

# FAMILY SUPPORT FORUM

The Official Newsletter of the Illinois Family Support Enforcement Association

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No. 1

## Two Veteran Prosecutors Retire; One Returns to Child Support Enforcement

By Thomas P. Sweeney

Two veteran child support prosecutors have retired from their respective offices, with a third veteran prosecutor returning to fill one of the vacancies.

On March 4, 2003, Claudia Hoogasian retired from her position as head of the Lake County State's Attorney's support enforcement division after an 18-year career in that position. Nancy Schuster Waites has returned to that office as Claudia's successor.

In November, 2002, Steve Rissman retired from the Cook County State's Attorney's support division after more than 24 years in that office.

### Claudia Hoogasian

Asked by the State's Attorney to work in support enforcement "for a couple of years," Claudia joined that division in 1985. "I wound up staying 18 years, so I guess you could say I fell in love with the job," she said. "I have always been interested in social justice, and this was a very rewarding way to use my law degree."

During her tenure Claudia has been an active participant in many state, regional and national conferences and panels aimed to improve child support enforcement. She was a member of IFSEA's Board of Directors from its inception in 1987 until 1998, was chair of IFSEA's third annual conference in 1991, and President of the association from 1991 to 1992.



*Surrounded by family photos, Claudia Hoogasian enjoys her last day in the office as head of the Lake County State's Attorney's child support enforcement division. Claudia retired March 4, 2003, after 18 years of service.*

*(Photos by Tom Vaught)*

Claudia's retirement brings to an end a long and

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# ***FAMILY SUPPORT FORUM***

is the official newsletter of the

## **ILLINOIS FAMILY SUPPORT ENFORCEMENT ASSOCIATION**

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(† indicates Directors appointed "At Large")

#### **Newsletter Editor**

**Thomas P. Sweeney**

P. O. Box 370, Tolono, IL 61880-0370

tele. & fax (217) 485-5302

e-mail: [tsweeney@pdnt.com](mailto:tsweeney@pdnt.com)

#### **Assistant / Assignment Editor**

**Christa Fuller**

Tele. (312) 803-7361; fax (312) 803-0872

e-mail: [christafuller@maximus.com](mailto:christafuller@maximus.com)

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STATEMENTS AND OPINIONS EXPRESSED IN THE ***FAMILY SUPPORT FORUM***  
ARE THOSE OF THE AUTHORS AND DO NOT NECESSARILY REFLECT THOSE  
OF THE OFFICERS, DIRECTORS OR MEMBERSHIP OF THE ASSOCIATION

***Depending on contributions, the FORUM attempts to publish  
four times a year - in March, June, August/September, and December.***

**Items for publication are needed by the 8th of the month.**

**Contact the Editor or Assignment Editor for details.**

***Please Contribute - its YOUR Newsletter!***



*From the Statehouse . . .*

## *. . . LEGISLATIVE UPDATE*

### **2003 Illinois Support-Related Legislation**

*The following is a summary of bills potentially relevant to family support enforcement introduced in the Illinois Legislature during the Spring, 2003 term as of March 31, 2003.*

*Summaries of bills and their status, including direct links to the text of each bill and to Public Acts following their approval by the Governor, are now available on IFSEA's web site, [www.illinoisfamilysupport.org](http://www.illinoisfamilysupport.org).*

by Thomas P. Sweeney

**S.B. 0044: Collection Agency Fee Limit**  
Amends the Collection Agency Act. Provides that a collection agency may not impose a fee or charge for any child support payments collected through the efforts of a State or local governmental agency. Provides that a collection agency may not impose a fee or charge for the collection of child support payments that exceeds 25% of the amount of child support actually collected by the collection agency.

*Passed by the Senate, 3/24/03, 52-0-0.*

**S.B. 0053: Support Calculation, Farm Equipment Depreciation**  
Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that amounts properly deducted for federal income tax purposes for depreciation of farm machinery and equipment shall be deducted from net income for purposes of determining child support obligations. An amendment held in committee would expand the exclusion from net income to tax deductions including, but not limited to, depreciation.

**S.B. 0246: Support Calculation, Business Expense Deduction**  
Amends the Illinois Marriage and Dissolution of Marriage Act. Provides, for computing child support, that expenditures that represent reasonable and necessary expenses in the listed categories be deducted from net income (instead of deducting expenditures for the repayment of debts that represent reasonable and necessary expenses).

Approved by Committee 3/13/03. Tabled by its sponsor 3/25/03..

**S.B. 0363: Maintenance, Modification Factors**  
Amends the Illinois Marriage and Dissolution of Marriage Act. Sets forth factors to be considered in a proceeding to review, modify, or terminate maintenance

after the entry of the judgment of dissolution of marriage, judgment of legal separation, or judgment of declaration of invalidity of marriage. Removes the showing of substantial change in circumstances requirement for a modification of maintenance.

Approved by Committee 3/5/03. Third reading pending.

**S.B. 0528: Support Modification, Emergency Military Service**  
As introduced, amends the Illinois Marriage and Dissolution of Marriage Act, making a technical change in a Section concerning trial by jury. As amended, amends various acts to provide that changed income due to emergency military service shall be considered a substantial change so as to make the terms of a child support order unreasonable, and directs the IDPA to seek modification upon receipt of a certified letter from the parent's commanding officer providing the date emergency military service and the reduction in income commenced. Third reading pending.

**S.B. 0596: "Child Support Collection Solution Act"**  
Creates the Child Support Collection Solution Act. Contains only a short title provision.

**S.B. 1503: Income Withholding, Penalty**  
Amends the Income Withholding for Support Act. Provides that a payor who knowingly fails to pay on time the amount designated in an income withholding notice to the State Disbursement Unit (whether or not the payor withheld the amount) must pay a \$100 per day penalty for each day the payment is late. (Present law imposes this penalty only for not paying the amount withheld to the State Disbursement Unit.).

