person and a child if all of the following conditions are met prior to the birth of the child:

(1) The gestational surrogate certifies that she did not provide a gamete for the child, and that she is carrying the child for the intended parents.

(2) The spouse, if any, of the gestational surrogate certifies that he or she did not provide a gamete for the child.

(3) Each intended parent certifies that the child being carried by the gestational surrogate was conceived using at least one of the intended parents' gametes.

(4) A physician certifies that the child being carried by the gestational surrogate was conceived using the gamete or gametes of at least one of the intended parents, and that neither the gestational surrogate nor the gestational surrogate's spouse, if any, provided gametes for the child being carried by the gestational surrogate.

(5) The attorneys for the intended parents and the gestational surrogate each certify that the parties entered into a gestational surrogacy agreement intended to satisfy the requirements of the Gestational Surrogacy Act.

(b) All certifications under this Section shall be in writing and witnessed by 2 competent adults who are not the gestational surrogate, gestational surrogate's spouse, if any, or an intended parent. Certifications shall be on forms prescribed by the Illinois Department of Public Health and shall be executed prior to the birth of the child. All certifications shall be provided, prior to the birth of the child, to both the hospital where the gestational surrogate anticipates the delivery will occur and to the Illinois Department of Public Health.
(c) Parentage established in accordance with this Section has the full force and effect of a judgment entered under this Act.
(d) The Illinois Department of Public Health shall adopt rules to implement this Section.

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