

**BONDS, LIENS AND OTHER GIZMOS AND DOODADS
TO SECURE AND COLLECT MAINTENANCE AND CHILD SUPPORT**

BY

Charles J. Fleck

Presented to the Family Law Section of the Lake County Bar Association

February 14, 2009

Puerto Vallarta, Mexico

**Schiller DuCanto & Fleck LLP
225 East Deerpath Road, Suite 270
Lake Forest, Illinois 60045-1973
Telephone (847) 615-8300**

**BONDS, LIENS AND OTHER GIZMOS AND DOODADS
TO SECURE MAINTENANCE AND CHILD SUPPORT**

Collecting support arrearages can be one of the most frustrating aspects of family law. A lawyer typical starts collection proceedings with a Rule to Show Cause. But one may ask, when was the last time you saw a judge hold a support scofflaw in civil contempt and incarcerate that person subject to a payment to purge the contempt and obtain his/her release. A few decades ago contempt imprisonment was a common occurrence, but due to lack of gumption and other considerations, nowadays it is not a favored or effective tool for collecting support arrearages. Therefore, the lawyer must look for other tools to effectively represent his/her client to secure or collect support. While the commonplace Rule to Show Cause is the popular legal vehicle to collect support arrearages, sprinkled throughout IMDMA are various remedies that may be more effective than contempt proceedings.

I. Section 703. HISTORICAL MAINTENANCE LIENS ON REAL ESTATE.

750 ILCS 5/703. Lien of Judgment-Sales.

“ Whenever, in any case of dissolution of marriage, a judgment orders that maintenance be made, a lien on any real estate to arise to secure the payment of any money to become due by installments, and a sale of such real estate to be made if necessary to satisfy any of such installments, the property shall be sold subject to the lien of the installments not then due, unless the court shall at the same time direct otherwise, and subsequent sales may, from time to time, be made to enforce such lien as the installments may become due, until all installments are paid.”

(Source: P.A. 81-231, eff. 8-28-79.)

A. Section 703 of the Illinois Marriage and Dissolution of Marriage Act provides for liens to be placed against *real estate* to secure the payments of maintenance installments. This clause derives from the former divorce act that was originally enacted in 1874. The Uniform Marriage and Divorce Act, upon which IMDMA was based, has no similar provision. Section 703 provides that in a dissolution proceeding (the statute is silent as to legal separation or invalidity of marriage proceedings) when *maintenance* is ordered, a lien arises on real estate to secure maintenance payments and that such real estate may be sold by Court Order to satisfy past due maintenance installments and subject to a continuity to secure future installments, unless waived by the Court. Subsequent sales may be made to enforce the continuing lien on all unpaid installments until the obligation is paid in full.

1. However, the lien cannot be used as a method of security for past-due payments for property settlements. *Saldeen v. Hamelberg* 198 Ill.App.3d 146 (4th Dist 1990).

2. A Dissolution Judgment that incorporates a Marital Settlement Agreement in which the Husband was obligated to pay maintenance, but the agreement did not specifically state that a lien arose on the Husband’s real estate, resulted in no lien in favor of the Wife with respect to past due maintenance installments. Therefore, the Judgment

or Marital Settlement 3. Agreement must state that a maintenance lien arises by virtue of the Judgment. *Interstate Bank of Oak Forest vs. Cardona*, 160 Ill.App.3d 214 (3rd Dist 1988).

3. The Appellate Court recognized the right to place a lien only on real estate for maintenance under a Judgment for Divorce. The Court said there was no power in a Court to make a money decree lien on personal property, because it was not so stated in the statute. The statute only authorized a Court to place a lien on real estate. *Lens v. Lens*, 33 Ill.App.3d 568 (2nd Dist 1975).

4. As with any lien, it should give reasonable notice to third parties of the nature and legal basis for the lien, the amount of the claim, the party against whom the claim is made, the date of the claim and identification of the property against which the lien has been placed. (Attached as Form #1 is a suggested lien claim)

B. Lis Pendens. During the pendency of a proceeding, it may be wise to file a *lis pendens* notice. Once a *lis pendens* notice is filed it is considered to: “be constructive notice to every person subsequently acquiring an interest in or a lien on the property affected thereby, and every such person and every person acquiring an interest or lien as above stated, not in possession of the property and whose interest or lien is not shown of record at the time of filing such notice, shall, for the purposes of this Section, be deemed a subsequent purchaser and shall be bound by the proceedings to the same extent and in the same manner as if he or she were a party thereto.” Though not technically a lien, a *lis pendens* notice could foreclose any third party’s rights who made have had a shady “side deal” with one of the parties over real estate that may be part of the marital assets. (See Form #2)

II. SECTIONS 504(B-5) AND (B-7) AND SECTION 505(D). Not to be outdone by a 100 year old statute, the Illinois Legislature during the 94th legislative session (2005-2007) enacted Public Act 94-89 that became law on January 1, 2006.

