

INCOME WITHHOLDING FOR SUPPORT NOTICE REQUIREMENTS PURSUANT TO STATE
LAW 750 ILCS 28/20(c) - <http://www.ilga.gov/legislation/ilcs/documents/075000280K20.htm>

1. Pursuant to [750 ILCS 28/20\(c\)\(1.1\)](#) this Income Withholding for Support is based upon a court order dated _____.
2. Pursuant to [750 ILCS 28/20\(c\)\(5\)](#) the employer withholding fee shall not exceed \$ 5.00 per month pursuant to state law [750 ILCS 28/35\(a\)](#).
3. Pursuant to [750 ILCS 28/20\(c\)\(7\)](#) duties of the payor and the fines and penalties for failure to withhold and pay over income and for discharging, disciplining, refusing to hire, or otherwise penalizing the obligor because of the duty to withhold and pay over income as follows:

[750 ILCS 28/20\(g\)](#) - The obligee or public office may serve the income withholding notice on the payor or its superintendent, manager, or other agent by ordinary mail or certified mail return receipt requested, by facsimile transmission or other electronic means, by personal delivery, or by any method provided by law for service of a summons. At the time of service on the payor and as notice that withholding has commenced, the obligee or public office shall serve a copy of the income withholding notice on the obligor by ordinary mail addressed to his or her last known address. A copy of an income withholding notice and proof of service shall be filed with the Clerk of the Circuit Court only when necessary in connection with a petition to contest, modify, suspend, terminate, or correct an income withholding notice, an action to enforce income withholding against a payor, or the resolution of other disputes involving an income withholding notice. The changes made to this subsection by this amendatory Act of the 96th General Assembly apply on and after September 1, 2009.

[750 ILCS 28/20\(i\)](#) New service of an income withholding notice is not required in order to resume withholding of income in the case of an obligor with respect to whom an income withholding notice was previously served on the payor if withholding of income was terminated because of an interruption in the obligor's employment of less than 180 days.

[750 ILCS 28/35\(a\)](#) It shall be the duty of any payor who has been served with an income withholding notice to deduct and pay over income as provided in this Section. The payor shall deduct the amount designated in the income withholding notice, as supplemented by any notice provided pursuant to subsection (f) of Section 45, beginning no later than the next payment of income which is payable or creditable to the obligor that occurs 14 days following the date the income withholding notice was mailed, sent by facsimile or other electronic means, or placed for personal delivery to or service on the payor. The payor may combine all amounts withheld for the benefit of an obligee or public office into a single payment and transmit the payment with a listing of obligors from whom withholding has been effected. The payor shall pay the amount withheld to the State Disbursement Unit within 7 business days after the date the amount would (but for the duty to withhold income) have been paid or credited to the obligor. If the payor knowingly fails to withhold the amount designated in the income withholding notice or to pay any amount withheld to the State Disbursement Unit within 7 business days after the date the amount would have been paid or credited to the obligor, then the payor shall pay a penalty of \$100 for each day that the amount designated in the income withholding notice (whether or not

withheld by the payor) is not paid to the State Disbursement Unit after the period of 7 business days has expired. The total penalty for a payor's failure, on one occasion, to withhold or pay to the State Disbursement Unit an amount designated in the income withholding notice may not exceed \$10,000.00. The failure of a payor, on more than one occasion, to pay amounts withheld to the State Disbursement Unit within 7 business days after the date the amount would have been paid or credited to the obligor creates a presumption that the payor knowingly failed to pay over the amounts. This penalty may be collected in a civil action, which may be brought against the payor in favor of the obligee or public office. A finding of a payor's nonperformance within the time required under this Act must be documented by a certified mail return receipt or a sheriff's or private process server's proof of service showing the date the income withholding notice was served on the payor. For purposes of this Act, a withheld amount shall be considered paid by a payor on the date it is mailed by the payor, or on the date an electronic funds transfer of the amount has been initiated by the payor, or on the date delivery of the amount has been initiated by the payor. For each deduction, the payor shall provide the State Disbursement Unit, at the time of transmittal, with the date the amount would (but for the duty to withhold income) have been paid or credited to the obligor.

After June 30, 2000, every payor that has 250 or more employees shall use electronic funds transfer to pay all amounts withheld under this Section. During the year 2001 and during each year thereafter, every payor that has fewer than 250 employees and that withheld income under this Section pursuant to 10 or more income withholding notices during December of the preceding year shall use electronic funds transfer to pay all amounts withheld under this Section.

For withholding of income, the payor shall be entitled to receive a fee not to exceed \$5 per month to be taken from the income to be paid to the obligor.

750 ILCS 28/35(b) Whenever the obligor is no longer receiving income from the payor, the payor shall return a copy of the income withholding notice to the obligee or public office and shall provide information for the purpose of enforcing this Act.

