

ILLINOIS PARENTAGE ACT

ARTICLE 1

GENERAL PROVISIONS

SECTION 101. PUBLIC POLICY. Illinois recognizes the right of every child to the physical, mental, emotional and financial support of his or her parents. The parent and child relationship, including support obligations, extends equally to every child and to every parent, regardless of the legal relationship of the parents, and regardless of whether a parent is a minor.

SECTION 102. TITLE. This Act may be cited as the Illinois Parentage Act of 2011.

SECTION 103. DEFINITIONS. In this Act

(a) “Acknowledged father” means a man who has established a father-child relationship under Article 3.

(b) “Adjudicated father” means a man who has been adjudicated by a court of competent jurisdiction, or as authorized under Article X of the Illinois Public Aid Code, to be the father of a child.

(c) “Alleged father” means a man who alleges himself to be, or is alleged to be, the biological father or a possible biological father of a child, but whose paternity has not been determined. The term does not include:

(1) a presumed or acknowledged father;

(2) a man whose parental rights have been terminated or declared not to exist; or

(3) a male donor.

(d) “Assisted reproduction” means a method of causing pregnancy other than

sexual intercourse. The term includes:

- (1) intrauterine insemination;
- (2) donation of eggs;
- (3) donation of embryos;
- (4) in-vitro fertilization and transfer of embryos; and
- (5) intracytoplasmic sperm injection.

(e) “Child” means an individual of any age whose parentage may be determined under this Act.

(f) “Commence” means to file the initial pleading seeking an adjudication of parentage in the circuit court of this State.

(g) “Determination of parentage” means the establishment of the parent-child relationship by the signing of a valid acknowledgment of paternity under Article 3 or adjudication by the court or as authorized under Article X of the Illinois Public Aid Code.

(h) “Donor” means an individual who contributes a gamete or gametes used for assisted reproduction, whether or not for consideration. The term does not include:

(1) a husband who provides sperm, or a wife who provides eggs, to be used for assisted reproduction by the wife;

(2) a woman who gives birth to a child by means of assisted reproduction, except as otherwise provided in the Gestational Surrogacy Act; or

(3) a parent under Article 7, or an intended parent under the Gestational Surrogacy Act .

(i) “Ethnic or racial group” means, for purposes of genetic testing, a recognized group that an individual identifies as all or part of the individual’s ancestry or that is so identified

by other information.

(j) “Gamete” means either a sperm or an egg.

(k) “Genetic testing” means an analysis of genetic markers to exclude or identify a man as the father or a woman as the mother of a child as provided in Article 4 of this Act.

(l) “Gestational mother” means an adult woman who gives birth to a child under a gestational agreement.

(m) “Man” means a male individual of any age.

(n) “Parent” means an individual who has established a parent-child relationship under Section 201.

(o) “Parent-child relationship” means the legal relationship between a child and a parent of the child.

(p) “Paternity index” means the likelihood of paternity calculated by computing the ratio between:

(1) the likelihood that the tested man is the father, based on the genetic markers of the tested man, mother, and child, conditioned on the hypothesis that the tested man is the father of the child; and

(2) the likelihood that the tested man is not the father, based on the genetic markers of the tested man, mother, and child, conditioned on the hypothesis that the tested man is not the father of the child and that the father is of the same ethnic or racial group as the tested man.

(q) “Presumed father” means a man who, by operation of law under Section 204, is recognized as the father of a child until that status is rebutted or confirmed in a judicial or administrative proceeding.

(r) “Probability of paternity” means the measure, for the ethnic or racial group to which the alleged father belongs, of the probability that the man in question is the father of the child, compared with a random, unrelated man of the same ethnic or racial group, expressed as a percentage incorporating the paternity index and a prior probability.

(s) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(t) “Signatory” means an individual who authenticates a record and is bound by its terms.

(u) “State” means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(v) “Support-enforcement agency” means a public official or agency authorized to seek:

- (1) enforcement of support orders or laws relating to the duty of support;
- (2) establishment or modification of child support;
- (3) determination of parentage; or
- (4) location of child-support obligors and their income and assets.

SECTION 104. SCOPE OF ACT; CHOICE OF LAW.

(a) This Act applies to determination of parentage in this State.

(b) The court shall apply the law of this State to adjudicate the parent-child relationship. The applicable law does not depend on:

- (1) the place of birth of the child; or

(2) the past or present residence of the child.

(c) This Act does not create, enlarge, or diminish parental rights or duties under other law of this State.

SECTION 105. AUTHORITY TO DETERMINE PARENTAGE. The circuit courts are authorized to determine parentage under this Act. The Illinois Department of Healthcare and Family Services may make administrative determinations of paternity and non paternity in accordance with Section 10-17.7 of the Illinois Public Aid Code. Such administrative determinations shall have the full force and effect of Court judgments entered under this Act.

SECTION 106. PROTECTION OF PARTICIPANTS. Proceedings under this Act are subject to other law of this State governing the health, safety, privacy, and liberty of a child or other individual who could be jeopardized by disclosure of identifying information, including address, telephone number, place of employment, social security number, and the child's day-care facility and school.

SECTION 107. DETERMINATION OF MATERNITY. Provisions of this Act relating to determination of paternity apply to determinations of maternity.

ARTICLE 2

PARENT-CHILD RELATIONSHIP

SECTION 201. ESTABLISHMENT OF PARENT-CHILD RELATIONSHIP.

(a) The mother-child relationship is established between a woman and a child by:

(1) the woman's having given birth to the child, except as otherwise provided in the Gestational Surrogacy Act.

(2) an adjudication of the woman's maternity;

(3) adoption of the child by the woman; or

(4) a determination confirming the woman as a parent of a child born to a gestational mother if the agreement is valid under Gestational Surrogacy Act or is enforceable under other law.

(b) The father-child relationship is established between a man and a child by:

(1) an un rebutted presumption of the man's paternity of the child under Section 204;

(2) an effective acknowledgment of paternity by the man under Article 3, unless the acknowledgment has been rescinded or successfully challenged;

(3) an adjudication of the man's paternity;

(4) adoption of the child by the man; or

(5) the man's having consented to assisted reproduction by a woman under Article 7 which resulted in the birth of the child; or

(6) a determination confirming the man as a parent of a child born to a gestational mother if the Agreement is valid under the Gestational Surrogacy Act or is enforceable under other law.

SECTION 202. PARENT'S LEGAL RELATIONSHIP. Every child has equal rights under the law regardless of the parent's legal relationship

SECTION 203. CONSEQUENCES OF ESTABLISHMENT OF PARENTAGE. A parent-child relationship established under this Act applies for all purposes, except as otherwise specifically provided by other law of this State.

SECTION 204. PRESUMPTION OF PATERNITY.

(a) A man is presumed to be the father of a child if:

(1) he and the mother of the child are married or have established a civil union with each other and the child is born during the marriage or in the civil union;

(2) he and the mother of the child were married or have established a civil union with each other and the child is born within 300 days after the marriage or civil union is terminated by death, declaration of invalidity, judgment of dissolution, or after a judgment of legal separation;

(3) before the birth of the child, he and the mother of the child married, or established a civil union to each other in apparent compliance with law, even if the attempted marriage or civil union is or could be declared invalid, and the child is born during the invalid marriage or civil union, or within 300 days after its termination by death, declaration of invalidity, judgment of dissolution, or after a judgment of legal separation;

(4) after the child's birth, he and the child's mother have married or established a civil union to each other, even though the marriage or civil union is or could be declared invalid, and he is named, with his written consent, as the child's father on the child's birth certificate;

(b) A presumption of paternity established under this section may be rebutted only by an adjudication under Article 6 or a determination under Article X of the Illinois Public Aid Code.

SECTION 205. PROCEEDINGS TO DECLARE THE NON-EXISTENCE OF PARENT CHILD RELATIONSHIP.

(a) An action to declare the non-existence of the parent and child relationship may be brought by the child, the natural mother, or a man presumed to be the father under Section 204 of

this Act. Actions brought by the child, the natural mother or a presumed father shall be brought by verified complaint.

After the presumption that a man presumed to be the father under Section 204 of this Act has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.

(a-5) An action to declare the non-existence of the parent and child relationship brought under subsection (a) of Section 205 of this Act shall be barred if brought later than 2 years after the petitioner obtains knowledge of the relevant facts. The 2-year period for bringing an action to declare the non-existence of the parent and child relationship shall not extend beyond the date on which the child reaches the age of 18 years. Failure to bring an action within 2 years shall not bar any party from asserting a defense in any action to declare the existence of the parent and child relationship.