Sections 504(b-5) and (b-7)

“(b-5) 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) 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 there under. 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. 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.”

Section 505(d)

(d) 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 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 such 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 non-custodial parent for each installment of overdue support owed by the non-custodial parent.

A. Section (b-7) extended Section 703 maintenance lien provisions by:

1. Extending the maintenance lien to overdue *unallocated* maintenance and child support payments.
2. Providing that each installment, when due, becomes an enforceable judgment.
3. Creating a lien against personal property, as well as real estate, on any overdue installment of maintenance or unallocated maintenance and child support.

It’s nice for a statute to establish these protections, but how do you enforce the statute?

B. Suggested Enforcement.

1. **Judgment of Record and Recording Lien.** Instead of a Rule to Show Cause, to establish the amount of the arrearage and consequently lien, you may file a Petition to Declare a Judgment for any arrearage and declare a lien on all real estate and personal property of the obligor. The order should assert common addresses and legal descriptions so a Memorandum of Judgment or the order may be filed with the Recorder’s Office. This creates the lien of record and gives notice. If the Obligor wants to sell or refinance the property, the title report will pick up the lien and he will be required to pay the judgment. The title company will not pick-up up a maintenance or child support arrearage lien without a recording of the lien.

2. **Better Approach.** The better and less expensive approach may be to simply file a lien claim, since the statute provides that a judgment already exists as a result of any arrearage and that a lien arises on any real or personally property of the obligor. Nowhere in 504 (b-7) and 505(d).is there a requirement that one must obtain a judgment order to acquire the lien. When you represent client who is not receiving support, it stands to reason that court and attorneys fees may be a hardship and that could be the reason for the legislature’s creation of a judgment and lien sans any court proceeding.

2. **Citation to Discover Assets.** With a judgment of record, one can pursue collection by issuing a Citation to Discover Assets. (See Form #3). The Citation essentially is a “fishing expedition” to discover and garner assets to satisfy a judgment. It can be directed to assets held by the judgment debtor or a third party holding assets for the judgment debtor.

a. **Service:** The Citation is served by any method provided for service of summons or by prepaid certified or registered mail addressed to the party.

b. **Where Filed.** The citation proceedings may be initiated in the court in which the judgment was entered. S. Ct. Rule 277(d).

c. **Examination.** The person served with a Citation must appear at the time and place designated in the Citation. The examination shall be before the court, or any officer authorized to administer oaths.

d. **Effect of Service.** When a Citation is served it acts as a lien on the property of the judgment debtor that may be held by the served party it at the time of the service. The lien would also attach to any property of the judgment debtor obtained after the service until the date of discharge (*Blink v. Olsen*, 265 Ill.App3d 771; 2nd Dist. 1994), but the proceeding terminates automatically six months after the Respondent’s first personal appearance, but the Court may grant extensions beyond the 6 months.(Sup. Ct. Rule 277[f]).

e. **Exemptions.** The law protects certain types of income and property from collection. Income and property that a creditor cannot touch are called "exemptions.

- Social Security and SSI
- A given amount of a debtor’s take home pay is exempt; the last amount was \$348 per week.
- Unemployment Compensation
- Public Assistance Benefits
- Veteran's benefits
- Child support or maintenance needed for support of you or family
- Pension and most types of retirement benefits
- Circuit Breaker Property Tax Relief benefits
- Disability, illness, or unemployment benefits
- Award under a crime victim's compensation law
- Wrongful death award needed for your support
- Life insurance payment needed for your support
- \$2,400 equity in a motor vehicle
- \$15,000 equity in a home (\$30,000 for married couple)
- \$7,500 or less of a personal injury award

f. **Citation Proceedings and Orders.** When liquid assets are discover that are not exempt from the satisfaction of a judgment, a deduction order or garnishment, the court may order the judgment debtor or person cited to surrender property to satisfy the

judgment. This usually occurs when liquid assets are involved. When none liquate assets are discovered, they are turned over the Sheriff to be collected or sold.

