F A M I L Y S U P P O R T

F O R U M

The Official Newsletter of the Illinois Family Support Enforcement Association

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DuPage County Circuit Clerk to Operate State Disbursement Unit

*State Disbursement Unit Overview**

By Deb Seyller [Û]

The federal mandate that employers shall have a single address to which to send deductions for child support will change the way we process payments in Illinois.

All withholding orders for child support are to go through the State Disbursement Unit (SDU). Included are all IV-D cases, whether they were court ordered or administratively set and non-IV-D cases initially entered after Jan. 1, 1994.

The state has until October 1, 1999, to have the SDU functioning or lose federal funding.

As the IV-D agency for the state, the Illinois Child Support Program under the Department of Public Aid has the responsibility for the SDU. Embracing the philosophy that service is best provided at the local level, the state program has offered to be a partner with the circuit clerks in finding the best solution.

Along with circuit clerks and the state program staff, the SDU committee consists of a broad range of agency and association representatives who handle child support issues.

Determining goals was the easiest decision to make. The KIDS system is central to the entire operation, linking the circuit clerks' systems to the SDU. Information will flow both ways. Payments processed by the SDU will be disbursed according to the circuit clerks' records or to Illinois Child Support records depending on the type of child support case. The circuit clerks will receive the payment information back from the SDU. Payment money will be transferred overnight from the SDU to the circuit clerks' local banks. The actual printing of the checks still requires some discussion. The committee has several areas that need to be discussed and evaluated. There are many questions hat those of us involved in the process still have. Please fax any concerns that you may have to Deb Seyller at 630-208-2172.

Some pending issues are:

1. Provisions to be included in the SDU contract with the Illinois Child Support program.

2. The location checks will be printed (by the SDU or the Circuit Clerk).

3. On-line interface with KIDS and reconciliation (a separate committee is already meeting on reconciliation).

(ContÁd. on page 14)

[Reprinted by permission from the October, 1998, issue of Open Lines, published by the Illinois Dept. of Public Aid Office of Child Support, Springfield.*

ÛDeb Seyller is Clerk of the Court for Kane County, and was recently elected to the IFSEA Board of Directors.]

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Newsletter Editor
Thomas P. Sweeney
P. O. Box 370
Tolono, IL 61880
tele. & fax: (217) 485-5302
e-mail: tsweeney@pdnt.com

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The FORUM is published four times a year. In 1999 the issues historically published in March and June may be earlier, to provide adequate notice of the consolidation of IFSEA's annual conference with the NCSEA conference in August.

News items and other articles of interest to Illinois family support practitioners are eagerly sought.

Contact the Editor for deadlines and details.

Please Contribute - <u>its YOUR Newsletter</u>!

State Program Extends Health Care for Children *

KidCare: Illinois' new child health program provides coverage for two-thirds of state's uninsured children

by Laura Davis, Research Assistant

An estimated 200,000 of Illinois' uninsured children are now eligible for health insurance benefits thanks to the new Illinois State Child Health Insurance Program. Commonly known as KidCare, the program was signed into law [the "Children's Health Insurance Program Act," P.A. 90-736] August 12 and officially started October 1, 1998. KidCare expands eligibility for all children age 18 and under who do not qualify for Medicaid, whose family income is at or below 185 percent of the federal poverty level (FPL), and who are without health insurance.

Illinois is taking advantage of federal legislation signed by President Clinton in August, 1997, which created the State Children's Health Insurance Program (SCHIP) as part of the Balanced Budget Act of 1997. SCHIP expands health coverage to the largest group of uninsured children— those living in working-poor families with incomes too high to qualify for Medicaid, but too low to afford private coverage. The program provides $24 billion to states over the next five years and invests $48 billion in child health over ten years—a $4 billion annual grant program.