(b) An action to declare the non-existence of the parent and child relationship may be brought subsequent to an adjudication of paternity in any judgment by the man adjudicated to be the father pursuant to the presumptions in Section 204 of this Act if, as a result of deoxyribonucleic acid (DNA) tests, it is discovered that the man adjudicated to be the father is not the natural father of the child. Actions brought by the adjudicated father shall be brought by verified complaint. If, as a result of the deoxyribonucleic acid (DNA) tests, the petitioner is determined not to be the father of the child, the adjudication of paternity and any orders regarding custody, visitation, and future payments of support may be vacated.

(b-5) An action to declare the non-existence of the parent and child relationship brought under subsection (b) of Section 205 of this Act shall be barred if brought more than 2 years after the petitioner obtains actual knowledge of relevant facts, whichever is later. The 2-year period

shall not apply to periods of time where the natural mother or the child refuses to submit to deoxyribonucleic acid (DNA) test. The 2-year period for bringing an action to declare the non-existence of the parent and child relationship shall not extend beyond the date on which the child reaches the age of 18 years. Failure to bring an action within 2 years shall not bar any party from asserting a defense in any action to declare the existence of the parent and child relationship.

ARTICLE 3

VOLUNTARY ACKNOWLEDGMENT OF PATERNITY

SECTION 301. ACKNOWLEDGMENT OF PATERNITY. A parent and child relationship may be established voluntarily by the signing and witnessing of a voluntary acknowledgement of parentage in accordance with Section 12 of the Vital Records Act and Section 10-17.7 of the Illinois Public Code. The voluntary acknowledgment of parentage shall contain the social security numbers of the persons signing the voluntarily acknowledgement of parentage; however, failure to include the social security numbers of the persons signing a voluntary acknowledgement of parentage does not invalidate the voluntarily acknowledgement of parentage. The mother of a child and a man claiming to be the biological father of the child may sign an acknowledgment of paternity with intent to establish the man's paternity.

SECTION 302. EXECUTION OF ACKNOWLEDGMENT OF PATERNITY.

(a) An acknowledgment of paternity must:

(1) be in a record;

(2) be signed, or otherwise authenticated, under penalty of perjury by the mother and by the man seeking to establish his paternity;

(3) state that the child whose paternity is being acknowledged:

(A) does not have a presumed father, or has a presumed father whose full name is stated; and

(B) does not have another acknowledged or adjudicated father;

(4) be witnessed; and

(5) state that the signatories understand that the acknowledgment is the equivalent of a judicial adjudication of paternity of the child and that a challenge to the acknowledgment is permitted only under limited circumstances and is barred after four years.

(b) An acknowledgment of paternity is void if it:

(1) states that another man is a presumed father, unless a denial of paternity signed or otherwise authenticated by the presumed father is filed with the Illinois Department of Healthcare and Family Services, as provided by law;

(2) states that another man is an acknowledged or adjudicated father; or

(3) falsely denies the existence of a presumed, acknowledged, or adjudicated father of the child.

(c) A presumed father may sign or otherwise authenticate an acknowledgment of paternity.

SECTION 303. DENIAL OF PATERNITY. A presumed father may sign a denial of his paternity. The denial is valid only if:

(a) an acknowledgment of paternity signed, or otherwise authenticated, by another man is filed pursuant to Section 305;

(b) the denial is in a record, and is signed, or otherwise authenticated, under penalty of perjury; and

(c) the presumed father has not previously:

(1) acknowledged his paternity, unless the previous acknowledgment has been rescinded pursuant to Section 307 or successfully challenged pursuant to Section 308; or

(2) been adjudicated to be the father of the child.

SECTION 304. RULES FOR ACKNOWLEDGMENT AND DENIAL OF PATERNITY.

(a) An acknowledgment of paternity and a denial of paternity may be contained in a single document or may be signed in counterparts, and may be filed separately or simultaneously. If the acknowledgement and denial are both necessary, neither is valid until both are filed.

(b) An acknowledgment of paternity or a denial of paternity may be signed before the birth of the child.

(c) Subject to subsection (a), an acknowledgment of paternity or denial of paternity takes effect on the birth of the child or the filing of the document with the Illinois Department of Healthcare and Family Services, as provided by law, whichever occurs later.

(d) An acknowledgment of paternity or denial of paternity signed by a minor is valid if it is otherwise in compliance with this Act.

SECTION 305. EFFECT OF ACKNOWLEDGMENT OR DENIAL OF PATERNITY.

(a) Except as otherwise provided in Sections 307 and 308, a valid acknowledgment of paternity filed with the Illinois Department of Healthcare and Family Services, as provided by law, is equivalent to an adjudication of the paternity of a child and confers upon the acknowledged father all of the rights and duties of a parent.

(b) Notwithstanding any other provisions of the Act, paternity established in accordance with Section 301 has the full force and effect of a judgment entered under this Act and serves as a basis for seeking a child support order without any further proceedings to establish paternity.

(c) A judicial or administrative proceeding to ratify paternity established in accordance with Section 301 is neither required nor permitted.

(d) Except as otherwise provided in Sections 307 and 308, a valid denial of paternity by a presumed father filed with the Illinois Department of Healthcare and Family Services, as provided by law, in conjunction with a valid acknowledgment of paternity, is equivalent to an adjudication of the nonpaternity of the presumed father and discharges the presumed father from all rights and duties of a parent.

SECTION 306. NO FILING FEE. The Illinois Department of Healthcare and Family Services, as provided by law, may not charge for filing an acknowledgment of paternity or denial of paternity.

SECTION 307. PROCEEDING FOR RESCISSION. A signatory may rescind an acknowledgment of paternity or denial of paternity by filing a signed and witnessed rescission with the Illinois Department of Healthcare and Family Services as provided in Section 12 of the Vital Records Act, Before the earlier of:

(a) 60 days after the effective date of the acknowledgment or denial, as provided in Section 304; or

(b) the date of a judicial or administrative proceeding relating to the child (including a proceeding to establish a support order) in which the signatory is a party.

SECTION 308. CHALLENGE AFTER EXPIRATION OF PERIOD FOR RESCISSION. After the period for rescission under Section 307 has expired, a signatory of an acknowledgment of paternity or denial of paternity may commence a proceeding to challenge the acknowledgment or denial only as provided in Section 309.

SECTION 309. PROCEDURE FOR CHALLENGE.

(a) An acknowledgment of paternity and any related denial of paternity may be challenged only on the basis of fraud, duress, or material mistake of fact by filing a verified petition pursuant to this Section within 4 years after the effective date of the acknowledgment or denial, as provided in Section 304. Time during which the person challenging the acknowledgment or denial is under legal disability or duress or the ground for relief is fraudulently concealed shall be excluded in computing the period of 4 years.

(b) The verified petition shall be filed in the county where a proceeding relating to the child was brought, such as a support proceeding or, if none exists, in the county where the child resides. Every signatory to the acknowledgment of paternity and any related denial of paternity must be made a party to a proceeding to challenge the acknowledgment or denial. The party challenging the acknowledgment or denial shall have the burden of proof.

(c) For the purpose of a challenge to an acknowledgment of paternity or denial of paternity, a signatory submits to personal jurisdiction of this State by signing the acknowledgment and any related denial, effective upon the filing of the acknowledgment and any related denial with the Illinois Department of Healthcare and Family Services, as provided in Section 12 of the Vital Records Act.

(d) Except for good cause shown, during the pendency of a proceeding to challenge an acknowledgment of paternity or denial of paternity, the court may not suspend the

legal responsibilities of a signatory arising from the acknowledgment, including the duty to pay child support.

(e) At the conclusion of a proceeding to challenge an acknowledgment of paternity or denial of paternity, the court shall order the Illinois Department of Public Health to amend the birth record of the child, if appropriate. A copy of an order entered at the conclusion of a proceeding to challenge shall be provided to the Illinois Department of Healthcare and Family Services.

SECTION 310. RATIFICATION BARRED. A court or administrative agency conducting a judicial or administrative proceeding is not required or permitted to ratify an unchallenged acknowledgment of paternity.

SECTION 311. FULL FAITH AND CREDIT. A court of this State shall give full faith and credit to an acknowledgment of paternity or denial of paternity effective in another State if the acknowledgment or denial has been signed and is otherwise in compliance with the law of the other State.

SECTION 312. FORMS FOR ACKNOWLEDGMENT AND DENIAL OF PATERNITY.

(a) To facilitate compliance with this article, the Illinois Department of Healthcare and Family Services shall prescribe forms for the acknowledgment of paternity and the denial of paternity and for the rescission of acknowledgement or denial consistent with Section 307.