*Passed by the Senate, 3/20/03, 55-0-0.*

*(Cont'd. on page 8)*



*From the Courthouse . . .*

## **. . .CASES & COMMENTARY**

*As a regular feature the Family Support FORUM will endeavor to provide timely summaries of court decisions, both published and unpublished, and information about pending decisions of general interest to the support enforcement community. Any one who becomes aware of significant decisions or cases, whether pending or decided at any level, is encouraged to submit them for inclusion in future editions.*

*Direct links to slip opinions of these and other recent decisions are maintained on IFSEA's web site, [www.illinoisfamilysupport.org](http://www.illinoisfamilysupport.org), soon after they are released.*

by Thomas P. Sweeney

### **Burden on Party Opposing Visitation to Justify Restriction; IMDMA Standards Applied in Paternity Cases**

*Jines v. Jurich*, 335 Ill. App. 3d 1156, \_\_\_ N.E. 2d \_\_\_ (5th Dist., No. 5-01-0433, 12/23/02), affirmed visitation granted father in parentage proceedings.

The plaintiff, Charles, filed to establish his parentage of children fathered with the defendant, Anna, and for visitation. Finding that Anna had not met her burden to show visitation would not be in the children's best interests, the trial court granted a schedule of visitation. Anna appeals, contending that, unlike a divorce situation, the burden should be on the father to justify an award of visitation in a paternity case.

Affirmed. Section 14 of the Parentage Act provides that "the relevant standards" of the IMDMA should be used in determining custody and visitation. The Court rejected the 1997 holding of the 4th District in *Dept. of Public Aid ex rel. Gagnon-Dix v. Gagnon*, that the father in a paternity case had the burden to show visitation was in the child's best interests. The "relevant standards" are found in either § 602 or § 607 of the IMDMA, as may be appropriate under the facts of the case. § 607 creates a presumption in favor of visitation unless the Court finds it would endanger seriously the child's physical, mental, moral or emotional health. Here the evidence justified the granting of visitation.

### **Ruling on One of Multiple Post-Dissolution Claims Not Final, Appealable Absent Rule 304 (a) Finding.**

*In Re Marriage of Alyassir*, 335 Ill. App. 3d 998, 782 N.E. 2d 978 (2nd Dist., No. 2-01-1096, 1/9/03), dismissed as not final and appealable an appeal challenging as inadequate an order increasing child support.

Petitioner had filed a two-count petition for post-dissolution relief. Count I sought an increase in child support. Count II sought a contempt finding for failure to pay medical bills. The trial court granted an increase

in child support but had not ruled on the contempt issue before Petitioner sought appeal of the child support ruling. Nor had the trial court made a finding of no just cause to delay enforcement or appeal of the child support ruling.

While neither party raised the issue, the Appellate Court found it did not have jurisdiction "When an action involves multiple claims for relief, an order that finally resolves only one claim is not immediately appealable unless the trial court has found in writing that there is no just reason to delay either enforcement or appeal or both." In so ruling the Court rejected as unsound the 2001 holding of the First District in *In Re Marriage of Carr*, which concluded that, unlike the "intertwined" issues in original dissolution proceedings, issues in post-dissolution proceedings may be distinct enough to be separate claims that may be appealed separately. "*Carr* is unsound because it omits a crucial step. The opinion fails to consider that, even if a case presents separate 'claims,' that means only that an order that finally resolves fewer than all of them can be made immediately appealable by including a written Rule 304(a) finding. Separability of issues is a necessary condition for a rule 304(a) appeal. It is not a sufficient condition. A proper Rule 304(a) finding is still required." (emphasis in original) When not all claims are resolved the trial court should have the discretion whether or not to allow piecemeal appeals.

### **Support Exceeding Needs Proper Where Parties' Income is Disproportionate; Income Averaging Appropriate**

*In Re Marriage of Garrett*, \_\_\_ Ill. App. 3d \_\_\_, \_\_\_ N.E. 2d \_\_\_ (5th Dist., No. 5-01-0728, 2/3/03), affirmed an increase in child support to guideline levels based on an average of three years prior income.

When the parties' marriage was dissolved in 1993, support for two children was established at \$700 per

(Cont'd. on page 5)

week. Harry's (Dr. Garrett's) net annual income for purposes of child support had been found to be less than \$175,000. In 1999 Elizabeth sought an increase in support. The court found Harry's net income for child support purposes was \$240,034 in 1998, \$237,897 in 1999, and \$164,836 in 2000, that there had been a pattern of increased income since 1992, and that the decrease from 1999 to 2000 was atypical and not explained. The court averaged Harry's income for the previous three years, arriving at a figure of \$214,255. Elizabeth's net income was \$19,200 per year.

The court modified support to the statutory 20%, or \$824 per week, for the one remaining minor child (having set an amount at 25% for the two children until June, 2000 when the older child attained his majority). Harry appeals, contending the court should have deviated downward from statutory guidelines, and should have based support on projected 2000 income rather than three years average income.

Affirmed. Cases affirming downward deviations for high-income obligors involved circumstances where both parents had high incomes sufficient to insure the child would maintain the standard of living enjoyed prior to the dissolution. "Such is not the case here. Elizabeth's net annual income of \$19,200 is nominal compared to Harry's averaged net income of \$214,255 and clearly could not be considered sufficient to provide the reasonable needs of Allison, taking into account her lifestyle before her parents' dissolution."

"While we recognize that the support of a child is the joint obligation of the parents, it is clear that when one parent earns a disproportionately greater income than the other, that parent should bear a larger share of the support." Though the support ordered exceeds expenses estimated for Elizabeth's entire household, "a child's entitlement to a level of support is not limited to his or her 'shown needs'."

The Court also found the income averaging appropriate under the circumstances. "In situations where income fluctuates from year to year, income averaging is an approved method to apply in determining current net income for the purpose of establishing child support. . . . Income averaging may be applied in any case where it is appropriate, and there does not need to be wild fluctuation before averaging may be applied." In fact, given the "atypical and unexplained" reduction in income from 1999 to 2000, the trial court "would have been justified in excluding the 1999 to 2000 income altogether and substituting 1997's income of \$197,497, thereby resulting in an even higher averaged income."