750 ILCS 28/35(c) Withholding of income under this Act shall be made without regard to any prior or subsequent garnishments, attachments, wage assignments, or any other claims of creditors. Withholding of income under this Act shall not be in excess of the maximum amounts permitted under the federal Consumer Credit Protection Act. Income available for withholding shall be applied first to the current support obligation, then to any premium required for employer, labor union, or trade union-related health insurance coverage ordered under the order for support, and then to payments required on past-due support obligations. If there is insufficient available income remaining to pay the full amount of the required health insurance premium after withholding of income for the current support obligation, then the remaining available income shall be applied to payments required on past-due support obligations. If the payor has been served with more than one income withholding notice pertaining to the same obligor, the payor shall allocate income available for withholding on a proportionate share basis, giving priority to current support payments. A payor who complies with an income withholding notice that is regular on its face shall not be subject to civil liability with respect to any individual, any agency, or any creditor of the obligor for conduct in compliance with the notice.

750 ILCS 28/35(d) No payor shall discharge, discipline, refuse to hire or otherwise penalize any obligor because of the duty to withhold income.

750 ILCS 28/45(f) The obligee or public office shall provide notice to the payor and Clerk of the Circuit Court of any other support payment made, including but not limited to, a set-off under federal and State law or partial payment of the delinquency or arrearage, or both.

750 ILCS 28/45(j) If an obligee who is receiving income withholding payments under this Act does not receive a payment required under the income withholding notice, he or she must give written notice of the non-receipt to the payor. The notice must include the date on which the obligee believes the payment was to have been made and the amount of the payment. The obligee must send the notice to the payor by certified mail, return receipt requested.

After receiving a written notice of non-receipt of payment under this subsection, a payor must, within 14 days thereafter, either (i) notify the obligee of the reason for the non-receipt of payment or (ii) make the required payment, together with interest at the rate of 9% calculated from the date on which the payment of income should have been made. A payor who fails to comply with this subsection is subject to the \$100 per day penalty provided under subsection (a) of Section 35 of this Act.

750 ILCS 28/50(a) Where a payor willfully fails to withhold or pay over income pursuant to a properly served income withholding notice, or willfully discharges, disciplines, refuses to hire or otherwise penalizes an obligor as prohibited by Section 40, or otherwise fails to comply with any duties imposed by this Act, the obligee, public office or obligor, as appropriate, may file a complaint with the court against the payor. The Clerk of the Circuit Court shall notify the obligee or public office, as appropriate, and the obligor and payor of the time and place of the hearing on the complaint. The court shall resolve any factual dispute including, but not limited to, a denial that the payor is paying or has paid income to the obligor. Upon a finding in favor of the complaining party, the court:

(1) shall enter judgment and direct the enforcement thereof for the total amount that the payor willfully failed to withhold or pay over; and

(2) may order employment or reinstatement of or restitution to the obligor, or both, where the obligor has been discharged, disciplined, denied employment or otherwise penalized by the payor and may impose a fine upon the payor not to exceed \$200.

750 ILCS 28/50(b) Any obligee, public office or obligor who willfully initiates a false proceeding under this Act or who willfully fails to comply with the requirements of this Act shall be punished as in cases of contempt of court.

750 ILCS 28/50(c) Any officer or employee of any payor subject to the provisions of this Act who has the control, supervision, or responsibility for withholding and paying over income pursuant to an income withholding notice properly served on the payor and who willfully fails to withhold or pay over income as required under the income withholding notice shall be personally liable for a penalty equal to the total amount that was not withheld or paid over by the payor. Only where the employer has incurred sums due under this Section and is unable to pay such amounts may personal liability attach to a responsible officer or employee who has willfully failed to withhold and pay over income as required under the income withholding notice. The personal liability imposed by this subsection shall survive the dissolution of a partnership, limited liability company, or corporation. For the purposes of this subsection, "officer or employee of any payor" includes a partner of a partnership, a manager or member of a limited liability corporation, and a member of a registered limited liability partnership.

4. Pursuant to [750 ILCS 28/20\(c\)\(8\)](#) the rights, remedies and duties of the Obligor are as follows:

[750 ILCS 28/20](#) - Entry of order for support containing income withholding provisions; income withholding notice. (a)(1)(3) Include the obligor's Social Security Number, which the obligor shall disclose to the court. If the obligor is not a United States citizen, the obligor shall disclose to the court, and the court shall include in the order for support, the obligor's alien registration number, passport number, and home country's social security or national health number, if applicable.

[750 ILCS 28/20\(b\)](#) - At the time the order for support is entered, the Clerk of the Circuit Court shall provide a copy of the order to the obligor and shall make copies available to the obligee and public office.

[750 ILCS 28/20\(f\)](#) If the order for support, under the exception to immediate withholding contained in subsection (a) of this Section, provides that an income withholding notice is to be prepared and served only if the obligor becomes delinquent in paying the order for support, the obligor may execute a written waiver of that condition and request immediate service on the payor.

[750 ILCS 28/20\(g\)](#) supra.

[750 ILCS 28/25](#), [28/30](#), [28/32](#) - The Clerk of the Circuit Court shall notify the obligor and the obligee or public office of the time and place of the hearing on the petition to contest withholding. The court shall hold the hearing pursuant to the provisions of Section 40.