(b) A valid acknowledgment of paternity or denial of paternity is not affected by a later modification of the prescribed form.

SECTION 313. RELEASE OF INFORMATION. The Illinois Department of Healthcare and Family Services may release information relating to the acknowledgment of

paternity or denial of paternity to a signatory of the acknowledgment or denial; to the child's guardian, the emancipated child, or the legal representatives of those individuals; to appropriate federal agencies; and to courts and appropriate agencies of this or another State.

SECTION 314. ADOPTION OF RULES. The Illinois Department of Public Health and the Illinois Department of Healthcare and Family Services may adopt rules to implement this article.

ARTICLE 4

GENETIC TESTING

SECTION 401. PROCEEDING AUTHORIZED. As soon as practicable, the court or Administrative Hearing Officer in an Expedited Child Support System may, and upon request of a party shall, order or direct the mother, and child, and/or alleged father and child to submit to deoxyribonucleic acid (DNA) tests to determine inherited characteristics. If any party refuses to submit to the tests, the court may resolve the question of paternity against that party or enforce its order if the rights of others and the interests of justice so require.

SECTION 402. REQUIREMENTS FOR GENETIC TESTING.

(a) The tests shall be conducted by an expert qualified as an examiner of blood or tissue types and appointed by the court. The expert shall determine the testing procedures. However, any interested party, for good cause shown, in advance of the scheduled tests, may request a hearing to object to the qualifications of the expert or the testing procedures. The expert appointed by the court shall testify at the pre-test hearing at the expense of the party requesting the hearing, except as provided in subsection (h) of this Section for an indigent party. An expert not appointed by the court shall testify at the pre-test hearing at the expense of the party retaining

the expert. Inquiry into an expert's qualifications at the pre-test hearing shall not affect either parties' right to have the expert qualified at trial.

(b) Genetic testing must be of a type reasonably relied upon by experts in the field of genetic testing and performed in a testing laboratory accredited by the American Association of Blood Banks, or a successor to its functions.

(c) A specimen used in genetic testing may consist of one or more samples, or a combination of samples, of blood, buccal cells, bone, hair, or other body tissue or fluid.

(d) The testing laboratory shall determine the databases from which to select frequencies for use in calculation of the probability of paternity based on the ethnic or racial group of an individual(s). If there is disagreement as to the testing laboratory's choice, the following rules apply:

(1) The individual objecting may require the testing laboratory, within 30 days after receipt of the report of the test, to recalculate the probability of paternity using an ethnic or racial group different from that used by the laboratory.

(2) The individual objecting to the testing laboratory's initial choice shall:

(A) if the frequencies are not available to the testing laboratory for the ethnic or racial group requested, provide the requested frequencies compiled in a manner recognized by accrediting bodies; or

(B) engage another testing laboratory to perform the calculations.

(e) If, after recalculation using a different ethnic or racial group, genetic testing does not rebuttably identify a man as the father of a child, an individual who has been tested may be required to submit to additional genetic testing.

SECTION 403. TEST RESULTS.

(a) The expert shall prepare a written report of the test results. If the test results show that the alleged father is not excluded, the report shall contain statistics based upon the statistical formula of Combined Paternity Index (CPI) and the Probability of Paternity as determined by the probability of exclusion (Random Man Not Excluded = RMNE). The expert may be called by the court as a witness to testify to his or her findings and, if called, shall be subject to cross-examination by the parties. If the test results show that the alleged father is not excluded, any party may demand that other expert, qualified as examiners of blood or tissue types, perform independent tests under order of court, including, but not limited to, blood types or other tests of genetic markers. The results of the tests may be offered into evidence. The number and qualifications of the experts shall be determined by the court.

(b) Documentation of the chain of custody of the blood or tissue samples, accompanied by an affidavit or certification in accordance with Section 1-109 of the Code of Civil Procedure, is competent evidence to establish the chain of custody.

(c) The report of the test results prepared by the appointed expert shall be made by affidavit or by certification as provided in Section 1-109 of the Code of Civil Procedure and shall be mailed to all parties. A proof of service shall be filed with the court. The verified report shall be admitted into evidence at trial without foundation testimony or other proof of authenticity or accuracy, unless a written motion challenging the admissibility of the report is filed by either party within 28 days of receipt of the report, in which case expert testimony shall be required. A party may not file such a motion challenging the admissibility of the report later than 28 days before commencement of trial. Before trial, the court shall determine whether the motion is sufficient to deny admission of the report by verification. Failure to make that timely

motion constitutes a waiver of the right to object to admission by verification and shall not be grounds for a continuance of the hearing to determine paternity.

SECTION 404. EFFECT OF TESTS. Tests taken pursuant to this Section shall have the following effect:

(a) If the court finds that the conclusion of the expert or experts, as disclosed by the evidence based upon the tests, is that the alleged father is not the parent of the child, the question of paternity shall be resolved accordingly.

(b) If the experts disagree in their findings or conclusions, the question shall be weighed with other competent evidence of paternity.

(c) If the tests show that the alleged father is not excluded and that the combined paternity index is at least 1,000 to 1, and there is at least a 99.9 percent probability of paternity, the alleged father is presumed to be the father, and this evidence shall be admitted.

(d) A man identified under paragraph (c) of section 404 as the father of the child may rebut the genetic testing results by other genetic testing satisfying the requirements of this Article which:

- (1) excludes the man as a genetic father of the child; or
- (2) identifies another man as the possible father of the child.

(e) Except as otherwise provided in this Article 4, if more than one man is identified by genetic testing as the possible father of the child, the court shall order them to submit to further genetic testing to identify the genetic father.

SECTION 405. COST FOR TESTING. The expense of the tests shall be paid by the party who requests the tests, except that the court may apportion the costs between the parties, upon request. Where the tests are requested by the party seeking to establish paternity and that

party is found to be indigent by the court, the expense shall be paid by the public agency providing representation; except that where a public agency is not providing representation, the expense shall be paid by the county in which the action is brought. Where the tests are ordered by the court on its own motion or are requested by the alleged or presumed father and that father is found to be indigent by the court, the expense shall be paid by the county in which the action is brought. Any part of the expense may be taxed as costs in the action, except that no costs may be taxed against a public agency that has not requested the tests.

SECTION 406. COMPENSATION OF EXPERT. The compensation of each expert witness appointed by the court shall be paid as provided in this Section 405. Any part of the payment may be taxed as costs in the action, except that no costs may be taxed against a public agency that has not requested the services of the expert witness.

SECTION 407. INDEPENDENT TESTING. Nothing in this Section shall prevent any party from obtaining tests of his or her own blood or tissue independent of those ordered by the court or from presenting expert testimony interpreting those tests or any other blood tests ordered pursuant to this Section. Reports of all the independent tests, accompanied by affidavit or certification pursuant to Section 1-109 of the Code of Civil Procedure, and notice of any expert witnesses to be called to testify to the results of those tests shall be submitted to all parties at least 30 days before any hearing set to determine the issue of parentage.

SECTION 408. ADDITIONAL PERSONS TO BE TESTED.

(a) Subject to subsection (b), if a genetic-testing specimen is not available from a man who may be the father of a child, for good cause and under circumstances the court considers to be just, the court may order the following individuals to submit specimens for genetic testing:

- (1) the parents of the man;
- (2) brothers and sisters of the man;
- (3) other children of the man and their mothers; and
- (4) other relatives of the man necessary to complete genetic testing.

(b) Issuance of an order under this section requires a finding that a need for genetic testing outweighs the legitimate interests of the individual sought to be tested and in no event shall such an order be issued until the individual is joined as a party and given notice as required under the Code of Civil Procedure.

ARTICLE 5

TEMPORARY RELIEF

SECTION 501. TEMPORARY ORDER

(a) On motion by a party and a showing of clear and convincing evidence of paternity, the court shall issue a temporary order for support of a child if the order is appropriate and the individual ordered to pay support is:

- (1) a presumed father of the child;
- (2) petitioning to have his paternity adjudicated;
- (3) identified as the father through genetic testing under Article 4;
- (4) an alleged father who has declined to submit to genetic testing;
- (5) shown by clear and convincing evidence to be the child's father; or
- (6) the mother of the child.

In determining the amount of a temporary child support award, the court shall use the guidelines and standards set forth in Section 505 and in Section 505.2 of the Illinois Marriage

and Dissolution or Marriage Act.

(b) A temporary order may include provisions for custody and visitation as provided by the Illinois Marriage and Dissolution of Marriage Act.