Under SCHIP, every state is eligible to receive federal money to cover uninsured children. States can use their grants to expand Medicaid coverage up to 200 percent of the federal poverty level, create a separate state program for children's health insurance, or use Medicaid for some children and a separate program for others. Federal funding became available October 1, 1997, and states choosing to participate were required to submit a State Child Health Plan to the U.S. Department of Health and Human Services for approval. Once approved, states must match the federal funds at 70 percent of the match rate they pay under Medicaid. Since Illinois' match rate is 50 percent of its total Medicaid costs, it will pay 35 percent under the federal SCHIP legislation. That is, for every dollar Illinois spends on this program, the federal government will contribute 65 cents. For FY 1998, about $120 million in federal funds has been allocated to Illinois as reimbursement under SCHIP according to the Illinois Department of Public Aid, the administering agency for KidCare.

KidCare is the second phase of a two-phase approach that began in December, 1997, when the Governor initiated the expansion of Medicaid eligibility for all children under age 19 whose family incomes are less than or equal to 133 percent of the FPL. This

(Cont'd. on page 4)

COMPONENTS OF ILLINOIS' KIDCARE PROGRAM

ACCESSIBILITY: Children who are enrolled in the program will be able to continue to utilize community-based health care professionals or choose to join an HMO as long as they are part of the Medicaid provider network

SUBSIDIES: IDPA will subsidize families with incomes at or below 185% of poverty whose children have health insurance through an employer or a private insurance company. This subsidy is designed to help offset the cost of premiums a parent pays up to $75 a month per child.

SERVICES: Essentially the same benefits as Medicaid. Includes well baby visits, immunizations, inpatient and outpatient hospital services, medical/health screenings, dental care, annual hearing and vision screenings, urgent care, inpatient, outpatient, and emergency mental health and substance abuse services, rehabilitative and habilitative services, prescription drugs.

AFFORDABILITY: Cost-sharing is required for families through co-payments and premiums (see page 4 for detail)

CONTINUOUS ELIGIBILITY: Program enables children to retain health care coverage for an entire year regardless of income or employment status changes.

PROGRAM EVALUATION: KidCare will be assessed at six months and twelve months after the program is operating in order to report on enrollment numbers and enrollment procedures, monitor accessibility to medical services, the success of premiums and co-payments, and other factors that will impact program participation.

[Reprinted, by permission, from the Fall, 1998, issue of Intergovernmental Issues, published by the Illinois Commis-sion on Intergovernmental Cooperation, Springfield.]*

("KidCare," cont'd. from page 3)

enabled 40,000 children in the state to become insured. The first phase also expanded Medicaid eligibility for pregnant women up to 200 percent of the federal poverty level—approximately 2,900 pregnant women.

Profile of Uninsured Children

Children's health advocates say that more than 20 million children under age 18 in the United States do not have reliable access to comprehensive health care. Some of these children live in areas where doctors and hospitals are in short supply, and medical care is simply not available. However, 11.3 million of America's children under age 18 are completely without health insurance, the largest number ever reported according to 1997 U.S. Census statistics.

The majority of uninsured children are from low-wage, working families. Their parents earn too much to qualify for Medicaid, but too little to afford the cost of health insurance for the entire family. According to the Children's Defense Fund, more than 90 percent of uninsured children have one or more parents who work, and three in five live in two-parent families.

Two-thirds of Illinois' uninsured children are from working-poor families whose household incomes exceed the federal poverty level.

Two-thirds have family incomes above the poverty level; however, 70 percent have family incomes below 200 percent of the federal poverty level ($25,604 a year for a family of three in 1997).

In Illinois, over 300,000 children currently lack health insurance. *Falling Through the Gap: Uninsured Children in Illinois*, a 1997 report published by Voices for Illinois Children, dispels some of the common stereotypes about the makeup of uninsured children. The report found that 59 percent of Illinois' uninsured children live in a two-parent household, 55 percent live in suburban or rural areas, and 43 percent are white. Reflecting the national statistics, two-thirds of Illinois' uninsured children are from working-poor families whose household incomes exceed the federal poverty level ($12,802 for a family of three in 1997 according to the U.S. Bureau of the Census). Almost 20 percent of children whose parents earn annual incomes between 100 and 185 percent of the federal poverty level are without health insurance. Although children within that income group comprise only about 16 percent of all Illinois children, they account for 30 percent of the state's uninsured youth.