### **Modified Support to be Calculated On Income After Subtracting Current Family Dependent Exemptions**

*Dept. of Public Aid ex rel. Schmid v. Williams*, \_\_\_ Ill. App. 3d \_\_\_, \_\_\_ N.E. 2d \_\_\_ (4th Dist., No. 4-01-1009, 2/4/03), affirmed an order calculating modified

child support on the obligor's current income and tax dependent circumstances.

In their 1998 divorce Terry was ordered to pay child support of \$295 semi-monthly for the parties; two children, and was allowed to claim one as an exemption on his income tax returns. Following the divorce Terry filed as a single individual, with himself and the one child as exemptions. In 2000, IDPA filed for modification based on Terry's increased income. By then he had remarried, he and his wife had two children, and he was then filing taxes as a joint return with his wife claiming five exemptions. The parties agreed there had been a change in circumstances justifying an increase. With five exemptions Terry's net income was reduced by \$144, resulting in guideline support of \$373.44 semi-monthly, and that is what the court ordered. Terry contends the new support order should be based on what his net income would be with the two exemptions he was claiming when the original order was entered. With just two exemptions his net income would be reduced by \$306, resulting in guideline support of \$337.44 semi-monthly. Terry appeals the calculation of his net income and the resulting order.

Affirmed. Section 505(a)(3)(a) allows deduction from an obligor's income of "properly calculated withholding" for taxes. It would be unreasonable to conclude that the amount of taxes withheld at one time should continue to be the amount deducted for all future times the issue is considered. "Ignoring the changes in withholding would make the concept of net income meaningless because it would have no relationship to reality." And "[t]o consider an obligor parent's withholding exemptions to be fixed in time, without regard to his or her actual number of withholding exemptions, would defeat the purpose of section 510(a)(1), because the trial court could not modify the order of child support in response to a change in the parent's actual net income."

### **Illinois May Exercise Jurisdiction, Modify Support Against Non-Resident Where State With Continuing Jurisdiction Declines**

*Mattmuller v. Mattmuller*, \_\_\_ Ill. App. 3d \_\_\_, \_\_\_ N.E. 2d \_\_\_ (5th Dist., No. 5-00-0702, 2/6/03), affirmed the Illinois court's modification of child support ordered in Indiana against a non-resident.

In their 1996 Indiana divorce Melissa was granted custody of the parties' two children and Dwight was ordered to pay support and granted visitation. Dwight's employer transferred him temporarily to New Mexico in 1997. Melissa moved with the children to Illinois in 1998, then registered the dissolution judgment and sought to modify visitation and child support in Illinois. Dwight petitioned to modify visitation and support in Indiana, but the Indiana court declined to exercise continuing jurisdiction. Dwight then returned to Indiana. Over Dwight's objection that the Illinois court lacked

(Cont'd. on page 6)

personal jurisdiction to do so, the Illinois court held it did have jurisdiction because the children lived here. After the Indiana court deferred to the Illinois court (which he failed to appeal) Dwight objected that Illinois lacked subject matter jurisdiction to modify child support pursuant to § 611 of UIFSA. The Illinois court ruled that an increase in support was appropriate, made factual findings and determined the manner in which modified support would be calculated, but reserved entry of a specific order pending outcome of Dwight's petition to change custody of one of the children. In July, 2000, the Illinois court granted Melissa's petition to move to Wisconsin and deferred pending custody and visitation matters and any future modification proceedings back to Indiana, but retained jurisdiction to complete the support modification petition already partially decided. In August, 2000, the Illinois court entered a final order increasing support, retroactive to January, 1999, and directing the parties to register the order in the Indiana court. Dwight appeals, contending the Illinois court lacked subject matter jurisdiction to modify because it did so in contravention of the federal Full Faith and Credit for Child Support Act, 28 U.S.C. §1738B.

First, the Appellate Court concluded that requirements of the Full Faith and Credit Act are not jurisdictional. Rather than confer jurisdiction, the Act tells state courts when to decline jurisdiction and defer to courts of other states. Since Dwight had not argued application of the Act until a last ditch motion to reconsider, his argument was untimely and he waived it.

Even if Dwight had not forfeited that argument the Appellate Court found the Illinois court's exercise of jurisdiction proper in light of the Indiana court's declining to do so. While the Act would mandate that Indiana retains "continuing and exclusive jurisdiction" to modify support, it "neither expressly authorizes nor expressly prohibits courts from declining jurisdiction and is silent on the effect of one state's decision to decline jurisdiction on another state's ability to exercise jurisdiction. We hold that the expressed congressional intent behind the Full Faith and Credit Act requires an interpretation allowing Illinois to assume jurisdiction under the facts of the case at bar. Were we to hold otherwise, the result would be to allow no court to hear Melissa's petition, thus depriving the Mattmuller children of additional support to which a court of this state found them eligible." While the Indiana court could have exercised jurisdiction, the Illinois court could not force it to do so. And while the Indiana court's decision to decline jurisdiction permitted Illinois to exercise jurisdiction under the Full Faith and Credit Act, it had the same result under UIFSA. Having properly exercised jurisdiction when the children lived in Illinois, it was appropriate for the Illinois court to retain jurisdiction to finalize the support modification despite Melissa's move to Wisconsin.

## **Non-Parent Encouraging Artificial Insemination May Have Common Law Support Obligation**

*In Re Parentage of M.J.*, \_\_\_ Ill. 2nd \_\_\_, \_\_\_ N.E. 2d \_\_\_ (Ill. Supreme Court, No. 92947, 2/6/03), affirmed dismissal of one count seeking establishment of paternity and support for children conceived through artificial insemination under the Parentage Act, but reversed and remanded dismissal of counts seeking that relief under common law theories of oral contract and promissory estoppel.

Alexis had an affair with the defendant, Raymond, whom she believed to be unmarried. They discussed marriage but Raymond said they would have to wait until they could move to a community that would accept their inter-racial relationship. They supposedly tried to have children, but Raymond was apparently unable. So he encouraged Alexis to become pregnant through artificial insemination, accompanied her to the doctor, paid the costs and assisted with injections to enhance fertility, and participated in selection of a donor. Following the birth of twins he acknowledged them as his own and contributed financial support. But when Alexis found out he was married, their relationship ended and he stopped providing support.