(c) Temporary orders issued under this Section shall not have prejudicial effect with respect to final support, custody, or visitation orders.

SECTION 502. INJUNCTIVE RELIEF.

(a) In any action brought under this Act for the initial determination of parentage, custody or visitation of a child or for modification of a prior custody or visitation order, the court, upon application of any party, may enjoin a party having physical possession or custody of a child from temporarily removing the child from Illinois pending the adjudication of the issues of parentage, custody and visitation. When deciding whether to enjoin removal of a child, or to order a party to return the child to the State of Illinois, the Court shall consider the following factors including, but not limited to:

(1) the extent of previous involvement with the child by the party seeking to enjoin removal or to have the absent party return the child to the State of Illinois;

(2) the likelihood that parentage will be established; and

(3) the impact on the financial, physical, and emotional health of the party being enjoined from removing the child/or the party being ordered to return the child to the State of Illinois.

(b) A temporary restraining order or preliminary injunction under this Act shall be governed by the relevant provisions of the Code of Civil Procedure, 735 ILCS 5/11-101 et seq.

(c) Notwithstanding the provisions of subsection (a), the court may decline to enjoin a domestic violence victim having physical possession or custody of a child from temporarily

removing the child from Illinois/returning the child to the State of Illinois pending the adjudication of the issues of custody and visitation. In determining whether a person is a domestic violence victim, the court shall consider the following factors:

(1) a sworn statement by the person that the person has good reason to believe that he or she is the victim of domestic violence or stalking;

(2) a sworn statement that the person fears for his or her safety or the safety of his or her children;

(3) evidence from police, court or other government agency records or files;

(4) documentation from a domestic violence program if the person is alleged to be a victim of domestic violence;

(5) documentation from a legal, clerical, medical, or other professional from whom the person has sought assistance in dealing with the alleged domestic violence; or

(6) any other evidence that supports the sworn statements, such as a statement from any other individual with knowledge of the circumstances that provides the basis for the claim, or physical evidence of the act or acts of domestic violence.

ARTICLE 6

PROCEEDING TO ADJUDICATE PARENTAGE

SECTION 601. PROCEEDING AUTHORIZED. A civil proceeding may be maintained to adjudicate the parentage of a child. The proceeding is governed by the Code of Civil Procedure and the Illinois Supreme Court Rules. Administrative proceedings adjudicating paternity shall be governed by Section 10-17.7 of the Illinois Public Aid Code.

SECTION 602. STANDING TO MAINTAIN PROCEEDING. A petition to adjudicate parentage shall be verified and shall name the person or persons alleged to be the father of the child. Subject to Article 3 and Sections 607 and 609, a proceeding to adjudicate parentage may be maintained by:

- (a) the child;
- (b) the mother of the child;
- (c) a pregnant woman;
- (d) a man presumed or alleging himself to be the father of expected child;
- (e) the support-enforcement agency or other governmental agency authorized by other law;
- (f) any person or public agency who has custody of, or is providing, or has provided financial support of the child;
- (g) the Department of Healthcare and Family Services if it is providing, or has provided, financial support to the child or if it is assisting with child support allocation;
- (h) an authorized adoption agency or licensed child-placing agency;
- (i) a representative authorized by law to act for an individual who would otherwise be entitled to maintain a proceeding but who is deceased, incapacitated, or a minor; or
- (j) an intended parent under the Gestational Surrogacy Act .

SECTION 603. SUBJECT MATTER AND PERSONAL JURISDICTION.

(a) The circuit courts shall have jurisdiction of any action brought under this Act. In any civil action not brought under this Act, the provisions of this Act shall apply if parentage is at issue. The court may join any action under this Act with any other civil action where applicable.

(b) An individual may not be adjudicated to be a parent unless the court has personal jurisdiction over the individual.

(c) A court of this State having jurisdiction to adjudicate parentage may exercise personal jurisdiction over a nonresident individual, or the guardian or conservator of the individual, if the conditions prescribed in Section 201 of the Uniform Interstate Family Support Act are fulfilled.

(d) Lack of jurisdiction over one individual does not preclude the court from making an adjudication of parentage binding on another individual over whom the court has personal jurisdiction.

SECTION 604. VENUE.

(a) Venue for a proceeding to adjudicate parentage is any county of this State in which any party resides; or if the father is deceased, in which proceeding for probate or administration of the presumed or alleged father's estate has been commenced or could be commenced.

(b) a child custody proceeding is commenced in the county where the child resides.

SECTION 605. NOTICE TO PRESUMED FATHER.

(a) In any action brought under Article 3 or Article 6 of this Act where the man signing the petition for an order establishing the existence of the parent and child relationship by consent or the man alleged to be the father in a petition is different from a man who is presumed to be father of the child under Article 2, a notice shall be served on the presumed father in the same manner

as summonses are served in other civil proceedings or, in lieu of personal service, service may be made as follows:

(1) The person requesting notice shall pay to the Clerk of the Court a mailing fee of \$1.50 and furnish to the Clerk an original and one copy of a notice together with an affidavit setting forth the presumed father's last known address. The original notice shall be retained by the Clerk.

(2) The Clerk shall promptly mail to the presumed father, at the address appearing in the affidavit, the copy of the notice, certified mail, return receipt requested. The envelope and return receipt shall bear the return address of the Clerk. The receipt for certified mail shall state the name and address of the addressee, and the date of mailing, and shall be attached to the original notice.

(3) The return receipt, when returned to the Clerk, shall be attached to the original notice, and shall constitute proof of service.

(4) The Clerk shall note the fact of service in a permanent record.

(b) The notice shall read as follows:

IN THE MATTER OF NOTICE TO PRESUMED FATHER.
You have been identified as the presumed father of born on
The mother of the child is

An action is being brought to establish the parent and child relationship between the named child and a man named by the mother,

Under the law, you are presumed to be the father if:

(1) you and the mother of the child are married to each other and the child is born during the marriage;

(2) you and the mother of the child were married to each other and the child is born within 300 days after the marriage is terminated by death, declaration of invalidity, judgment of dissolution, or divorce, or after a judgment of legal separation;

(3) before the birth of the child, you and the mother of the child married each other in apparent compliance with law, even if the attempted marriage is or could be declared invalid, and the child is born during the invalid marriage or within 300 days after its termination by death, declaration of invalidity, judgment of dissolution, or divorce, or after a judgment of legal separation;

(4) after the child's birth, you and the child's mother have married each other, even though the marriage is or could be declared invalid, and he is named, with his written consent, as the child's father on the child's birth certificate.

As the presumed father, you have certain legal rights with respect to the named child, including the right to notice of the filing of proceedings instituted for the establishment of parentage of said child and if named as the father in a petition to establish parentage, the right to submit, along with the mother and child, to deoxyribonucleic acid (DNA) tests to determine inherited characteristics. If you wish to assert your rights with respect to said child, you must file with the Clerk of this Circuit Court of County, Illinois whose address is, Illinois, within 30 days after the date of receipt of this notice, a declaration of parentage stating that you

are, in fact, the father of said child and that you intend to assert your legal rights with respect to said child, or request to be notified of any further proceedings with respect to the parentage of said child.

If you do not file such declaration of parentage, or a request for notice, then whatever legal rights you have with respect to the named child, including the right to notice of any future proceedings for the establishment of parentage of the child, may be terminated without any further notice to you. When your legal rights with respect to the named child are so terminated, you will not be entitled to notice of any future proceedings.

(c) The notice to presumed fathers provided for in this Section in any action brought by a public agency shall be prepared and mailed by such public agency and the mailing fee to the Clerk shall be waived.

SECTION 606. SUMMONS. The summons that is served on a Respondent shall include the return date on or by which the Respondent must appear and shall contain the following information, in a prominent place and in conspicuous language, in addition to the information required to be provided by the laws of this State; “If you do not appear as instructed in this summons, you may be required to support the child named in this petition until the child is at least 18 years old. You may also have to pay the pregnancy and delivery costs of the mother.”

SECTION 607. NO LIMITATION: CHILD HAVING NO PRESUMED, ACKNOWLEDGED, OR ADJUDICATED FATHER. A proceeding to adjudicate the parentage of a child having no presumed, acknowledged, or adjudicated father may be commenced at any time, even after:

(a) the child becomes an adult, but only if the child initiates the proceeding; or

(b) an earlier proceeding to adjudicate paternity has been dismissed based on the application of a statute of limitation then in effect.

SECTION 608. LIMITATION: CHILD HAVING PRESUMED FATHER.