III. SECTION 706.2 – POSTING BOND, SECURITY OR GUARANTEE TO SECURE PAYMENT – This is a general, but very broad, power delegated to the courts by the legislature. There are no limiting words on “bond”, “security” or “guarantee”.

750 ILCS 5/706.2

“The court may require a parent to post security, bond or give some other guarantee of a character and amount sufficient to assure payment of any amount of support due.”
(Source: P.A. 84-758, eff. 10-1-85.)

A. This is a general power and it arguably could mean that a Court can direct the obligor to place anything up for security, i.e. cash, stock, automobile, boat, jewelry, etc. This lien must be initiated by a Petition. Since the statute refers to a “parent”, rather than a “spouse”, to place security, it is clear that this section deals with only child support and not maintenance. In Section 504 of IMDMA (Maintenance), the statute refers to spouses, but in Section 505 (child support), the statute refers to parents. 706.2 refers to parents, so it is consistent with the Section 505. However, an interesting conundrum emerges in situations involving unallocated child support and maintenance. Can an Obligee go after an entire unallocated arrearage as child support in requesting a bond or security, and by doing so, is he/she fixing the amount that is child support and, thereby, bringing into question the tax deduction taken by the Obligor? Would this also apply, if an Obligee declared a portion of the unallocated payment as child support?

B. **Suggested Enforcement.** The best practice is to file a Petition *pende lite*¹ or post decree citing Section 706.2; alleging that there exists an arrearage; alleging the amount of the arrearage; and suggesting the nature of the bond, security or guarantee. This could be initiated in tandem with a citation. The citation would educate the Obligee of the assets held by the obligor or third parties for the benefit of the Obligor and the Petition for Bond could suggest which of those assets should be placed for security.

(Attached is a suggested draft Petition for Bond, Security, etc. coupled with a Bond Order - Forms 4 &5).²

¹ The statute does not distinguish between pending cases or competed cases. The issue of placing a bond, security or payment guarantee of record to secure child support might then be addressed in the Petition for Temporary Support, as well as the Judgment.

² In a meeting with Sally Coffelt and her staff, she indicated that the Clerk’s Office will implement any court order and the more detailed the bond order the better for her office.

IV. PASSPORT DENIAL, REVOCATION AND RESTRICTION. Another tool provided to the State and Federal governments by the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) is Passport Denial. PRWORA requires the Secretary of State to refuse to issue a passport to any person certified by the Secretary of the Department of Health and Human Services (DHHS) as owing a child support debt greater than \$2,500. Further, the Secretary of State may take action to revoke, restrict, or limit a passport previously issued to an individual owing such a child support debt.

A. How does the Program Work?

1. **General Process.** Under the Passport Denial Program, states certify cases in which an obligor owes more than \$2,500 in unpaid child support. The federal Office of Child Support Enforcement transmits the information to the Department of State so that a U.S. passport will not be issued, or renewed, to someone who is not supporting his or her children. Passports can be seized if the holder requests a change, such as a new address or an additional dependant. In some cases, the CSE agency can help to obtain a Federal warrant. The Department of State can then start procedures to revoke the passport or arrest the obligor at the border when he or she returns to the United States. (Handbook Issued by Department of Health and Human Services Administration for Children and Families Office of Child Support Enforcement).

All cases receiving full child support services through the local or State child support agency are eligible for Passport Denial. A Non-Custodial Parent (NCP) whose past-due support debt meets the criteria for certification to the Federal Collections Programs receives a Pre-Offset Notice explaining the process. This notice will include the amount of past-due support owed at the time it is sent. In addition, the Pre-Offset Notice includes information about the Passport Denial program, as well as information on the Federal Tax Refund and Administrative Offset programs.

2. **Passport Denial Process.** A custodial parent who is owed more than \$2,500 in child support may apply to the Division of Child Support Enforcement of the Illinois Department of Healthcare and Family Services to proceed with passport denial to enforce child support. (An Application for Child Support Enforcement Services is attached as Form #6). The passport denial program in Illinois starts with Division of Child Support Enforcement DCSE). In addition to the application, DCSE will demand full cooperation from the applicant. It may want a copy of the court order establishing the arrearage and any other documentation necessary to successfully block the passport. Therefore, it is important to obtain passport numbers and dates of expiration when first initiating your case. This is especially necessary if you have a potential Obligor who travels frequently out of the country.

The passport denial tool provided to the States and Federal government by the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) requires the Secretary of State to refuse to issue a passport to any person certified by the Secretary of the Department of Health and Human Services (DHHS) as owing a child support debt greater than \$2,500. Further, the Secretary of State may take action to revoke, restrict, or limit a passport previously issued to an individual owing such a child support debt.