Alexis filed a three-count complaint to establish a support obligation against Raymond, the first two counts on the basis of breach of oral contract and promissory estoppel, and the third pursuant to the Parentage Act (750 ILCS 40/1 et seq.). The trial court dismissed the complaint as failing to state a cause of action. Alexis appealed. The Appellate Court, 325 Ill. App. 3d 826, 759 N. E. 2d 121 (1st Dist., 2001) affirmed, finding that under the Parentage Act, "as a minimum," a written consent was required to hold an unmarried man liable for support for a child conceived through artificial insemination, and that there is no common law basis for holding the defendant liable for the paternity of the children. Alexis appealed to the Supreme Court.

The Supreme Court agreed that under the Parentage Act a written consent was required to impose a support obligation against the mother's husband, so no less a requirement should apply to the unmarried man. Accordingly dismissal of Count III was proper. However, "[o]ur examination of . . . the Illinois Parentage Act finds nothing to prohibit common law actions to establish parental responsibility, and the state's public policy considerations support a finding in favor of allowing common law actions. Moreover, this court has a duty to ensure that the rights of children are adequately protected. . . . We therefore determine that the best interests of children and society are served by recognizing that parental responsibility may be imposed based on conduct evidencing actual consent to the artificial insemination procedure." Thus the trial court erred in dismissing those counts and the Appellate Court erred in affirming that dismissal. Remanded for consideration on the merits.

# FAMILY SUPPORT FORUM

The Official Newsletter of the Illinois Family Support Enforcement Association

SUPPLEMENT - MARCH, 20023

## Cumulative Case Law Index - 2003 Supplement

The following is an index of case law reported in Issues 2, 3 and 4 of Vol. 14 (May through December, 2002) of the *Family Support FORUM*. It supplements the January, 1994 Index of cases reported in Vols. 1 through 5 (1989-1993), the January, 1999 Index of cases reported in Vols. 6 through 10 (1994-1998), and supplements from January, 2000, June, 2001, and June, 2002 of cases reported in Vols. 11 through No. 1 of Vol. 13 (1999-March, 2002) of the *FORUM*.

Cases cited are not necessarily the leading or controlling authority for the categories noted, but are indicative of recent decisions in the area. Issues of the *FORUM* in which the cases were summarized are indicated in brackets; "C&C" refers to "Cases & Commentary" sections.

by Thomas P. Sweeney

### - APPEAL -

#### Final Appealable Order:

***In Re Marriage of Ackerley***, 333 Ill. App. 3d 382, 775 N.E. 2d 1045 (2nd Dist., 8/29/02) [Contempt not final without sanctions.]

[C&C, 12/02]

***Shermack v. Brunory***, 333 Ill. App. 3d 313, 775 N.E. 2d 173 (1st Dist., 8/8/02) [Custody, visitation orders not final and appealable where support not defined.]

[C&C, 12/02]

#### Stay of order:

***In Re Marriage of Ackerley***, 333 Ill. App. 3d 382, 775 N.E. 2d 1045 (2nd Dist., 8/29/02) [Arrearage payments not stayed by appeal.]

[C&C, 12/02]

### - CONTEMPT -

#### Final Appealable Order:

***In Re Marriage of Ackerley***, 333 Ill. App. 3d 382, 775 N.E. 2d 1045 (2nd Dist., 8/29/02) [Contempt not final without sanctions.]

[C&C, 12/02]

### - HEALTH INSURANCE -

***In Re Marriage of Seitzinger***, 333 Ill. App. 3d 103, 775 N.E. 2d 282 (4th Dist., 8/23/02) [Con-

tribution toward health insurance required when available, requested.] [C&C, 12/02]

### - INCOME -

#### Bonus:

***In Re Marriage of Ackerley***, 333 Ill. App. 3d 382, 775 N.E. 2d 1045 (2nd Dist., 8/29/02) [Proportion of bonus income to total income used to calculate taxes attributable to bonus income and resulting income applicable to percent of income support order.]

[C&C, 12/02]

#### Deductions:

***In Re Marriage of Ackerley***, 333 Ill. App. 3d 382, 775 N.E. 2d 1045 (2nd Dist., 8/29/02) [Proportion of bonus income to total income used to calculate taxes attributable to bonus income and resulting income applicable to percent of income support order.]

[C&C, 12/02]

***In Re Marriage of Seitzinger***, 333 Ill. App. 3d 103, 775 N.E. 2d 282 (4th Dist., 8/23/02) [Support adjustment not necessary to reflect insurance costs.]

[C&C, 12/02]

***In Re Marriage of Worrall***, 334 Ill. App. 3d 550, 778 N.E. 2d 397 (2nd Dist., 10/18/02) ["Per Diem" pay not shown by recipient as used for travel expense is income for support calculation.]

[C&C, 12/02]

Employment Expenses:

***In Re Marriage of Worrall***, 334 Ill. App. 3d 550, 778 N.E. 2d 397 (2nd Dist., 10/18/02) ["Per Diem" pay not shown by recipient as used for travel expense is income for support calculation.] [C&C, 12/02]

Per Diem:

***In Re Marriage of Worrall***, 334 Ill. App. 3d 550, 778 N.E. 2d 397 (2nd Dist., 10/18/02) ["Per Diem" pay not shown by recipient as used for travel expense is income for support calculation.] [C&C, 12/02]

**- INTEREST -**

***In Re Marriage of Carrier***, 332 Ill. App. 3d 654 773 N.E. 2d 657 (2nd Dist., 7/22/02) [Dicta: Interest on child support arrearage is not discretionary; exception to *Finley*.] [C&C, 12/02]

**- PASSPORT DENIAL -**

Constitutionality:

***Eunique v. Powell***, 302 F.3d 971 (9th Cir., 8/23/02). [Passport denial for support non-payment held constitutional.] [C&C, 12/02]

**- PATERNITY -**

Removal:

***Debilio v. Rodgers***, \_\_\_ Ill. App. 3d \_\_\_, \_\_\_ N.E. 2d \_\_\_ (3rd Dist., No. 3-02-0043, 10/17/02)

[Court not required to grant visitation modification needed to permit removal in paternity cases.] [C&C, 12/02]