(a) Except as otherwise provided in subsection (b), a proceeding brought by a presumed father, the mother, or another individual to adjudicate the parentage of a child having a presumed father, must be commenced not later than two years after the birth of the child.

(b) A proceeding seeking to declare the non-existence of the parent-child relationship between a child and the child's presumed father may be maintained at any time if the court determines that the presumed father and the mother of the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception.

SECTION 609. AUTHORITY TO DENY MOTION FOR GENETIC TESTING.

(a) In a proceeding to adjudicate the parentage of a child having a presumed father, the court may deny a motion seeking an order for genetic testing of the mother, the child, and the presumed father if the court determines that:

(1) the conduct of the mother or the presumed father estops that party from denying parentage; and

(2) it would be inequitable to disprove the father-child relationship between the child and the presumed father.

(b) In determining whether to deny a motion seeking an order for genetic testing under this section, the court shall consider the best interest of the child, including the following factors:

(1) the length of time between the proceeding to adjudicate parentage and

the time that the presumed father was placed on notice that he might not be the biological father;

(2) the length of time during which the presumed father has assumed the role of father of the child;

(3) the facts surrounding the presumed father's discovery of his possible nonpaternity;

(4) the nature of the relationship between the child and the presumed father;

(5) the age of the child;

(6) the harm that may result to the child if presumed paternity is successfully disproved;

(7) the nature of the relationship between the child and any alleged father;

(8) the extent to which the passage of time reduces the chances of establishing the paternity of another man and a child-support obligation in favor of the child; and

(9) other factors that may affect the equities arising from the disruption of the father-child relationship between the child and the presumed father or the chance of other harm to the child; and

(10) any other factor the court determines to be equitable.

(c) In a proceeding involving the application of this section, a minor or incapacitated child must be represented by a guardian ad litem.

(d) If the court denies a motion seeking an order for genetic testing, it shall issue an order adjudicating the presumed father to be the father of the child.

SECTION 610. LIMITATION: CHILD HAVING ACKNOWLEDGED OR ADJUDICATED FATHER.

(a) If a child has an acknowledged father, a signatory to the acknowledgment of paternity or denial of paternity may commence a proceeding seeking to challenge the acknowledgement or denial or challenge the paternity of the child only within the time allowed under Section 309.

(b) If a child has an acknowledged father or an adjudicated father, an individual, other than the child, who is neither a signatory to the acknowledgment of paternity nor a party to the adjudication and who seeks an adjudication of paternity of the child must commence a proceeding not later than two years after the effective date of the acknowledgment or adjudication.

(c) A proceeding under this section is subject to the application of the principles of estoppel established in Section 609.

SECTION 611. JOINDER OF PROCEEDINGS.

(a) Except as otherwise provided in subsection (b), a proceeding to adjudicate parentage may be joined with a proceeding for adoption, termination of parental rights, child custody or visitation, child support, dissolution of marriage, declaration of invalidity of marriage, legal separation, probate or administration of an estate, or other appropriate proceeding.

(b) A respondent may not join a proceeding described in subsection (a) with a proceeding to adjudicate parentage brought under the Uniform Interstate Family Support Act.

SECTION 612. PROCEEDING BEFORE BIRTH. A proceeding to determine parentage may be commenced before the birth of the child, but may not be concluded until after the birth of the child. The following actions may be taken before the birth of the child:

(a) service of process;

(b) the taking of depositions to perpetuate testimony; and

(c) except as prohibited by Article IV, collection of specimens for genetic testing.

SECTION 613. CHILD AS PARTY; REPRESENTATION.

(a) A minor child is a permissible party, but is not a necessary party to a proceeding under this article.

(b) The court shall appoint a guardian ad litem to represent a minor or incapacitated child if the child is a party or the court finds that the interests of the child are not adequately represented.

SECTION 614. ADMISSIBILITY OF RESULTS OF GENETIC TESTING; EXPENSES.

(a) If a child has a presumed, acknowledged, or adjudicated father, the results of genetic testing are inadmissible to adjudicate parentage unless performed:

(1) with the consent of both the mother and the presumed, acknowledged, or adjudicated father; or

(2) pursuant to an order of the court under Section 502.

(b) Copies of bills for genetic testing and for prenatal and postnatal health care for the mother and child which are furnished to the adverse party not less than 10 days before the date of a hearing are admissible to establish:

(1) the amount of the charges billed; and

(2) that the charges were reasonable, necessary, and customary.

(c) Certified copies of the bills for costs incurred for pregnancy and childbirth shall be admitted into evidence at judicial or administrative proceedings without foundation testimony or other proof of authenticity or accuracy.

SECTION 615. CONSEQUENCES OF DECLINING GENETIC TESTING.

(a) An order for genetic testing is enforceable by contempt.

(b) If an individual whose paternity is being determined declines to submit to genetic testing ordered by the court or administrative agency, the court or administrative agency for that reason may adjudicate parentage contrary to the position of that individual.

(c) Genetic testing of the mother of a child is not a condition precedent to testing the child and a man whose paternity is being determined. If the mother is unavailable or declines to submit to genetic testing, the court or administrative agency may order the testing of the child and every man whose paternity is being adjudicated.

SECTION 616. ADMISSION OF PATERNITY AUTHORIZED.

(a) A respondent in a proceeding to adjudicate parentage may admit to the paternity of a child by filing a pleading to that effect or by admitting paternity under penalty of perjury when making an appearance or during a hearing.

(b) If the court finds that the admission of paternity satisfies the requirements of this section and finds that there is no reason to question the admission, the court shall enter an order adjudicating the child to be the child of the man admitting paternity.

SECTION 617. RULES FOR ADJUDICATION OF PATERNITY. The court shall apply the following rules to adjudicate the paternity of a child:

(a) The paternity of a child having an adjudicated father may be disproved only by admissible results of genetic testing, or other means, excluding that man as the father of the child or identifying another man as the father of the child.

(b) Unless the results of genetic testing, or other evidence, are admitted to rebut other results of genetic testing, a man identified as the father of a child under Section 404 must

be adjudicated the father of the child.

(c) If the court finds that genetic testing under Section 405 neither identifies nor excludes a man as the father of a child, the court may not dismiss the proceeding. In that event, the results of genetic testing, and other evidence, are admissible to adjudicate the issue of paternity.

(d) Unless the results of genetic testing are admitted to rebut other results of genetic testing, a man excluded as the father of a child by genetic testing must be adjudicated not to be the father of the child.

SECTION 618. PRE-TRIAL PROCEEDINGS. As soon as practicable after an action to declare the existence or non-existence of the father and child relationship has been brought, and the parties are at issue, the court may conduct a pre-trial conference.

SECTION 619. JURY PROHIBITED. Trial by jury is not available under this Act.

SECTION 620. ORDER ON DEFAULT. The court may issue an order adjudicating the paternity of a man who is in default after service of process.

SECTION 621. BINDING EFFECT OF DETERMINATION OF PARENTAGE.

(a) Except as otherwise provided in subsection (b), a determination of parentage is binding on:

(1) all signatories to an acknowledgement or denial of paternity as provided in Article 3; and

(2) all parties to an adjudication by a court acting under circumstances that satisfy the jurisdictional requirements of Section 201 of the Uniform Interstate Family Support Act.

(b) A child is not bound by a determination of parentage under this Act unless:

(1) the determination was based on an unrescinded acknowledgment of paternity and the acknowledgement is consistent with the results of genetic testing;

(2) the adjudication of parentage was based on a finding consistent with the results of genetic testing and the consistency is declared in the determination or is otherwise shown; or

(3) the child was a party or was represented in the proceeding determining parentage by an guardian ad litem.

(c) In a proceeding to dissolve a marriage, the court is deemed to have made an adjudication of the parentage of a child if the court acts under circumstances that satisfy the jurisdictional requirements of Section 201 of the Uniform Interstate Family Support Act, and the final order:

(1) expressly identifies a child as a “child of the marriage,” “issue of the marriage,” or similar words indicating that the husband is the father of the child; or

(2) provides for support of the child by the husband unless paternity is specifically disclaimed in the order.

(d) Except as otherwise provided in subsection (b), a determination of parentage may be a defense in a subsequent proceeding seeking to adjudicate parentage by an individual who was not a party to the earlier proceeding.

(e) A party to an adjudication of paternity may challenge the adjudication only under law of this State relating to appeal, vacation of judgments, or other judicial review.

ARTICLE 7

CHILD OF ASSISTED REPRODUCTION

SECTION 701. SCOPE OF ARTICLE. This article does not apply to the birth of a child conceived by means of sexual intercourse, or as the result of a gestational agreement as provided in the Gestational Surrogacy Act.

