

750 ILCS 5/504

Statutes current with legislation through P.A. 102-557 and P.A. 102-662 of the 2021 Session of the 102nd Legislature.

Illinois Compiled Statutes Annotated > Chapter 750 FAMILIES (§§ 5/101 — 95/25) > Illinois Marriage and Dissolution of Marriage Act (Pts. I — VIII) > Part V. Property, Support and Attorney Fees (§§ 501 — 519)

750 ILCS 5/504 Maintenance.

(a) Entitlement to maintenance. In a proceeding for dissolution of marriage, legal separation, declaration of invalidity of marriage, or dissolution of a civil union, a proceeding for maintenance following a legal separation or dissolution of the marriage or civil union by a court which lacked personal jurisdiction over the absent spouse, a proceeding for modification of a previous order for maintenance under Section 510 of this Act [750 ILCS 5/510], or any proceeding authorized under Section 501 of this Act [750 ILCS 5/501], the court may grant a maintenance award for either spouse in amounts and for periods of time as the court deems just, without regard to marital misconduct, and the maintenance may be paid from the income or property of the other spouse. The court shall first make a finding as to whether a maintenance award is appropriate, after consideration of all relevant factors, including:

- (1) the income and property of each party, including marital property apportioned and non-marital property assigned to the party seeking maintenance as well as all financial obligations imposed on the parties as a result of the dissolution of marriage;
- (2) the needs of each party;
- (3) the realistic present and future earning capacity of each party;
- (4) any impairment of the present and future earning capacity of the party seeking maintenance due to that party devoting time to domestic duties or having forgone or delayed education, training, employment, or career opportunities due to the marriage;
- (5) any impairment of the realistic present or future earning capacity of the party against whom maintenance is sought;
- (6) the time necessary to enable the party seeking maintenance to acquire appropriate education, training, and employment, and whether that party is able to support himself or herself through appropriate employment;
- (6.1) the effect of any parental responsibility arrangements and its effect on a party's ability to seek or maintain employment;
- (7) the standard of living established during the marriage;
- (8) the duration of the marriage;
- (9) the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, and the needs of each of the parties;

- (10) all sources of public and private income including, without limitation, disability and retirement income;
- (11) the tax consequences to each party;
- (12) contributions and services by the party seeking maintenance to the education, training, career or career potential, or license of the other spouse;
- (13) any valid agreement of the parties; and
- (14) any other factor that the court expressly finds to be just and equitable.

(b) (Blank).

(b-1) Amount and duration of maintenance. Unless the court finds that a maintenance award is appropriate, it shall bar maintenance as to the party seeking maintenance regardless of the length of the marriage at the time the action was commenced. Only if the court finds that a maintenance award is appropriate, the court shall order guideline maintenance in accordance with paragraph (1) or non-guideline maintenance in accordance with paragraph (2) of this subsection (b-1). If the application of guideline maintenance results in a combined maintenance and child support obligation that exceeds 50% of the payor's net income, the court may determine non-guideline maintenance in accordance with paragraph (2) of this subsection (b-1), non-guideline child support in accordance with paragraph (3.4) of subsection (a) of Section 505 [750 ILCS 5/505], or both.

(1) Maintenance award in accordance with guidelines. If the combined gross annual income of the parties is less than \$500,000 and the payor has no obligation to pay child support or maintenance or both from a prior relationship, maintenance payable after the date the parties' marriage is dissolved shall be in accordance with subparagraphs (A) and (B) of this paragraph (1), unless the court makes a finding that the application of the guidelines would be inappropriate.

(A) The amount of maintenance under this paragraph (1) shall be calculated by taking 33 1/3% of the payor's net annual income minus 25% of the payee's net annual income. The amount calculated as maintenance, however, when added to the net income of the payee, shall not result in the payee receiving an amount that is in excess of 40% of the combined net income of the parties.

(A-1) Modification of maintenance orders entered before January 1, 2019 that are and continue to be eligible for inclusion in the gross income of the payee for federal income tax purposes and deductible by the payor shall be calculated by taking 30% of the payor's gross annual income minus 20% of the payee's gross annual income, unless both parties expressly provide otherwise in the modification order. The amount calculated as maintenance, however, when added to the gross income of the payee, may not result in the payee receiving an amount that is in excess of 40% of the combined gross income of the parties.

(B) The duration of an award under this paragraph (1) shall be calculated by multiplying the length of the marriage at the time the action was commenced by whichever of the following factors applies: less than 5 years (.20); 5 years or more but less than 6 years (.24); 6 years or more but less than 7 years (.28); 7 years or more but less than 8 years (.32); 8 years or more but less than 9 years (.36); 9 years or more but less than 10 years (.40); 10 years or more but less than 11 years (.44); 11 years or more but less than 12 years

(.48); 12 years or more but less than 13 years (.52); 13 years or more but less than 14 years (.56); 14 years or more but less than 15 years (.60); 15 years or more but less than 16 years (.64); 16 years or more but less than 17 years (.68); 17 years or more but less than 18 years (.72); 18 years or more but less than 19 years (.76); 19 years or more but less than 20 years (.80). For a marriage of 20 or more years, the court, in its discretion, shall order maintenance for a period equal to the length of the marriage or for an indefinite term.