Through the Federal Offset process, States submit to the Federal Office of Child Support Enforcement (OCSE) those cases that meet the criteria for Federal Tax Refund and/or Administrative Offsets. When a State reports that a non-custodial parent's arrears exceeds \$2,500, OCSE should automatically forward that name to the State Department for passport denial unless the State has specifically excluded that non-custodial parent from the Passport Denial Program.

3. **What happens?** When an individual applies for a passport, the State Department denies the application based on the child support obligation owed by the applicant. This denial is based upon information submitted by the state agency dealing with child support enforcement. A notice is then sent by the State Department to the non-custodial parent explaining that the passport application was denied because of past-due child support. The applicant is advised to contact the appropriate State child support enforcement agency, a listing of which is included with the notice, for further information. This is important if a non-custodial deadbeat is an expatriate working over seas or is simply out-of-the country and is threatened with passport revocation.

4. **What steps should I take if I represent someone whose passport has been denied because of a child support debt?**

a. You must contact Division of Child Support Enforcement of the Illinois Department of Healthcare and Family Services to make satisfactory arrangements to pay your past-due support obligation. In Illinois the contact information is:

509 South 6th Street
Springfield, IL 62701
217-785-0283
217-524-3004 (fax)³

OR

The Local Office:
Aurora Region
280 East Indian Trail
Aurora, Illinois 60505-1733
Counties served: DuPage, Kane, Lake

If more than one State reported your name to the Passport Denial program, you must reach an agreement with all States involved in order for the passport to be released. Once the debt has been satisfied or a satisfactory agreement has been reached, the State(s) will request that OCSE remove your name from the passport denial program. After the denial of passport has been withdrawn, the non-custodial parent should contact the National Passport Information Center (NPIC) at 1-800-487-2778 or make an appointment at a regional passport agency.

³ Taken from the Department of Health and Human Services Website

V. INTERNATIONAL COLLECTIONS. The federal Office of Child Support Enforcement (OCSE), in partnership with government departments in other countries has developed an Executive Summary titled Cross-Border Payment Processing Initiatives between the United States and those countries. The Executive Summary captures cross-border electronic payment initiatives between U.S. State child support enforcement agencies and other member countries maintenance enforcement programs.

A. Financial Institution Data Base. The federal IV-D program, requires all states to have agreements with financial institutions doing business in their state for the purpose of conducting a quarterly data match known as the *Financial Institution Data Match (FIDM)*. The purpose of FIDM is to identify accounts belonging to non-custodial parents who are delinquent in their child support obligations. Once identified, these accounts may be subject to liens and levies issued by state or local child support enforcement agencies. An institution doing business in two or more states (*multi-state financial institution*) has the option to conduct the quarterly data match with OCSE or with the states where the institution does business. States are responsible for issuing levies to the financial institutions to collect the past-due child support. These funds may belong to a non-custodial parent who is outside the country, and are reachable through state court action. One must contact the Child Support Enforcement of the Illinois Department of Healthcare and Family Services for information on how to access this data base.

B. International Child Support Collection Pacts. In cooperation with the federal government, many states have reciprocity with foreign countries with which the State Department has established Cross-Border Payment Processing Initiatives. According to the questionnaire answered and submitted by the Division of Child Support Enforcement of the Illinois Department of Healthcare and Family Services, Illinois has reciprocity with a number of countries. Below is the report from the U.S. Department of Health and Human Services, Administration of Children & Families report indicting the countries with which Illinois has reciprocity. One should contact the Division of Child Support Enforcement of the Illinois Department of Healthcare and Family Services to determine how to implement collection with these countries.

Illinois State Profile

[Top of Page](#)

C. Reciprocity

C1. With what foreign countries does your State reciprocate?

Australia, Canadian Provinces, Czech Republic, El Salvador, Finland, Hungary, Ireland, Netherlands, Norway, Poland, Portugal, Slovak Republic, Switzerland, United Kingdom of Great Britain and Northern Ireland.

**NOTICE AND CLAIM
FOR MAINTENANCE LIEN**

_____,
Claimant

V.

Obligor

CLAIM FOR MAINTENANCE LIEN

The undersigned claimant, _____[*name of claimant*] of _____[*address*], makes the following statement and claims a Maintenance lien under Section 703 of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/703), and states that:

1. On _____, 20__ a Judgment for Dissolution of Marriage was entered in the Nineteenth Judicial Circuit, Lake County, Illinois, in a matter captioned as: "In re the Marriage of _____, Petitioner, and _____, Respondent, Case Number ___ D _____."