SECTION 702. PARENTAL STATUS OF DONOR. A donor is not a parent of a child conceived by means of assisted reproduction. The donor of sperm provided to a licensed physician for use in artificial insemination of a woman other than the donor's wife shall be treated in law as if he were not a parent of a child conceived by artificial insemination.

SECTION 703. PATERNITY OF CHILD OF ASSISTED REPRODUCTION. A man who provides sperm for, or consents to, assisted reproduction (including artificial insemination) by a woman as provided in Section 704 with the intent to be the parent of her child, is a parent of the resulting child.

SECTION 704. CONSENT TO ASSISTED REPRODUCTION.

(a) Consent by a woman, and a man who intends to be a parent of a child born to the woman by assisted reproduction must be in a record signed by the woman and the man. This requirement does not apply to a donor.

(b) Failure of a man to sign a consent required by subsection (a), before or after birth of the child, does not preclude a finding of paternity if the woman and the man, during the first two years of the child's life resided together in the same household with the child and openly held out the child as their own.

SECTION 705. LIMITATION ON HUSBAND'S DISPUTE OF PATERNITY.

- (a) Any child born as the result of heterologous artificial insemination shall be considered at law in all respects the same as a naturally conceived child of the man and woman so requesting and consenting to the use of artificial insemination.
- (b) If, under the supervision of a licensed physician and with the consent of the man, a wife is inseminated artificially with sperm donated by a donor, the father shall be treated in law as if he were the natural father of a child thereby conceived. The father's consent must be in writing executed and acknowledged by both the father and mother. The physician who is to perform the technique shall certify their signatures and the date of the insemination, and file the father's consent in the medical record where it shall be kept confidential and held by the patient's physician. However, the physician's failure to do so shall not affect the legal relationship between father and child. All records pertaining to the insemination, whether part of the permanent medical record held by the physician or not, are subject to inspection only upon an order of the court for good cause shown.
- (c) Except as otherwise provided in subsection (b), the husband of a wife who gives birth to a child by means of assisted reproduction may not challenge his paternity of the child unless:
 - (1) within two years after learning of the birth of the child he commences

a proceeding to adjudicate his paternity; and

- (2) the court finds that he did not consent to the assisted reproduction, before or after birth of the child.

(d) A proceeding to adjudicate paternity may be maintained at any time if the court determines that:

- (1) the husband did not provide sperm for, or before or after the birth of the child consent to, assisted reproduction by his wife;

- (2) the husband and the mother of the child have not cohabited since the probable time of assisted reproduction; and

- (3) the husband never openly held out the child as his own.

(e) The limitation provided in this section applies to a marriage declared invalid after assisted reproduction.

SECTION 706. EFFECT OF DISSOLUTION OF MARRIAGE OR WITHDRAWAL OF CONSENT.

(a) If a marriage is dissolved before placement of eggs, sperm, or embryos, the former spouse is not a parent of the resulting child unless the former spouse consented in a record that if assisted reproduction were to occur after a divorce, the former spouse would be a parent of the child.

(b) The consent of a woman or a man to assisted reproduction may be withdrawn by that individual in a record at any time before placement of eggs, sperm, or embryos. An individual who withdraws consent under this section is not a parent of the resulting child.

SECTION 707. PARENTAL STATUS OF DECEASED INDIVIDUAL. If an individual who consented in a record to be a parent by assisted reproduction dies before placement of eggs, sperm, or embryos, the deceased individual is not a parent of the resulting child unless the deceased spouse consented in a record that if assisted reproduction were to occur after death, the deceased individual would be a parent of the child.

ARTICLE 8

SUPPORT AND JUDGMENT

SECTION 801. CHILD SUPPORT ORDERS. Notwithstanding any other law to the contrary, pending the outcome of a judicial determination of parentage, the court shall issue a temporary order for child support, upon motion by a party and a showing of clear and convincing evidence of paternity. In determining the amount of the temporary child support award, the court shall use the guidelines and standards set forth in subsection (a) of Section 505 and in Section 505.2 of the Illinois Marriage and Dissolution of Marriage Act.

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 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. Any such judgment is subject to modification or termination only in accordance with Section 510 of the Illinois Marriage and Dissolution of Marriage Act. A lien arises by operation of law against the real and

personal property of the noncustodial parent for each installment of overdue support owed by the noncustodial parent.

All orders for support, when entered or modified, shall include a provision requiring the non-custodial parent to notify the court, and in cases in which a party is receiving child support enforcement services under Article X of the Illinois Public Aid Code, the Illinois Department of Healthcare and Family Services, within 7 days, (i) of the name, address, and telephone number of any new employer of the non-custodial parent, (ii) whether the non-custodial 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, and (iii) of any new residential or mailing address or telephone number of the non-custodial parent.

In any subsequent action to enforce a support order, upon sufficient showing that diligent effort has been made to ascertain the location of the non-custodial parent, service of process or provision of notice necessary in that action may be made at the last known address of the non-custodial parent, in any manner expressly provided by the Code of Civil Procedure or in this Act, which service shall be sufficient for purposes of due process.

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 majority or is otherwise emancipated. 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 paragraph shall be construed to prevent the court from modifying the order.

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, then 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 the 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 January 1, 2005 must contain a statement notifying the parties of the requirements of this paragraph. 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 paragraph with regard to the order. This paragraph shall not be construed to prevent or affect the establishment or modification of an order for the support of a minor child or the establishment or modification of an order for the support of a non-minor disabled child or educational expenses under Section 513 of the Illinois Marriage and Dissolution of Marriage Act.

SECTION 802. JUDGMENT.

(a) The court shall issue an order adjudicating whether a man alleged or claiming to be the father is the parent of the child. An order adjudicating parentage must identify the child by name and date of birth.

The court may assess filing fees, reasonable attorney's fees, fees for genetic testing, other costs, and necessary travel and other reasonable expenses incurred in a proceeding under this Act. The court may award attorney's fees, which may be paid directly to the attorney, who may

enforce the order in the attorney's own name. The court may not assess fees, costs, or expenses against the support-enforcement agency of this State or another state, except as provided by other law.

The judgment shall contain or explicitly reserve provisions concerning any duty and amount of child support and may contain provisions concerning the custody and guardianship of the child, visitation privileges with the child, the furnishing of bond or other security for the payment of the judgment, which the court shall determine in accordance with the relevant factors set forth in the Illinois Marriage and Dissolution of Marriage Act and any other applicable law of Illinois, to guide the court in a finding in the best interests of the child. In determining custody, joint custody, removal, visitation, visitation interference, support for a non-minor disabled child, educational expenses for a non-minor child, and related post judgment issues, the court shall apply the relevant standards of the Illinois Marriage and Dissolution of Marriage Act. Specifically, in determining the amount of any child support award, the court shall use the guidelines and standards set forth in subsection (a) of Section 505 and in Section 505.2 of the Illinois Marriage and Dissolution of Marriage Act. For purposes of Section 505 of the Illinois Marriage and Dissolution of Marriage Act, "net income" of the non-custodial parent shall include any benefits available to that person under the Illinois Public Aid Code or from other applicable federal, State or local government-funded programs.

In an action brought within 2 years after a child's birth, the judgment or order may direct either parent to pay the reasonable expenses incurred by either parent related to the mother's pregnancy and the delivery of the child.

If a judgment of parentage contains no explicit award of custody, the establishment of a child support obligation or of visitation rights in one parent shall be considered a judgment

granting custody to the other parent. If the parentage judgment contains no such provisions, custody shall be presumed to be with the mother; however, the presumption shall not apply if the father has had physical custody for at least 6 months prior to the date that the mother seeks to enforce custodial rights.

The court, if necessary to protect and promote the best interests of the child, may set aside a portion of the separately held estates of the parties in a separate fund or trust for the support, education, physical and mental health, and general welfare of any minor, or mentally or physically disabled child of the parties.

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

- (1) The father's prior knowledge of the fact and circumstances of the child's birth.
- (2) The father's prior willingness or refusal to help raise or support the child.
- (3) The extent to which the mother or the public agency bringing the action previously informed the father of the child's needs or attempted to seek or require his help in raising or supporting the child.
- (4) The reasons the mother or the public agency did not file the action earlier.

(5) The extent to which the father would be prejudiced by the delay in bringing the action.

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

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

(c) 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 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 judgment shall have the full force, effect and attributes of any other judgment of this State, including the ability to be enforced. A lien arises by operation of law against the real and personal property of the noncustodial parent for each installment of overdue support owed by the noncustodial parent.