***Harbour v. Melton***, 333 Ill. App. 3d 124, 775 N.E. 2d 291 (4th Dist., 8/23/02) [Court approval not required for removal in paternity cases.] [C&C, 12/02]

Visitation:

***Debilio v. Rodgers***, \_\_\_ Ill. App. 3d \_\_\_, \_\_\_ N.E. 2d \_\_\_ (3rd Dist., No. 3-02-0043, 10/17/02) [Court not required to grant visitation modification needed to permit removal in paternity cases.] [C&C, 12/02]

**- SUPPORT -**

"Shown Needs:"

***In Re Marriage of Ackerley***, 333 Ill. App. 3d 382, 775 N.E. 2d 1045 (2nd Dist., 8/29/02) [Where parties' incomes are disproportionate support need not be limited to "shown needs" of child.] [C&C, 12/02]

**- UIFSA -**

Registration of Foreign Judgment:

***In Re Marriage of Kohl***, 334 Ill. App. 3d 867, 778 N.E. 2d 1169 (1st Dist., 10/15/02) [Foreign support judgment based on defective service not enforceable; 20-day response notice, arrearage claim required for registration under UIFSA.] [C&C, 12/02]

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**Alphabetical Listing of Cases**

***Debilio v. Rodgers***, \_\_\_ Ill. App. 3d \_\_\_, \_\_\_ N.E. 2d \_\_\_ (3rd Dist., No. 3-02-0043, 10/17/02); Paternity; Removal, Visitation.

***Eunique v. Powell***, 302 F.3d 971 (9th Cir., 8/23/02); Passport Denial; Constitutionality.

***Harbour v. Melton***, 333 Ill. App. 3d 124, 775 N.E. 2d 291 (4th Dist., 8/23/02); Paternity; Removal.

***In Re Marriage of Ackerley***, 333 Ill. App. 3d 382, 775 N.E. 2d 1045 (2nd Dist., 8/29/02); Appeal, Final Appealable Order; Appeal, Stay of Order; Contempt, Final Appealable Order; Income, Bonus; Income, Deductions; Support, "Shown Needs."

***In Re Marriage of Carrier***, 332 Ill. App. 3d 654 773 N.E. 2d 657 (2nd Dist., 7/22/02); Interest.

***In Re Marriage of Kohl***, 334 Ill. App. 3d 867, 778 N.E. 2d 1169 (1st Dist., 10/15/02); UIFSA; Registration of Foreign Judgment.

***In Re Marriage of Seitzinger***, 333 Ill. App. 3d 103, 775 N.E. 2d 282 (4th Dist., 8/23/02); Health Insurance; Income, Deduction.

***In Re Marriage of Worrall***, 334 Ill. App. 3d 550, 778 N.E. 2d 397 (2nd Dist., 10/18/02); Income, Deductions, Employment Expenses; Income, Per Diem.

***Shermack v. Brunory***, 333 Ill. App. 3d 313, 775 N.E. 2d 173 (1st Dist., 8/8/02); Appeal, Final, Appealable Order.



*From the IDPA . . .*

*. . . ILLINOIS IV-D UPDATE*

### **Lonnie Nasatir Appointed Acting IV-D Administrator**

In January, 2003, Lonnie Nasatir was named as Acting Illinois IV-D Administrator. He takes over for Nancy Woodward who resigned the post in November.

Lonnie came to IDPA's Division of Child Support Enforcement in 1998. He served as Deputy Administrator over Central Operations, which includes enforcement, interstate and customer service. During his tenure, he formed the Collection and Asset Recovery Unit which investigates and ultimately seizes administratively assets of delinquent non-custodial parents. Lonnie was also instrumental in writing the RFP for the SDU, and was a member of the evaluation team.

Before working at IDPA Lonnie was an Assistant State's Attorney for the Cook County State's Attorney's office. Lonnie has an undergraduate degree from the University of Wisconsin - Madison, and a law degree from IIT Chicago-Kent College of Law.

In other changes within DCSE administration, Chuck Kirian, a long-time "jack-of-all-trades" within the division -- most recently as Bureau Chief for Cook County Operations -- has been named Acting Field Deputy Administrator. Chuck takes the position vacated by the early retirement of Nancy Johnston.

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### **Outreach Updates Employers on National Medical Support Notice**

By Joan Kiaschko

On the two coldest days of the year in Chicago, the Division of Child Support Enforcement's team of Rhonda Romano (KIDS NMSN Project), Joan Kiaschko (DCSE Policy), and Gary Hughes (State Parent Locate Service and Employer Helpline), held the first outreach seminars for employers on the new National Medical Support Notice (NMSN) and the related duties of the employer and plan administrator. The NMSN was introduced to the audience with a Power Point presentation at the James R. Thompson Center Auditorium. Attendees were furnished with booklets comprised of mockups of every form that may be in-

### **Barry S. Maram Named New IDPA Director**

On February 4, 2003, Illinois governor Rod Blagojevich named Barry S. Maram as the new Director of the Illinois Department of Public Aid.

Barry S. Maram, an attorney with vast experience in the issue of health care financing, also has prior service in senior management positions within state government under a Republican governor.

Maram served in senior state positions under then-Gov. James Thompson. In 1985, he was associate director of the Illinois Department of Public Health, Director of the Office of Health Finance, where he coordinated and directed state health care issues including reimbursement and other matters affecting hospitals, nursing homes and other health institutions.

From 1986 to 1989, Maram served as Executive Director of the Illinois Health Facilities Authority, which serves as the state's central financing agency on behalf of health care institutions. There, Maram directed and coordinated all business and administrative activities of the authority.

He is an attorney at the law firm of Foley & Lardner, where he serves as Special Counsel practicing Health Care law. He also serves as an adjunct professor at IIT-Kent College of Law, where he received his law degree in 1971.

Maram holds a B.A. from the University of Illinois at Chicago and, in 1985, he received his M.A. from the University of Chicago focusing in public policy.

cluded in an employer's withholding packet and information regarding employer responsibilities, employer role in the income withholding process, frequently asked questions and answers and a glossary of terms.

