

2021 SUMMARY OF ILLINOIS' DIVORCE AND FAMILY LAW LEGISLATION

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See: <https://legiscan.com/gaits/mybills>

Executive Summary. As of June 2020, several important pieces of Illinois' family-law legislation have passed both Houses. Anticipate new family laws in 2021 including:

- Technical changes made to the IMDMA based on case law;
- Court ordered retainers based upon an affidavit;
- A host of changes to the child support health insurance provisions within § 505.2;
- New law addressing temporary relocation;
- "Hope Cards" in domestic violence cases.

Good technical fixes.

HB2741

IMDMA-Step-parent definition; [Court-Ordered] Counseling ([Sharpe v. Westmoreland](#) and Noyes fix)

§ 600(l) and 602.9(a)(3): (Definitions and Visitation by Certain Non-Parents) / § 607.6 (Counseling)

<https://legiscan.com/IL/bill/HB2741/2021>

First addresses step-parent standing to seek custody. Arguably this was not necessary because of Supreme Court case. But it added to the definitions within § 600 of the IMDMA amendments to subsection (l). It will provide:

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

It also contains corresponding amendments to § 602.9(a)(3) to codify *Sharpe v. Westmoreland*, 2020 IL 124863, ¶ 16. (September 24, 2020).

Next, (Noyes fix). See: [In re Marriage of Noyes](#), 2018 IL App (2d) 170667-U

Amends 607.6 of the IMDMA. Deletes language providing that: "all counseling sessions shall be confidential; and 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." Substitutes the language providing that counseling ordered under 607.6 is subject to confidentiality under the Mental Health Confidentiality Act and HIPAA.

Passed both Houses.

Interesting Bill that presents unintended consequences.

HB 3484

IMDMA Temporary Relief and Retainer Fees to Obtain an Attorney

<https://legiscan.com/IL/bill/HB3484/2021>

See pdf of bill: <https://www.ilga.gov/legislation/102/HB/PDF/10200HB3484lv.pdf>

Amends § 501(a)(2.5) of the IMDMA to a party to petition or move for an allowance from the other party for a retainer fee to obtain an attorney. Requires the petition to identify the attorney to be retained and be accompanied by specified documents. Provides that all awards shall be paid directly to the identified attorney.

New § 2.5 after [Restraining Orders or Preliminary Injunction] and before [Other Appropriate Temporary Relief]:

an allowance from the other party for a retainer fee to obtain an attorney.

The petition shall identify the attorney to be retained and shall be accompanied by:

- (i) a *financial affidavit*, supported by documentary evidence;
- (ii) an *affidavit from the identified attorney* stating that the moving party has contacted the attorney and agreed to retain the attorney and that the attorney has agreed to enter an appearance if the court grants the relief by the moving party; and
- (iii) a *certificate* stating that if an allowance is granted, the party shall use it *only for retaining the attorney*.

The court shall review the financial affidavit and attorney affidavit, and, if appropriate, grant an allowance to the party for a retainer fee. All awards under this paragraph shall be paid directly to the identified attorney.

Passed both Houses.

Generally Good Bill.

SB 258

IMDMA - Health Insurance

<https://legiscan.com/IL/bill/SB0258/2021>

Amends §505.2 regarding health insurance coverage for children.

This was left alone by income shares and the 2016 Rewrite. Makes a host of changes.

First, it disconnects obligor and obligee with the obligor to provide health insurance. Thus, could be duty of either parent, consistent with income shares. It deletes the first two definitions of obligor/obligee. Then, defines "*insurance obligee*" as an individual to whom a health insurance obligation is owed on behalf of a child and "*insurance obligor*" as an individual with an obligation to provide health insurance for a child. It changes terms in 505.2 to conform to these new definitions. It will delete the language that provides the court shall enter an order for health insurance coverage of the child *upon the request of the obligee or the public office in charge of child support enforcement*. It deletes the language providing that 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* under certain circumstances. This language never had been consistent with Income Shares. It will further delete the language that provides that 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.