[750 ILCS 28/25](#) - Income withholding after accrual of delinquency. – 28/25(b) The income withholding notice and the obligor's copy of the income withholding notice shall be served as provided in subsection (g) of Section 20.

[750 ILCS 28/25\(c\)](#) The obligor may contest withholding commenced under this Section by filing a petition to contest withholding with the Clerk of the Circuit Court within 20 days after service of a copy of the income withholding notice on the obligor. However, the grounds for the petition to contest withholding shall be limited to: (1) a dispute concerning the existence or amount of the delinquency; or (2) the identity of the obligor.

[750 ILCS 28/30](#) - Initiated withholding. (b) supra- 28/25(b). (c) supra-28/25(c): (1) whether the parties' written agreement providing an alternative arrangement to immediate withholding under subsection (a) of Section 20 continues to ensure payment of support; or (2) the identity of the obligor. It shall not be grounds for filing a petition that the obligor has made all payments due by the date of the petition. (d) If the obligor files a petition contesting withholding within the 20-day period required under subsection (c)

[750 ILCS 28/32](#) - Unpaid arrearage or delinquency after current support obligation terminates. (b) supra- 28/25(b). (c) supra-28/25(c): (1) a dispute concerning the existence or amount of the unpaid arrearage or delinquency; or (2) the accuracy of the periodic amount required to be withheld for payments of the unpaid arrearage or delinquency under the income withholding notice; or (3) the identity of the obligor.

[750 ILCS 28/35](#) – Supra

[750 ILCS 28/40](#) - Petitions to contest withholding or to modify, suspend, terminate, or correct income withholding notices. (a) When an obligor files a petition to contest withholding, the court, after due notice to all parties, shall hear the matter as soon as practicable and shall enter an order granting or denying relief, ordering service of an amended income withholding notice, where applicable, or otherwise resolving the matter. The court shall deny the obligor's petition if the court finds that when the income withholding notice was mailed, sent by facsimile transmission or other electronic means, or placed for personal delivery to or service on the payor: (1) a delinquency existed; or (2) the parties' written agreement providing an alternative arrangement to immediate withholding under subsection (a) of Section 20 no longer ensured payment of support.

[750 ILCS 28/40\(b\)](#) - At any time, an obligor, obligee, public office or Clerk of the Circuit Court may petition the court to: (1) modify, suspend or terminate the income withholding notice because of a modification, suspension or termination of the underlying order for support; or (2) modify the amount of income to be withheld to reflect payment in full or in part of the delinquency or arrearage by income withholding or otherwise; or (3) suspend the income withholding notice because of inability to deliver income withheld to the obligee due to the obligee's failure to provide a mailing address or other means of delivery.

[750 ILCS 28/40\(c\)](#) - At any time an obligor may petition the court to correct a term contained in an income withholding notice to conform to that stated in the underlying order for support for: (1) the amount of current support; (2) the amount of the arrearage; (3) the periodic amount for payment of the arrearage; or (4) the periodic amount for payment of the delinquency.

[750 ILCS 28/40\(d\)](#) - The obligor, obligee or public office shall serve on the payor, in the manner provided for service of income withholding notices in subsection (g) of Section 20, a copy of any order entered pursuant to this Section that affects the duties of the payor.

[750 ILCS 28/40\(f\)](#) - The notice provided for under subsection (e) of this Section shall be served on the payor in the manner provided for service of income withholding notices in subsection (g) of Section 20, and a copy shall be provided to the obligor and the obligee.

[750 ILCS 28/40\(g\)](#) - The income withholding notice shall continue to be binding upon the payor until service of an amended income withholding notice or any order of the court or notice entered or provided for under this Section.

[750 ILCS 28/45](#) Additional duties. (c) Each obligor shall notify the obligee, the public office, and the Clerk of the Circuit Court of any change of address within 7 days.

[750 ILCS 28/45\(d\)](#) - An obligor whose income is being withheld pursuant to this Act shall notify the obligee, the public office, and the Clerk of the Circuit Court of any new payor, within 7 days.

[750 ILCS 28/45\(g\)](#) - The State Disbursement Unit shall maintain complete, accurate, and clear records of all income withholding payments and their disbursements. Certified copies of payment records maintained by the State Disbursement Unit, a public office, or the Clerk of the Circuit Court shall, without further proof, be admitted into evidence in any legal proceedings under this Act.

[750 ILCS 28/50](#) - supra

[750 ILCS 28/55](#) - Alternative procedures for service of an income withholding notice.(c) If the obligor requests in writing that income withholding become effective prior to the obligor accruing a delinquency under the most recent order for support, the obligee or public office may prepare and serve an income withholding notice on the payor as provided in Section 20. In addition to filing proofs of service of the income withholding notice on the payor and the obligor, the obligee or public office shall file a copy of the obligor's written request for income withholding with the Clerk of the Circuit Court.

Prepared by:
Name/Legal Representative: _____
Address: _____
Telephone: _____
Facsimile: _____
Email: _____

Signature: _____