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

(e) On request of the mother and the father, the court shall order a change in the child's name.

(f) After hearing evidence the court may stay payment of support during the period of the father's minority or period of disability.

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

(h) All orders for support, when entered or modified, shall include a provision requiring the non-custodial parent to notify the court and, in cases in which party is receiving child support enforcement services under Article X of the Illinois Public Aid Code, the Illinois Department of Healthcare and Family Services, within 7 days, (i) of the name and address of any new employer of the non-custodial parent, (ii) whether the non-custodial 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, and (iii) of any new residential or mailing address or telephone number of the non-custodial parent. In any subsequent action to enforce a support order, upon a sufficient showing that a diligent effort has been made to ascertain the location of the non-custodial parent, service of process or provision of notice necessary in the case may be made at the last known address of the non-custodial parent in any manner expressly

provided by the Code of Civil Procedure or this Act, which service shall be sufficient for purposes of due process.

(i) 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.

(j) 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 January 1, 2005 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 the Illinois Marriage and Dissolution of Marriage Act.

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

SECTION 803. 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 Illinois 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 Illinois 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 Illinois 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 Illinois 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 Illinois 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.

SECTION 804. 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.

SECTION 805. ENFORCEMENT OF JUDGMENT OR ORDER.

(a) If existence of the parent and child relationship is declared, or paternity or duty of support has been established under this Act or under prior law or under the law of any other jurisdiction, the judgment rendered thereunder may be enforced in the same or other proceedings by any party or any person or agency that has furnished or may furnish financial assistance or services to the child. The Income Withholding for Support Act and Sections 903 and 909 of this Act shall also be applicable with respect to entry, modification and enforcement of any support judgment entered under provisions of the "Paternity Act", approved July 5, 1957, as amended, repealed July 1, 1985.

(b) Failure to comply with any order of the court shall be punishable as contempt as in other cases of failure to comply under the Illinois Marriage and Dissolution of Marriage Act. In addition to other penalties provided by law, the court may, after finding the party guilty of contempt, order that the party be:

(1) Placed on probation with such conditions of probation as the court deems advisable;

(2) Sentenced to periodic imprisonment for a period not to exceed 6 months. However, the court may permit the party to be released for periods of time during the day or night to work or conduct business or other self-employed occupation. The court may further order any part of all the earnings of a party during a sentence of periodic imprisonment to be paid to the Clerk of the Circuit Court or to the person or parent having custody of the minor child for the support of said child until further order of the court.

(2.5) The court may also pierce the ownership veil of a person, persons, or business entity to discover assets of a non-custodial parent held in the name of that person, those persons, or that business entity if there is a unity of interest and ownership sufficient to render no financial separation between the non-custodial parent and that person, those persons, or the business entity. The following circumstances are sufficient for 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:

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

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

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

With respect to assets which are real property, no order entered under this subdivision (2.5) 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.

(3) The court may also order that in cases where the party 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 party's Illinois driving privileges be suspended until the court determines that the party is in compliance with the judgement or duty of support. The court may also order that the parent be issued a family financial responsibility driving permit that would allow limited driving privileges for employment and medical purposes in accordance with Section 7-702.1 of the Illinois Vehicle Code. The clerk of the circuit court shall certify the order suspending the driving privileges of the parent or granting the issuance of a family financial responsibility driving permit to the Secretary of State on forms prescribed by the Secretary. Upon receipt of the authenticated documents, the Secretary of State shall suspend the party'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 907 of this Act.

(c) In any post-judgment proceeding to enforce or modify the judgment the parties shall continue to be designated as in the original proceeding.

SECTION 806. UNEMPLOYMENT OF PERSON OWING DUTY OF SUPPORT.

(a) Whenever it is determined in a proceeding to establish or enforce a child support 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 Illinois 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, and the child is receiving assistance under the Illinois Public Aid Code, the court shall order the following at the request of the Illinois 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.

SECTION 807. ORDER OF PROTECTION; STATUS. Whenever relief is sought under this Act, the court, before granting relief, shall determine 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 respondent or a protected person.

SECTION 808. MODIFICATION OF JUDGMENT. The court has continuing jurisdiction to modify an order for support, custody, visitation, or removal included in a judgment entered under this Act. Any custody, visitation, or removal judgment modification shall be in accordance with the relevant factors specified in the Illinois Marriage and Dissolution of Marriage Act, including Section 609. Any support judgment is subject to modification or termination only in accordance with Section 510 of the Illinois Marriage and Dissolution of Marriage Act.

SECTION 809. RIGHT TO COUNSEL.

(a) Any party may be represented by counsel at all proceedings under this Act. Except as otherwise provided in this Act, the court may order reasonable fees of counsel, experts, and other costs of the action, pre-trial proceedings, post-judgment proceedings to enforce or modify the Judgment, and the appeal or the defense of an appeal of the judgment, to be paid by the parties in accordance with the relevant factors specified in Section 508 of the Illinois Marriage and Dissolution of Marriage Act, as modified. 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.

(b) In any proceedings involving the support, custody, visitation, 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 to the minor 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 witness for purposes of cross-examination regarding the guardian'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 of the parties, investigate the facts of the case, and encourage settlement and the use of alternative forms of dispute resolution. The child representative 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 and as does a guardian ad litem. The child representative shall consider, but not be bound by, the express 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 ___-based arguments. The child representative shall ____ the position as to what the child representative intends to ____ 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.

(4) Additional Appointments. During the proceedings the court may appoint an additional attorney to serve in the capacity described in subdivisions (1), (2), or (3) of the preceding paragraph on the court's own motion or that of a party only for good cause shown and the reasons for the additional appointment are set forth in specific findings.

Appointment considerations. In deciding whether to make an appointment of an attorney for the minor child, a guardian ad item, 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 means of obtaining information, including social service organizations and evaluations by mental health individuals 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 Judge.

(5) 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 representative is appointed. Any person appointed under this Section shall file with the court within 90 days after his or her appointment, and every subsequent 90 day period thereafter during the course of his or her representation, a detailed invoice of 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 respective parties' separate estate(s), or the child's separate estate. The court may not order payment by the Illinois 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's 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 applicable provisions of Section 508 of the Illinois Marriage and Dissolution of Marriage Act shall apply to fees and costs for attorneys appointed under this Section.

SECTION 810. WITHHOLDING OF INCOME TO SECURE PAYMENT OF SUPPORT. Orders for support entered under this Act are subject to the Income Withholding for Support Act.

SECTION 811. 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 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 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.

SECTION 812. INTEREST ON SUPPORT OBLIGATIONS. 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.

SECTION 813. SUPPORT PAYMENTS; RECEIVING AND DISBURSING GENTS.

(a) In an action filed in a county of less than 3 million population in which an order for child support is entered, and in supplementary proceedings in such a county to enforce or vary the terms of such order arising out of an action filed in such a county, the court, except in actions or supplementary proceedings in which the pregnancy and delivery expenses of the mother or the child support payments are for a recipient of aid under the Illinois Public Aid Code, shall direct that child support payments be made to the clerk of the court unless in the discretion of the court exceptional circumstances warrant otherwise. In cases where payment is to be made to persons other than the clerk of the court the judgment or order of support shall set forth the facts of the exceptional circumstances.

(b) In an action filed in a county of 3 million or more population in which an order for child support is entered, and in supplementary proceedings in such a county to enforce or vary the terms of such order arising out of an action filed in such a county, the court, except in actions or supplementary proceedings in which the pregnancy and delivery expenses of the mother or the child support payments are for a recipient of aid under the Illinois Public Aid Code, shall 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 or its successor, or to the clerk of the court or to the Illinois Department of Healthcare and Family Services, unless in the discretion of the court exceptional circumstances warrant otherwise. In cases where payment is to be made to persons

other than the clerk of the court, the Court Service Division of the County Department of Public Aid or its successor, or the Illinois Department of Healthcare and Family Services, the judgment or order of support shall set forth the facts of the exceptional circumstances.

(c) Where the action or supplementary proceeding is in behalf of a mother for pregnancy and delivery expenses or for child support, or both, and the mother, child, or both, are recipients of aid under the Illinois Public Aid Code, the court shall order that the payments be made directly to (a) the Illinois Department of Healthcare and Family Services if the mother or child, or both, are recipients under Articles IV or V of the Code, or (b) the local governmental unit responsible for the support of the mother or child, or both, if they are recipients under Articles VI or VII of the Code. In accordance with federal law and regulations, the Illinois 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 Illinois 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 Illinois Department of Healthcare and Family Services or the local governmental unit, as the case may be, may direct that payments be made directly to the mother of the child, or to some other person or agency in the child's behalf, upon the removal of the mother and child from the public aid rolls or upon termination of services under Article X of the Illinois Healthcare and Family Services Code; and upon such direction, the Illinois Department or the local governmental unit, as the case requires, shall give notice of such action to the court in writing or by electronic transmission.