2. The Judgment provided for the Obligor, _____, to pay \$_____ per month to the Claimant/Obligee for his/her maintenance.

3. The following described real property commonly known as:
_____:

and legally described as: _____ is now owned by _____, the Obligor.

4. The Judgment for Dissolution of Marriage provided for a maintenance lien to arise on Obligor's real estate to secure his maintenance obligation to _____.

5. _____ now claims a maintenance lien on the above-described premises and all improvements located thereon, against all persons interested, according to the statute.

6. _____, Obligor, is in arrears to _____,
Claimant/Obligee the sum of \$_____ for his maintenance obligation as of
_____, 20__.

Dated: _____

[Signature]

STATE OF ILLINOIS
COUNTY OF LAKE

The foregoing instrument was acknowledged before me on _____ *[date]*,
by _____ *[name of Obligee]*.

Subscribed and Sworn to
Before me this ___ day of
_____, 20__.

Notary Public

Form #1

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT

LIS PENDENS NOTICE

IN THE CIRCUIT COURT OF
LAKE COUNTY, ILLINOIS

IN RE MARRIAGE OF:

X,
Petitioner,

vs.

X,,
Respondent.

CASE NO: X

	RECORDER'S STAMP (DO NOT TYPE IN THIS BOX)
--	--

LIS PENDENS NOTICE

I, the undersigned, do hereby certify that the above entitled cause was filed in the Circuit Court of Lake County, Illinois on _____, and is now pending in said court and that the property affected by said cause is described as follows:

Address of Real Estate: _____
PIN No: _____
Legal Description:

in Lake County, Illinois.

Witness my hand and the seal of said court.

SCHILLER DU CANTO AND FLECK LLP
Attorneys for _____

BY: _____
X

SCHILLER DU CANTO AND FLECK LLP
Attorneys for: _____
225 Deerpath Road, Suite 270
Lake Forest, Illinois 60045
(847) 615-8300
Attorney Code Number _____

SALLY COFFELT, CLERK OF THE CIRCUIT COURT OF LAKE COUNTY, ILLINOIS

FORM # 2

**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
LAKE COUNTY**

Plaintiff,)
)
vs.) **NO.**
)

Defendant.) **YOUR FAILURE TO APPEAR AT THIS
HEARING MAY RESULT IN YOUR ARREST**

CITATION TO DISCOVER ASSETS

TO: _____
(name & address of Defendant or Respondent)

YOU ARE COMMANDED to appear before the judge presiding in Room C-306 of Lake County Courthouse, 18 North County Street, Waukegan, Illinois, on _____, 20____ at _____ AM/PM to be examined under oath to discover assets or income not exempt from the enforcement of the Judgment.

A judgment against _____ (judgment debtor) was entered on _____, _____ and \$ _____ remains unsatisfied.

YOU ARE COMMANDED to produce at the examination: all books, papers or records in your possession or control which may contain information concerning the property or income of, or indebtedness due judgment debtor and including the documents contained on the attached Rider to Citation to Discover Assets, which is incorporated by reference and made a part of this order.

YOU ARE PROHIBITED from making or allowing any transfer or other disposition or, interfering with, any property not exempt from execution or garnishment belonging to the Judgment debtor or to which the judgment debtor may be entitled or which may be acquired by or become due to the Judgment Debtor and from paying over or otherwise disposing of any money not so exempt, which is due the Judgment Debtor, until the further order of court or termination of the proceedings. You are not required to withhold the payment of any money beyond double the amount of the balance due.

WARNING: YOUR FAILURE TO APPEAR IN COURT AS HEREIN DIRECTED MAY CAUSE YOU TO BE ARRESTED AND BROUGHT BEFORE THE COURT TO ANSWER TO A CHARGE OF CONTEMPT OF COURT, WHICH MAY BE PUNISHABLE BY IMPRISONMENT IN THE COUNTY JAIL.

CERTIFICATE OF ATTORNEY OR JUDGMENT CREDITOR

Judgment Amount: \$ _____ Balance due: \$ _____
Date of Judgment/Revival: _____, _____
Name of Court Entering Judgment: _____ Case No.: _____

The undersigned certifies, under penalties provide by law pursuant to 735ILCS 5/1-109, that the information contained herein is true and correct.