For better or worse, it will delete the language providing that the obligor shall be liable to the obligee for the dollar amount of the premiums that were not paid. Provides that an employer may eliminate a child from the insurance obligor's health insurance coverage if the employer no longer provides a group health insurance plan to any employees or the child is no longer eligible for coverage due to federal or State restrictions.

<https://legiscan.com/IL/text/SB0258/2021>

505.2

Deletes a(1) and (2). Adds (5) and (6).

Last changed 2007.

Passed both Houses.

Good Bill.

SB 259

IMDMA - Temporary Relocation Orders

<https://legiscan.com/IL/bill/SB0259/2021>

Amends §603.5 Temporary Parental Allocation Orders. New subsection (a-5) allows a court to order the temporary relocation of a child—before entry of a final allocation judgment if in the child's best interests. Provides that a temporary relocation does not prejudice either parent in the allocation of parental responsibilities contained in a final allocation judgment.

Text: <https://legiscan.com/IL/text/SB0259/id/2296472>

New subsection:

(a-5) A court may order the relocation of the child on a temporary basis before the entry of a final allocation judgment if it is in the best interests of the child. Any relocation shall be considered temporary in nature and shall not prejudice either parent in the allocation of parental responsibilities contained in a final allocation judgment. Any relocation shall be made in accordance with the protocol set forth in subsections (c) through (g) of Section 609.2.

Passed Both Houses.

HB 3485

Hope Card / Domestic Violence Cards

<https://legiscan.com/IL/bill/HB3485/2021>

Amends the IDVA to provide that the Supreme Court may implement a "Hope Card" program. The Hope Card is issued to the petitioner of a plenary OP for potential distribution to any individual who should be aware of the order. Adds provisions concerning design/details of the Card. Provides that the Card has the same effect as the underlying plenary order of protection. Provides that the program may provide for the issuance of a *temporary* Hope Card at the time of the entry of the plenary order of protection. First card will be free and the Supreme Court may establish a fee for any additional Hope Card, not to exceed \$7 per Hope Card.

See: <https://www.changemakers.com/competition/endabuse/entries/hope-card-project>

Passed both Houses.

Who Could be in Favor of Domestic Violence? A Terrible Original Bill

HB 3317

Domestic violence task force.

<https://legiscan.com/IL/bill/HB3317/2021>

Creates the Domestic Violence Task Force Act. The purported purpose is to establish a consistent, uniform statewide system to protect victims and survivors of domestic violence, while holding offenders accountable. Original bill special legislation focused on maintenance and unconscionability of certain awards. Amendment was reframed to study the issue. Provides that the Task Force shall be composed of specified members. The Family Violence Coordinating Council within the Illinois Criminal Justice Information Authority shall provide administrative support to the Task Force. End date 9/1/27.

Passed both Houses.

Support Enforcement Remedies Broad Legislation Mostly Applicable to HFS.

SB 2110.

<https://legiscan.com/IL/text/SB2110/id/2381349>

Support enforcement remedies.

Amends the Illinois Public Aid Code, the IMDMA and the IPA of 2015. It provides that the procedures, actions, and remedies in the amended Acts shall not be exclusive, but shall be available in addition to other actions and remedies of support, including remedies provided in specific other Acts. It also provides that that actions and remedies shall be cumulative and may be used in conjunction with one another. it provides that actions and remedies shall not require a custody/allocation of parental rights or visitation determination as a prerequisite to a determination of a support obligation. The amendments differentiate "physical" vs. "legal" custody.

Passed both Houses.

SB 2235

Toll Hwy-personal Information

Amends the Toll Highway Act. Provides that records identifying a specific instance of travel by a specific person or vehicle shall be used only as required to ensure the payment and enforcement of tolls and for law enforcement purposes.

<https://legiscan.com/IL/bill/SB2235/2021>

Passed Both Houses. Back to Senate. Concurrence House Amendment(s) 1, 2 Senate 5/28.