*(Cont'd. on page 12)*

**S.B. 1504: Administrative Hearings Office**

Amends the Illinois Administrative Procedure Act to create the Office of Administrative Hearings. Provides that the Office shall conduct administrative hearings for agencies under the jurisdiction of the Governor, with exceptions not including the Dept. of Public Aid. Provides for the appointment of a Chief Administrative Law Judge by the Governor with the advice and consent of the Senate. Sets the powers and duties of the Chief Administrative Law Judge. Sets qualifications for administrative law judges employed by the Office. Sets out procedures for the conduct of administrative hearings by the Office. Provides for the transfer of personnel and property to the Office from State agencies. Amends the Personnel Code to exempt employees of the Office from the provisions of the Code.

Approved by Committee 3/13/03. Third reading pending.

**H.B. 0015: Wage Payment, Penalty**

Amends the Wage Payment and Collection Act. Provides that before employing a person as an employee, an employer shall ask the person whether he or she currently owes a duty to pay child support. Provides that if an employer pays wages in cash to an employee who at the time of payment owes a duty to pay child support and if that payment of wages in cash enables the employee to evade his or her duty to pay child support, then the employer commits a business offense punishable by a fine equal to 3 times the amount of support owed by the employee plus the costs of collecting that support. As amended, provides that upon collecting the fine, the SDU (rather than the Clerk of the Court) shall pay the amount of the fine to the custodial parent or other legal guardian of the child for whom the employee owed the support, for the benefit of the child.

As amended, approved by Committee 3/13/03. Second reading pending.

**H.B. 0016: Location Information Disclosure**

As amended in the House, amends the Illinois Public Aid Code, the Illinois Marriage and Dissolution of Marriage Act, the Non-Support Punishment Act, and the Illinois Parentage Act of 1984. Provides that upon request by the Department of Public Aid's Child and Spouse Support Unit or another public office responsible for enforcing a child support order, employers, labor unions, and telephone companies must 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. (Under current law, the Child and Spouse Support Unit may request and receive such information.) Requires an employer, labor union, or telephone company to respond within 15 days, and pro-

vides for a civil penalty for a failure to do so. Provides that 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 these requirements. Makes other changes.

*Passed by the House as amended 2/27/03, 119-0-0.*

**H.B. 0017: State Debt Collection Unit; Fraudulent Transfers to Avoid Support; Summary Criminal Contempt; Subpoena Duces Tecum**

With possible relevance to state support collection efforts, amends the State Finance Act and the Illinois State Collection Act of 1986. Requires that the Auditor General establish a Debt Collection Unit for the collection of overdue debts owed to the State. Beginning July 1, 2004, requires State agencies other than universities to determine the uncollectability of debts using rules adopted by the Auditor General and to turn over to the Debt Collection Unit debts more than 90 days overdue. Authorizes the Auditor General to contract with private collection entities to pursue debts determined to be uncollectable. Requires the Auditor General to report semi-annually to the General Assembly and State Comptroller upon debts owed to the State and upon collection efforts. Abolishes in 2004 the Debt Collection Board, the Comptroller's use of special account receivable funds, and the use of private collection services by individual State agencies.

Amends the Illinois Public Aid Code, the Illinois Marriage and Dissolution of Marriage Act, the Non-Support Punishment Act, and the Illinois Parentage Act of 1984. Provides that for the purposes of enforcement of a child support order a transfer made by a child support obligor is fraudulent as to an obligee if the obligor made the transfer with the intent to defraud the obligee or without receiving equivalent value for the transfer

Amends the Illinois Marriage and Dissolution of Marriage Act to provide that a person who willfully defaults on an order for child support may be subject to summary criminal contempt proceedings.

Amends the Uniform Interstate Family Support Act. Provides that, upon request by a tribunal of another state, a tribunal of this State shall issue or cause to be issued a subpoena or a subpoena duces tecum requiring a person in this State to appear at a deposition or before a tribunal and answer questions or produce documents or other tangible things for the purpose of obtaining information regarding the person's assets, income, and ability to pay a support order or judgment entered in the other state..

*(Cont'd. on page 9)*

**H.B. 0084: Summary Criminal Contempt;  
License Suspension**

Amends the Illinois Marriage and Dissolution of Marriage Act, the Illinois Public Aid Code, the Non-Support Punishment Act, and the Illinois Parentage Act of 1984. Provides that a person who willfully defaults on an order for child support may be subject to summary criminal contempt proceedings. Provides that each State agency shall suspend, refuse to renew or issue, or restrict any license or certificate issued by that agency to a person found guilty of criminal contempt based on such a default (unless an appeal of the finding is pending).

**H.B. 0089: State Debt Collection Unit**

Amends the State Finance Act and the Illinois State Collection Act of 1986. As amended, establishes a Debt Collection Bureau within the Department of Revenue for the collection of overdue debts owed to the State. Authorizes the unit, rather than individual agencies to contract with private entities for the collection of debts. Makes the Department of Public Aid's participation optional with regard to child support debt. Provides separate procedures for the deposit and use of collected child support.

Approved by Committee as amended 2/28/03.  
Third reading pending..

**H.B. 0296: Bail Application to Child Support**

Amends the Code of Criminal Procedure of 1963. Requires each person who posts bail, whether that person is the accused or a person who posts bail on behalf of the accused, to sign a form provided by the clerk of the court indicating that after the conditions of the bail bond have been performed and the accused has been discharged from all obligations in the cause, any portion or all of the bail security deposited may be forfeited to the State to pay for outstanding child support arrearages owed by the accused. Establishes a lien on bail security to pay for outstanding child support arrearages.

**H.B. 0525: IDPA, Unemployment Security  
Location Disclosure to State's Attorneys**

Amends the Illinois Public Aid Code. Provides that the current address of a recipient who was a victim of a felony or a witness to a felony shall be made available upon request to a State's Attorney or a State's Attorney's investigator. Amends the Unemployment Insurance Act. Provides that the Department of Employment Security shall make available to a State's Attorney or a State's Attorney's investigator, upon request, the current address or, if the current address is unavailable, current employer information, if available, of a victim of a felony or a witness to a felony or a person against whom an arrest warrant is outstanding. Effective January 1, 2004.