Attorney/Judgment Creditor
Name: _____
Address: _____

Phone: _____
ARDC _____

WITNESS: _____

CLERK OF COURT

VS

Case No. _____

CITATION NOTICE

Judgment Debtor's last known:

Judgment Creditor's Attorney/Judgment Creditor

Name: _____

Address: _____

City: _____

Judgment in the amount of \$ _____

Name of the person receiving Citation: _____

NOTICE: The court has issued a citation against the person named above. The citation directs that person to appear in court to be examined for the purpose of allowing the judgment creditor to discover income and assets belonging to the Judgment debtor or in which the Judgment debtor has an interest. The citation was issued on the basis of a judgment against judgment debtor in favor of the judgment creditor in the amount stated above. On or after the court date shown above, the court may compel the application of any discovered income or assets toward payment on the judgment.

The amount of income or assets that may be applied toward the judgment is limited by federal law and Illinois law. THE JUDGMENT DEBTOR HAS THE RIGHT TO ASSERT STATUTORY EXEMPTIONS AGAINST CERTAIN INCOME AND ASSETS OF THE JUDGMENT DEBTOR WHICH MAY NOT BE USED TO SATISFY THE JUDGMENT IN THE AMOUNT STATED ABOVE:

- (1) (a) Under the Illinois or federal law, the exemptions of personal property owned by the debtor include the debtor's equity interest, not to exceed \$4,000 in value, in any personal property as chosen by the debtor;
- (b) Social Security and SSI benefits;
- (c) Public assistance benefits;
- (d) Unemployment compensation benefits;
- (e) Worker's compensation benefits;
- (f) Veteran's benefits;
- (g) Circuit breakers property tax relief benefits;
- (h) The debtor's equity interest, not to exceed \$2,400 in value, in any one motor vehicle; and
- (i) The debtor's equity interest, not to exceed \$1,500 in value, in any implements, professional books, or tools of the trade of the debtor.
- (2) Under Illinois law, every person is entitled to an estate in homestead, when it is owned and occupied as a residence, to the extent in value of \$15,000, which homestead is exempt from judgment.
- (3) Under Illinois law, the amount of wages that may be applied toward a judgment is limited to the lesser of (i) 15% of gross weekly wages or (ii) the amount by which disposable earnings for a week exceeds the total of 45 times the federal minimum hourly wage.
- (4) Under federal law, the amount of wages that may be applied toward a judgment is limited to the lesser of (i) 25% of disposable earnings for a week or (ii) the amount by which disposable earnings for a week exceed 30 times the federal minimum hourly wage.
- (5) Pension and retirement benefits and refunds may be claimed as exempt under Illinois law.

Judgment debtor may have other possible exemptions under the law.

JUDGMENT DEBTOR HAS THE RIGHT AT THE CITATION HEARING TO DECLARE EXEMPT CERTAIN INCOME OR ASSETS OR BOTH. The judgment debtor also has the right to seek a declaration at an earlier date, by notifying the clerk in writing at the office of the Clerk of the Circuit Court, 18 N. County Street, Waukegan, Illinois. When so notified the Clerk of the Circuit Clerk will provide a hearing date and the necessary forms that must be prepared by judgment debtor or the judgment debtor's attorney and sent to the judgment creditor regarding the time and location of the hearing. This Notice may be sent by regular First Class Mail.

171-23a Rev. 07/08

LAKE COUNTY, ILLINOIS

IN RE THE MARRIAGE OF:)	
)	
JANE DOE)	
Petitioner,)	
)	
and)	No. __ D ____
)	
JOHN DOE)	
Respondent.)	

PETITION FOR SUPPORT BOND/SECURITY/GUARANTEE

Now comes _____ (Name of Payee) _____ by his/her attorney _____ in support of his/her petition for a support bond/security/guarantee pursuant to §706.2 of the Illinois Marriage and Dissolution of Marriage Act, states as follows:

1. This petition is brought pursuant to §706.2 of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/706.2).

2. On _____ (date) 20__, the Court entered its Order directing the Respondent to pay to the Petitioner the sum of \$_____ per week/month for child support (or unallocated support and maintenance).

3. The Respondent’s support payments are indefinite and unsure (OR have been periodically in arrears in the past) because _____ (insert explanation here, for example, habitually unemployment, failure to seek employment, etc).

OR

3. 3. The Respondent’s support payments are arrears the amount of _____ (insert amount here) _____.

4. Due to the (history of arrearages) (the indefinite and uncertainty of Respondent’s support payments), Respondent should be ordered and directed to place a bond/security in the amount of \$_____ with the (Clerk of the Circuit Court/Other Depository) to assure payment of the child support due Petitioner.