(d) All clerks of the court and the Court Service Division of a County Department of Public Aid or its successor and the Illinois Department of Healthcare and Family Services, receiving child support payments under paragraphs (1) or (2) shall disburse the same to the person or persons entitled thereto under the terms of the order. They shall establish and maintain clear and 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 Illinois 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. Disbursement 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) The moneys received by persons or agencies designated by the court shall be disbursed by them in accordance with the order. However, the court, on petition of the State's Attorney, may enter new orders designating the clerk of the court or the Illinois Department of Healthcare and Family Services, as the person or agency authorized to receive and disburse child support payments and, in the case of recipients of public aid, the court, on petition of the Attorney General or State's Attorney, shall direct subsequent payments to be paid to the Illinois Department of Healthcare and Family Services or to the appropriate local governmental unit, as provided in paragraph (3). Payments of child support by principals or sureties on bonds, or proceeds of any sale for the enforcement of a judgment shall be made to the clerk of the court,

the Illinois Department of Healthcare and Family Services or the appropriate local governmental unit, as the respective provisions of this Section require.

(f) For those cases in which child support is payable to the clerk of the circuit court for transmittal to the Illinois Department of Healthcare and Family Services by order of court or upon notification by the Illinois Department of Healthcare and Family Services, 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.

(g) To the extent the provisions of this Section are inconsistent with the requirements pertaining to the State Disbursement Unit under Section 916 of this Act and Section 10-26 of the Illinois Public Aid Code, the requirements pertaining to the State Disbursement Unit shall apply.

SECTION 814. NOTICE OF CHILD SUPPORT ENFORCEMENT SERVICES.

The Illinois Department of Healthcare and Family Services may provide notice at any time to the parties to an action filed under this Act that child support enforcement services are being provided by the Illinois Department under Article X of the Illinois Public Aid Code. After notice is provided pursuant to this Section, the Illinois Department shall be entitled, as if it were a party, to notice of any further proceedings brought in the case. The Illinois Department shall provide

the clerk of the court with copies of the notices sent to the parties. The clerk shall file the copies in the court file.

SECTION 815. PAYMENT OF SUPPORT TO STATE DISBURSEMENT UNIT.

(a) As used in this Section: "Order for support", "obligor", "obligee", and "payor" mean those terms as defined in the Income Withholding for Support Act, except that "order for support" shall not mean orders providing for spousal maintenance under which there is no child support obligation.

(b) Notwithstanding any other provision of this Act to the contrary, each order for support entered or modified on or after October 1, 1999 shall require that support payments be made to the State Disbursement Unit established under Section 10-26 of the Illinois Public Aid Code if:

(1) a party to the order is receiving child support enforcement services under Article X of the Illinois Public Aid Code; or

(2) no party to the order is receiving child support enforcement services, but the support payments are made through income withholding.

(c) Support payments shall be made to the State Disbursement Unit if:

(1) the order for support was entered before October 1, 1999, and a party to the order is receiving child support enforcement services under Article X of the Illinois Public Aid Code; or

(2) no party to the order is receiving child support enforcement services, and the support payments are being made through income withholding.

(c-5) If no party to the order is receiving child support enforcement services under Article X of the Illinois Public Aid Code, and the support payments are not made through income withholding, then support payments shall be made as directed by the order for support.

(c-10) At any time, and notwithstanding the existence of an order directing payments to be made elsewhere, the Illinois Department of Healthcare and Family Services may provide notice to the obligor and, where applicable, to the obligor's payor:

(1) to make support payments to the State Disbursement Unit if:

(A) a party to the order for support is receiving child support enforcement services under Article X of the Illinois Public Aid Code; or

(B) no party to the order for support is receiving child support enforcement services under Article X of the Illinois Public Aid Code, but the support payments are made through income withholding; or

(2) to make support payments to the State Disbursement Unit of another state upon request of another state's Title IV-D child support enforcement agency, in accordance with the requirements of Title IV, Part D of the Social Security Act and regulations promulgated under that Part D. The Illinois Department of Healthcare and Family Services shall provide a copy of the notice to the obligee and to the clerk of the circuit court.

(c-15) Within 15 days after the effective date of this amendatory Act of the 91st General Assembly, the clerk of the circuit court shall provide written notice to the obligor to directly to the clerk of the circuit court if no party to the order is receiving child support enforcement services under Article X of the Illinois Public Aid Code, the support payments are not made through income withholding, and the order for support requires support payments to be made

directly to the clerk of the circuit court. The clerk shall provide a copy of the notice to the obligee.

(c-20) If the State Disbursement Unit receives a support payment that was not appropriately made to the Unit under this Section, the Unit shall immediately return the payment to the sender, including, if possible, instructions detailing where to send the support payments.

(d) The notices under subsections (c-10) and (c-15) may be sent by ordinary mail, certified mail, return receipt requested, facsimile transmission, or other electronic process, or may be served upon the obligor or payor using any method provided by law for service of a summons.

SECTION 816. COLLECTION FEE. In all cases instituted by the Illinois Department of Healthcare and Family Services on behalf of a child or spouse, other than one receiving a grant of financial aid under Article IV of The Illinois Public Aid Code, on whose behalf an application has been made and approved for child support enforcement services as provided by Section 10-1 of that Code, the court shall impose a collection fee on the individual who owes a child or spouse support obligation in an amount equal to 10% of the amount so owed as long as such collection is required by federal law, which fee shall be in addition to the support obligation. The imposition of such fee shall be in accordance with provisions of Title IV, Part D, of the Social Security Act and regulations duly promulgated thereunder. The fee shall be payable to the clerk of the circuit court for transmittal to the Illinois Department of Healthcare and Family Services and shall continue until support services are terminated by that Department.

SECTION 817. NOTICE TO CLERK OF CIRCUIT COURT OF PAYMENT RECEIVED BY ILLINOIS DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES FOR RECORDING. For those cases in which support is payable to the clerk of the

circuit court for transmittal to the Illinois Department of Healthcare and Family Services by order of court, and the Illinois Department of Healthcare and Family Services collects support by assignment offset, withhold, deduction or other process permitted by law, the Illinois Department of Healthcare and Family Services shall notify the clerk of the date and amount of such collection. Upon notification, the clerk shall record the collection on the payment record for the case.

SECTION 818. ADMINISTRATIVE DETERMINATIONS OF PATERNITY.

Notwithstanding any other provision of this Act, the Illinois Department of Healthcare and Family Services may make administrative determinations of paternity and nonpaternity in accordance with Article X of the Illinois Public Aid Code. These determinations of paternity or nonpaternity shall have the full force and effect of judgments entered under this Act.

ARTICLE 9

MISCELLANEOUS PROVISIONS

SECTION 901. BURDEN OF PROOF. Absent a burden of proof specifically set forth in this Act, the burden of proof shall be “by a preponderance of the evidence”.

SECTION 902. SEVERABILITY CLAUSE. If any provision of this Act or its application to an individual or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or

application, and to this end the provisions of this Act are severable.

SECTION 903. REPEAL. The following acts and parts of acts are repealed:

(1) The Illinois Parentage Act, 750 ILCS 40.

(2) The Illinois Parentage Act of 1984, 750 ILCS 45.

SECTION 904. TRANSITIONAL PROVISION. A proceeding to adjudicate parentage which was commenced before the effective date of this Act is governed by the law in effect at the time the proceeding was commenced.

SECTION 905. SAVINGS PROVISION. Except as provided in Section 8 of this Act, the repeal of the "Paternity Act", approved July 5, 1957, as amended, shall not affect rights or liabilities which have accrued thereunder and which have been determined, settled or adjudicated prior to the effective date of this Act or which are the subject of proceedings pending thereunder on such effective date. Provided further, this Act shall not be construed to bar an action which would have been barred because the action had not been filed within the then applicable time limitation, or which could not have been maintained under the "Paternity Act," approved July 5, 1957 and repealed hereunder, as long as the limitations periods set forth in Section 8 of this Act are complied with.

SECTION 906. OTHER STATES' ESTABLISHMENTS OF PATERNITY. Establishments of paternity made under the laws of other states shall be given full faith and credit in this State regardless of whether paternity was established through voluntary acknowledgment, tests to determine inherited characteristics, or judicial or administrative processes.