*Passed by the House without amendment 3/6/03,  
112-0-0.*

**H.B. 1381: Private Service of Process**

Amends the Code of Civil Procedure. Provides that process may (rather than shall) be served by a sheriff. Provides that, in all counties (rather than in counties with a population of less than 1,000,000), process may also be served, without special appointment, by a person who is licensed or registered as a private detective under the Private Detective, Private Alarm, Private Security, and Locksmith Act of 1993 or by a registered employee of a private detective agency certified under that Act.

**H.B. 1382: Parentage Act, Removal**

Amends the Illinois Parentage Act of 1984. Provides that in any action brought under the Act for the initial determination of custody or visitation of a child or for modification of a prior custody or visitation order, the court may enjoin a party having physical possession or custody of a child from removing the child from Illinois pending the adjudication of the issues of custody and visitation. Provides that injunctive relief shall be governed by the relevant provisions of the Code of Civil Procedure. Provides that, in entering a judgment concerning custody, joint custody, removal, or visitation (now, custody, joint custody, or visitation) and in modifying a judgment concerning custody, visitation, or removal (now, custody or visitation), the court shall apply the relevant standard of the Illinois Marriage and Dissolution of Marriage Act.

*Passed by the House without amendment 3/13/03,  
117-0-0.*

**H.B. 1635: IDPA; Aided Service of Process**

Amends the Illinois Public Aid Code. Provides that in a court action to enforce support under the Code, the Department of Public Aid may appoint an individual to accompany the process server for the purpose of locating or identifying the respondent. The individual may include, but need not be limited to, a member of the family of the respondent responsible relative from whom support is sought.

**H.B. 2251: Parentage Act; Visitation, Removal**

Amends the Illinois Parentage Act of 1984. Provides that a judgment entered under the Act shall contain or explicitly reserve provisions concerning custody or guardianship and visitation. Provides that a court may grant leave to a party having custody of a minor child to remove the child from Illinois under the standards contained in the Illinois Marriage and Dissolution of Marriage Act. Provides that the Illinois Marriage and Dissolution of Marriage Act shall apply to matters concerning the removal of a child from Illinois. Provides that a parent without custody of a child is en-

*(Cont'd. on page 10)*

(“Legislative Update,” cont’d. from page 9)

titled to reasonable visitation unless the court finds that visitation would endanger seriously the child's physical, mental, moral, or emotional health. Makes other changes.

*Passed by the House, 3/27/03, 117-0-0.*

**H.B. 2260: Parentage Act; Visitation, Removal**

Amends the Illinois Parentage Act of 1984. Provides that a judgment entered under the Act shall contain or explicitly reserve provisions concerning custody or guardianship and visitation. Provides that a court may grant leave to a party having custody of a minor child to remove the child from Illinois under the standards contained in the Illinois Marriage and Dissolution of Marriage Act. Provides that the Illinois Marriage and Dissolution of Marriage Act shall apply to matters concerning the removal of a child from Illinois. Provides that a parent without custody of a child is entitled to reasonable visitation unless the court finds that visitation would endanger seriously the child's physical, mental, moral, or emotional health. Makes other changes.

**H.B. 2523: Income Withholding; Penalty for Failure to Withhold**

Amends the Income Withholding for Support Act. Requires a payor who has been served with an income withholding notice to withhold the specified amount from an obligee's wages. Provides that, if the payor fails to withhold the sums from the obligor's wages, the payor shall pay a penalty of \$100 per day for each day, after the 7 business days grace period has expired, that the amount is not paid to the State Disbursement Unit. Makes the \$100 per day penalty mandatory unless the payor is able to demonstrate the payor's compelling cause or justification for the payor's failure to withhold or failure to pay over withheld amounts to the State Disbursement Unit.

*Passed by the House 3/21/03, 114-2-1.*

**H.B. 2863: Support Guidelines; Increase %**

Amends the Illinois Marriage and Dissolution of Marriage Act. Raises the minimum amount support percentage of the supporting party's net income to 28% for 2 children (from 25%)..

*Passed by the House, 3/25/03, 106-7-1.*

**H.B. 2894: IDPA; Location Information from Internet Service Providers**

Amends the Illinois Public Aid Code. Authorizes the Department of Public Aid's Child and Spouse Support Unit to request and receive from Internet service providers, pursuant to an administrative subpoena, location information concerning individuals in connection with enforcing a child support obligation.

**H.B. 2895: IDPA, Timely Location Efforts**

Amends the Illinois Public Aid Code. Provides that if a custodial parent who is receiving child support enforcement services under the Code provides the Department of Public Aid with credible information concerning the location of the putative father or noncustodial parent of the child, the Department must attempt to locate the putative father or noncustodial parent within 60 days after receiving that information.

*Passed by the House, 3/21/03, 117-0-0.*

**H.B. 2896: Child Support Pays; IDPA Pass-Thru**

Amends the Illinois Public Aid Code. Creates the Child Support Pays Program under which the Department of Public Aid shall pay to families receiving TANF cash assistance an amount equal to either 50% of the monthly child support collected or the amount of monthly child support collected and required to be paid to the family pursuant to administrative rule, whichever is greater. Provides that the child support passed through to a family pursuant to these provisions shall not affect the family's eligibility for assistance or decrease any amount otherwise payable as assistance to the family under the TANF program until a family's non-exempt income and child support passed through to the family equal the federal poverty level, at which point cash assistance to the family may be terminated.

**H.B. 2903: Vehicle Registration Revocation**

Amends the Illinois Vehicle Code, the Illinois Marriage and Dissolution of Marriage Act, and the Illinois Parentage Act of 1984. Provides that the Secretary of State shall revoke the registration of any vehicle owned and driven by a person adjudicated more than 90 days in arrears in payment of child support. Provides for the same due process procedures that apply when a court seeks to suspend a person's driving privileges for failure to comply with a support order. Provides for temporary registration of a vehicle for employment, medical, or other specified purposes.

Approved by Committee 3/6/03. Second reading pending.