See the HA1 and 2: <https://legiscan.com/IL/drafts/SB2235/2021>

HA No. 2:

with reference to page and line numbers of House Amendment No.

1, on page 4, line 26, directly after "subpoena", by inserting

", and the Authority's email shall constitute proof of notice".

HA No. 1 is similarly minor. Effective on become law.

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Section 5. The Illinois Public Aid Code is amended by
5 changing Sections 10-1, 10-2, and 10-17 and by adding Section
6 10-17.05 as follows:
7 (305 ILCS 5/10-1) (from Ch. 23, par. 10-1)
8 Sec. 10-1. Declaration of Public Policy - Persons Eligible
9 for Child Support Enforcement Services - Fees for
10 Non-Applicants and Non-Recipients.)

9 The establishment or enforcement actions provided in this
10 Article do not require a previous court order for
11 custody/allocation of parental responsibilities.

Actions and remedies under the Uniform Interstate

SB2110 Enrolled - 7 - LRB102 16311 LNS 21696 b
1 Family Support Act shall not require a custody or visitation
2 determination as a prerequisite to a determination of a
3 support obligation. If a custody or visitation determination
4 is not permitted under the Uniform Interstate Family Support
5 Act, the determination may be made under another appropriate
6 State law if the court has authority to make the decision under
7 the appropriate law.

Next deletes the phrase, "In no event shall the
14 eligibility for or receipt of medical assistance be
15 considered to meet the need to provide for the child's
16 health care needs."

14 The liability for the support of a child provided for in
15 this Article does not require a previous court order for
16 custody and is in conjunction with the guidelines set forth in
17 Section 505 of the Illinois Marriage and Dissolution of
18 Marriage Act, as provided for in Section 10-10 of this
19 Article. The obligation to support contained in this Article
20 is concurrent to any other appropriate State law.
21 This Article does not create, enlarge, abrogate, or
22 diminish parental rights or duties under other laws of this

23 State, including the common law.
24 An action to establish or enforce a support obligation,
25 under this or any other Act providing for the support of a
1 child, may be brought subsequent to an adjudication dismissing
2 that action based on any of the following reasons: (1) no duty
3 of support exists under this Article because this Article
4 requires a previous court order for custody/allocation of
5 parental responsibilities (as no such requirement exists under
6 this Act); (2) there is no common law duty of support (as a
7 common law duty of support is recognized as a valid basis for
8 child support); or (3) there is no duty of support under the
9 Illinois Parentage Act of 2015 because a judgment of paternity
10 results in a de facto custody/allocation of parental
11 responsibilities order (as this ignores the cumulative nature
12 of the Act and the plain language of the statute permitting an
13 explicit reservation of the issue. The Illinois Parentage Act
14 of 2015 will be clarified regarding a de facto
15 custody/allocation of parental responsibilities order as it
16 relates to the Uniform Interstate Family Support Act).

The IPA 2015 will be amended to provide:

The judgment shall contain or explicitly reserve
4 provisions concerning any duty and amount of child support and
5 may contain or explicitly reserve provisions concerning the
6 allocation of parental responsibilities or guardianship of the
7 child, parenting time privileges with the child,

(c) In the absence of an explicit order or judgment for the
9 allocation of parental responsibilities, to the extent the
10 court has authority under the Uniform Child-Custody
11 Jurisdiction and Enforcement Act or any other appropriate
12 State law, the establishment of a child support obligation or
13 the allocation of parenting time to one parent shall be
14 construed as an order or judgment allocating all parental
15 responsibilities to the other parent.

Then adds:

(c-5) Notwithstanding the limitations regarding the
23 establishment of custody under the Uniform Interstate Family
24 Support Act, that Act is not exclusive, and custody/allocation
25 of parental responsibilities may be determined concurrently
26 under other appropriate State laws, where this determination
1 may be validly made.