OR

4. Due to the continuing arrearages, Respondent should be ordered and directed to place a bond/security in the amount of \$_____ (or to place other guarantee of payment) with the (Clerk of the Circuit Court/Other Depository) to assure payment of the child support due Petitioner.

Wherefore, the Petitioner prays that:

- A. The Respondent be ordered and directed to place a cash bond in the amount of \$_____ wit secure his/her child support with the (Clerk of the Circuit Court of Lake County/Other Depository) to secure his/her child support payments to the Petitioner; or
- B. The Respondent be ordered to place his/her automobile title to the (type of automobile) held in his/her sole name, which has no lien thereon with the (Clerk of the Circuit Court of Lake County/Other Depository) to secure his/her child support payments to the Petitioner; or
- C. The Respondent be ordered to place certain securities (type or name of stocks/bonds) held in his sole name with the (Clerk of the Circuit Court of Lake County/Other Depository) to secure his/her child support payments to the Petitioner; or
- D. The Respondent be ordered to establish an escrow account at (name of bank) with a deposit of \$_____ to secure child support payments to Petitioner in the event of default or arrearage in child support payments to the Petitioner; or
- E. The Respondent be ordered to place certain items (jewelry/watches, etc.) with the (Clerk of the Circuit Court of Lake County/Other Depository) to secure child support payments to Petitioner, and
- F. Any portion of the named bond, security or other guarantee may be liquidated and paid to the Petitioner to be applied to any child support arrearage, Petitioner's attorneys' fees and cost...
- G. Such other and further relief as may be deemed just.

Respectfully Submitted:

(NAME)

FORM #4

**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
LAKE COUNTY, ILLINOIS**

IN RE THE MARRIAGE OF:)	
)	
JANE DOE)	
Petitioner,)	
)	
and)	No. __ D ____
)	
JOHN DOE)	
Respondent.)	

**ORDER FOR SECURITY/BOND/GUARANTY
FOR CHILD SUPPORT PAYMENTS.**

This Cause having come before the Court on the Petition of _____ for placement of (security, bond or guaranty) of support payments pursuant to notice, the parties being represented by their respective counsel and being individually present in Court, the Court having considered the testimony of the witnesses and the arguments of counsel, and being otherwise advised of the facts and issues presented in the Petition:

FINDS THAT:

- A. That on _____, the Court entered an Order directing the Respondent to pay to Petitioner the sum of \$_____ per month for child support.
- B. The support Order is in effect until _____.
- C. There is a basis to require assurance of payment of support by the Respondent for the placement of bond, security or other assurance to guarantee the payment of support.
- D. To secure the Respondent's payment of child support to the Petitioner, pursuant to Section 706.2 of the Illinois Marriage and Dissolution of Marriage Act, a lien shall be placed upon the Respondent's real estate, commonly known as (Address) to secure the payment of child support installments, and that said property may be sold to satisfy any installment payments of the Respondent's child support obligation.

OR

- D. To secure the Respondent's payment of child support to the Petitioner, pursuant to Section 706.2 of the Illinois Marriage and Dissolution of Marriage Act, THE

Respondent shall deliver to the Clerk of the Court (Other Depository) forthwith the following items of personal property:

, and that upon further order of court, Clerk of the Court (Other Depository) may sell said property to satisfy any installment payments of the Respondent’s child support obligation and deliver all proceeds of sale, after deduction of sale expenses, to the Petitioner.

IT IS HEREBY ORDERED:

- 1. The Respondent is ordered to immediately deliver to the (Clerk of the Court/Other Depository) _____(Described the Property Item)_____ to be held as security to insure payment by Respondent of his/her child support obligation to the Petitioner.
- 2. The (bond/surety/personal property/cash) placed with the Clerk of the Circuit Court shall be placed in an interest-bearing account to be paid out in accordance with further order of Court.
- 2. The Clerk of the Circuit Court shall provide an accounting of the (bond/surety/personal property/cash) and accumulated interest to either party, but no more than twice per calendar year.
- 3. The (Petitioner/Respondent) shall pay the Clerk of the Circuit Court any costs incurred for administering the (bond/surety/personal property/cash) and the Clerk of the Circuit Court may liquidate the (bond/surety/personal property/cash) in whole or part to pay any costs incurred upon the failure of the (Petitioner/Respondent) to reimburse the Clerk for its costs after being provided notice and demand for payment. Costs include, but are not limited to storage, vault rental and other charges to secure any personal property/cash/stocks/ jewelry or other personal property placed as security.
- 4. Any costs incurred on behalf of the Clerk of the Circuit Court shall be paid on a quarterly basis by (Petitioner/Respondent).