**H.B. 2996: KidCare Program Repeal**

Amends the Children's Health Insurance Program Act. Extends the Act's repeal date from July 1, 2003 to July 1, 2004. An amendment referred to committee would eliminate the repeal date altogether.

*Passed by the House, 3/27/03, 117-0-0*

**H.B. 3193: Support Calculation; Farm Equipment Depreciation**

Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that amounts properly deducted for federal income tax purposes for depreciation of farm machinery and equipment shall be deducted from net

(Cont'd. on page 11)

(“Legislative Update,” cont’d. from page 10)

income for purposes of determining child support obligations.

Defeated in committee 3/12/03.

**H.B. 3309: UIFSA Revisions**

Amends the Uniform Interstate Family Support Act. Makes numerous changes recommended by the National Conference of Commissioners on Uniform State Laws. The changes include those concerning the following: personal jurisdiction over an individual; jurisdiction to modify or enforce a child support order; duties of a child support enforcement agency; nondisclosure of information; issuance of a temporary child support order; registration of orders for enforcement; modification of a child support order of another state; and jurisdiction to modify a child support order of a foreign country or political subdivision.

Approved by Committee 3/12/03. Second reading pending.

**H.B. 3503: Clerk’s Support Fee; Credit Reporting**

Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that if an obligor fails to pay the child support annual fee for a period of 3 years, the clerk of the court may notify credit reporting agencies of the arrearage and make the amount owed a part of the obligor's credit history.

**H.B. 3504: Bail; Application to Child Support**

As amended, amends the Code of Criminal Procedure of 1963. Provides that the court shall not order a bail bond deposited by or on behalf of a defendant in one case to be used to satisfy financial obligations of that same defendant in a different case until the bail bond is first used to satisfy any unpaid child support obligations as well as attorney's fees and court costs in the case in which the bond has been deposited.

*Passed by the House, 3/20/03, 116-0-0.*

**H.B. 3668: IDPA Control of SDU Funds**

Amends the Illinois Public Aid Code. In provisions concerning the State Disbursement Unit, provides that nothing in those provisions shall prohibit the Department of Public Aid from holding the State Disbursement Unit Revolving Fund after June 30, 2003. Removes a provision that provisions concerning the State Disbursement Unit Revolving Fund apply only if the Department of Public Aid performs the functions of the State Disbursement Unit..

Approved by Committee 3/13/03. Second reading pending.

**H.B. 3700: “PATERNITY FRAUD ACT”**

Creates the Paternity Fraud Act. Contains only a short title Section.

**ILLINOIS FAMILY SUPPORT ENFORCEMENT ASSOCIATION  
Application for Membership / Address Correction**

*(Membership year begins and ends at the Annual Conference, usually held in October)*

Please:  accept my application for membership in IFSEA.  correct my address as noted below.

- Regular membership - please enclose \$20.00 annual dues.
- Subscription membership (for those not eligible for membership) - please enclose \$20.00 annual fee.
- Affiliate membership - (dues to be determined by Directors upon acceptance).

Applicant's Name: \_\_\_\_\_  
 Position/Title: \_\_\_\_\_  
 Employer/Agency: \_\_\_\_\_  
 Office \_\_\_\_\_  
 City/State/Zip: \_\_\_\_\_ Office Phone: \_\_\_\_\_  
 Preferred Mailing Address: \_\_\_\_\_  
 E-mail Address: \_\_\_\_\_

Is this a  New Application  Renewal  Address Correction ONLY?

Please return with dues to: IFSEA, P. O. Box 370, Tolono, IL 61880-0370

**(FEIN: 37-1274237)**

(3/03)

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*("Veteran Prosecutors Retires," cont'd. from page 1)*

distinguished history of family service to Lake County. Her father, Taisto Aho, held several elected positions in the 1950's and 1960's. Her husband, Jack Hoogasian, became an assistant state's attorney in 1959, was state's attorney from 1968 to 1977, served as public guardian until his election as judge in 1980, and was on the bench until his death in 1999.

What's next? Claudia looks forward to spending more time with her four children and two grandchildren. And traveling. She has already visited Cuba, Chile and Hawaii, and a trip to Iceland is planned for this spring.

### **Steve Rissman**

Steve Rissman began his career in the Cook County State's Attorney's support division in 1978. Like Claudia, Steve has been a frequent participant and panelist in numerous child support programs at the state, regional and national level, including many appearances as panelist and speaker in IFSEA conferences. Steve was among participants in the initial discussions which led to formation of IFSEA, was the organizer of its first annual conference in 1989, its second President (1989 to 1990), and a member of its Board of Directors from its inception in 1987 until 1999.

Steve reports taking a "somewhat leisurely" approach to movement into private practice.

### **Nancy Waites Returns**

After a three-year absence, Nancy Schuster Waites has returned to the Lake County State's Attorney's office to head up its support division. After approximately five years as an Assistant State's Attorney in the Cook County support division, Nancy had joined Lake County's support division in 1990, but left for private

practice in 2000.

Congratulations to Claudia and Steve on their retirement, and thanks for their many years of service to the families of Illinois. And welcome back and best wishes to Nancy on her return to support enforcement.

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*("IV-D Update," cont'd. from page 7)*

After discussing each of the forms in the booklet, a general question and answer session was held.

With the assistance of the American Payroll Association, Cook County Chapter, information about the seminars reached a wide-spread group. Customer service employees from MAXIMUS who will comprise the Medical Support Unit for Cook County attended one of the sessions and were quite helpful with employer questions. The employers and payroll staff were very receptive of the opportunity to ask questions about all aspects of the Income Withholding packets.

Employer participants commented that "the information and material received was extremely beneficial to the process of child support wage assignment," and "it is nice to have someone in person to talk to about uncommon wage withholding situations," and they "would like to see other seminars like this in the future." Calls were also received after the seminar from employers and payroll staff who wanted to be notified when the next session was scheduled. Attendees were provided contact phone numbers for the presentation team in the event they had additional questions about the income withholding packets.

A seminar will be held in Belleville and a follow-up session will be scheduled for Chicago, with warmer weather the first priority!

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Enforcement Association**  
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