(1.5)In the discretion of the court, any term of temporary maintenance paid by court order under Section 501 may be a corresponding credit to the duration of maintenance set forth in subparagraph (b-1)(1)(B).

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

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

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

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

(3) the court shall state whether the maintenance is fixed-term, indefinite, reviewable, or reserved by the court.

(b-3)Gross income. For purposes of this Section, the term "gross income" means all income from all sources, within the scope of that phrase in Section 505 of this Act, except maintenance payments in the pending proceedings shall not be included.

(b-3.5) Net income. As used in this Section, "net income" has the meaning provided in Section 505 of this Act [750 ILCS 5/505], except maintenance payments in the pending proceedings shall not be included.

(b-4)Modification of maintenance orders entered before January 1, 2019. For any order for maintenance or unallocated maintenance and child support entered before January 1, 2019 that is modified after December 31, 2018, payments thereunder shall continue to retain the same tax treatment for federal income tax purposes unless both parties expressly agree otherwise and the agreement is included in the modification order.

(b-4.5) Maintenance designation.

(1) Fixed-term maintenance. If a court grants maintenance for a fixed term, the court shall designate the termination of the period during which this maintenance is to be paid. Maintenance is barred after the end of the period during which fixed-term maintenance is to be paid.

(2) Indefinite maintenance. If a court grants maintenance for an indefinite term, the court shall not designate a termination date. Indefinite maintenance shall continue until modification or termination under Section 510.

(3) Reviewable maintenance. If a court grants maintenance for a specific term with a review, the court shall designate the period of the specific term and state that the maintenance is reviewable. Upon review, the court shall make a finding in accordance with subdivision (b-8) of this Section, unless the maintenance is modified or terminated under Section 510.

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

(b-7) Maintenance judgments. Any new or existing maintenance order including any unallocated maintenance and child support order entered by the court under this Section shall be deemed to be a series of judgments against the person obligated to pay support thereunder. Each such judgment to be in the amount of each payment or installment of support and each such judgment to be deemed entered as of the date the corresponding payment or installment becomes due under the terms of the support order, except no judgment shall arise as to any installment coming due after the termination of maintenance as provided by Section 510 of the Illinois Marriage and Dissolution of Marriage Act or the provisions of any order for maintenance. Each such judgment shall have the full force, effect and attributes of any other judgment of this State, including the ability to be enforced. Notwithstanding any other State or local law to the contrary, a lien arises by operation of law against the real and personal property of the obligor for each installment of overdue support owed by the obligor.

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

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

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

(e) Fees when maintenance is paid through the clerk. When maintenance is to be paid through the clerk of the court in a county of 500,000 inhabitants or less, the order shall direct the obligor to pay to the clerk, in addition to the maintenance payments, all fees imposed by the county board under paragraph (4) of subsection (bb) of Section 27.1a of the Clerks of Courts Act [705 ILCS 105/27.1a]. When maintenance is to be paid through the clerk of the court in a county of more than 500,000 but less than 3,000,000 inhabitants, the order shall direct the obligor to pay to the clerk, in addition to the maintenance payments, all fees imposed by the county board under paragraph (4) of subsection (bb) of Section 27.2 of the Clerks of Courts Act [705 ILCS 105/27.2]. Unless paid in cash or pursuant to an order for withholding, the payment of the fee shall be by a separate instrument from the support payment and shall be made to the order of the Clerk.

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

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

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

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

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

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

(3) (Blank).

History

P.A. 86-969; 87-881; 91-357, § 256; 94-89, § 5; 97-186, § 10; 97-608, § 5; 97-813, § 680; 98-961, § 5; 99-90, § 5-15; 99-763, § 5; 2017 P.A. 100-520, § 15, effective January 1, 2018; 2018 P.A. 100-923, § 10, effective January 1, 2019.

Annotations

Notes

Editor's Notes

This section was Ill.Rev.Stat., Ch. 40, ¶ 504.

Section 995 of P.A. 97-813 contains a "no acceleration or delay" provision, and Section 996 contains a "no revival or extension" provision.

P.A. 100-520 became effective January 1, 2018 pursuant to P.A. 100-565, § 5.

Amendment Notes

The 1999 amendment by P.A. 91-357, effective July 29, 1999, substituted "forgone" for "foregone" in subsection (a)(4); and deleted subsection (b).