ENTERED: _____
(J U D G E)

Dated: _____

**IL Dept of Healthcare and Family Services
APPLICATION FOR CHILD SUPPORT ENFORCEMENT SERVICES (TITLE IV-D)**

Division of Child Support Enforcement
Mail Response Unit
P.O. Box 19405
Springfield, IL 62794-9405

DATE:
NAME:
ADDRESS:

SEX:
SSN:
DATE OF BIRTH:
DAYTIME PHONE NO:
WORK PHONE NO:

Este es un aviso muy importante. Si usted no entiende este aviso, comuníquese con el centro de servicio al consumidor en la sección de manutención de niños a 1-800-447-4278, dónde le podrán explicar este aviso. Personas que usan teletipo (TTY) deben llamar a 1-800-526-5812.

This is an important notice. If you do not understand this notice, contact the Child Support Customer Service Call Center at 1-800-447-4278 who can explain it to you. Persons with a TTY device may call 1-800-526-5812.

So that we can provide the best and quickest services possible, please:

- Complete this form. Please print or type.
- Any information that you do not know, please write "don't know" in the blank.
- Read the enclosed Non-Assistance Program Fact Sheet. It explains the services we provide.
- Mail this form and copies of any order(s) you already have to the address listed above.

If you are NOT the biological or legal parent of the child, complete the application available at www.ilchildsupport.com or call 1-800-447-4278 for a different application.

If you are working with an attorney on your child support needs, signing up for HFS child support services could provide additional services to you and your family. You can work with your attorney and HFS at the same time.

Applicant's Information:

Full Name: _____
(first) (middle initial) (last)

Home Address: _____
(Street) (City) (State) (Zip)

Relationship to Child: _____

Date of Birth: _____ Age: _____ SSN: _____ Race: _____
(mm/dd/yyyy)

Home Telephone #: _____ Work Telephone #: _____ Cell Telephone #: _____

E-Mail Address: _____

What time of day is most convenient to talk to you? _____ At what telephone number? _____

CP:
HFS 1283 (R-8-07)

NCP:

IV-D#
IL478-0028

FORM #6

Other Parent's Information:

Full Name: _____
(first) (middle initial) (last)

Home Address: _____
(Street) (City) (State) (Zip)

Relationship to Child: _____

Date of Birth and/or Age: _____ SSN: _____ Race: _____

Home Telephone #: _____ Work Telephone #: _____ Cell Telephone #: _____

E-Mail Address: _____

Name of Employer or Source of Income: _____

Employer's Address: _____

Is the other parent of the child in the military? Yes _____ No _____

Which branch of service? _____
(Send us a copy of military insurance card, if available)

Make and Model of Car: _____ License Plate #: _____

Other Parent's Relatives: (mother) _____ (father) _____

Does the other parent have additional children with someone else? If you know the other children's names, list them here.

Child's Information:

If you have any additional children with this parent, please provide the same information on a separate sheet of paper.

Full Name: _____ Sex: _____
(first) (middle initial) (last)

Date of Birth: _____ Place of Birth: _____

Social Security Number: _____ Race: _____

CP:
HFS 1283 (R-8-07)

NCP:

IV-D#
IL478-0028

Other Important Information

If you already have a child support order for the child, it is important that you send us a copy of the order with this application, if available.

Order or Docket # _____

Where was the order entered? _____
(City) (County) (State)

When did the order start? _____
(month/year)

You may request that an amount be included in your order to cover support for a period prior to the date your child support order is first established.

I authorize the Division of Child Support Enforcement to explore, pursue or utilize all sources of information legally available in support of its investigations on my behalf and to choose the appropriate course of legal action. I have received and read the program fact sheet provided with this application. To the best of my knowledge, the information I have supplied is true, correct, and complete.

I understand the Division will protect my privacy as required by law, and I authorize the Division to disclose information about my case to the court or another party necessary in the course of establishing and enforcing paternity and child support orders, for as long as I am a client.

All information you provide is kept confidential but we understand that domestic violence may also be an issue for you and your family. For your protection, we can mark your case with a family violence indicator. If you would like us to place this indicator on your case, check the box below. If this is not an issue for your family, you do not need to check the box.

Yes, I want my case marked with a family violence indicator.

Applicant's Signature (required)

Date

CP:
HFS 1283 (R-8-07)

NCP:

IV-D#
IL478-0028