Health Coverage Declines and Health Risks Increase

According to the Children's Defense Fund (CDF), in 1996 children comprised 70 percent of all Americans that were added to the ranks of the uninsured. In fact, since 1989, children have lost private health coverage at twice the rate of adults. One factor is the decline in employer-sponsored health insurance plans as more businesses cut their support for dependent coverage.

Based on U.S. Department of Labor statistics, CDF reports that as recently as 1980, the majority of employees working at medium-to-large companies had employers who paid 100 percent of family health insurance costs. Today, however, more than three-quarters of workers must pay some or all of those costs. The employee's share averages $1,900 a year for HMOs offered by the very largest employers. One in four workers has no access to employment based family health coverage—at any price. In addition, as more people move from welfare to work, the percentage of workers with employer-covered health plans is expected to drop even lower.

Children without health insurance are also more susceptible to health complications. Common illnesses such as asthma or preventable health problems such as anemia tend to go without early diagnosis and/or treatment, increasing the risk of additional complications—even hospitalization. Oftentimes, uninsured children must endure unnecessary pain or discomfort due to untreated illnesses such as ear infections because their parents can't afford a trip to the doctor's office. And even though high childhood immunization rates have

(Cont'd. on page 5)

Charges by Income Level in Illinois' KidCare Program [†]

Services	*Up to 133% of FPL*	*133-150% of FPL*	*150-185% of FPL*
Well-baby/child visits, immunizations	No fees	No fees	No fees
Monthly premiums	None	None	$15 for one, $25 for two, $30 for three or more
Medical visits	No fees	$2 per visit	$5 per visit
Prescriptions	No fees	$2 co-pay	$3 generic, $5 brand name
Non-emergency ER visits	No fees	$2 per visit	$25 per visit
Annual cost sharing limit	Not Applic.	$100	$100 + premiums

Source: Voices for Illinois Children [†See more about income levels and disregards on page 5]

("KidCare," cont'd. from page 4)

been achieved nationally, poor urban and rural areas are still experiencing low immunization rates of only 40 to 50 percent. Uninsured children are less likely to receive the necessary vaccines to protect them from preventable diseases such as whooping cough, measles, and polio.

Other states

Most states are taking advantage of SCHIP's opportunity to expand health coverage to large numbers of uninsured children. As of September 1998, 46 state plans have been submitted to the federal government for approval, and 36 states have received approval from the Health Care Financing Administration. Twenty-four of the states cover children up to or above the general SCHIP ceiling, which is 200 percent of the federal poverty level. Another eight states cover children up to 185 percent of poverty, one of the highest levels reached by states through Medicaid before SCHIP (see page 6). All but two states cover children through age 18, rather than end coverage at younger ages. In Illinois, child advocates feel that they've won a significant victory for children with this latest legislation. They are hopeful, however, that future legislative initiatives will expand KidCare to the maximum eligibility level of 200 percent of federal poverty level, and ultimately include more children in the program.

[More information and applications for KidCare are available from IDPA at 1-800-323-GROW, and on IDPA's web page at www.state.il.us/dpa/kidcare.htm.]

KidCare Eligibility Standards

The following supplementary data, not in the *Intergovernmental Issues* article, was drawn from materials provided by Voices for Illinois Children and IDPA on their respective web pages.

KidCare Monthly Income Standards

The table below offers monthly income standards to help determine eligibility.

Family Size	133% of federal poverty level	150% of federal poverty level	185% of federal poverty level	200% of federal poverty level ‡
1	$893	$1,007	$1,241	$1,342
2	$1,203	$1,357	$1,673	$1,808
3	$1,513	$1,707	$2,105	$2,275
4	$1,824	$2,057	$2,536	$2,742
5	$2,134	$2,407	$2,968	$3,208

Call the Health Care Hotline, 1-800-226-0768, for income levels for larger families.
‡ This column determines KidCare eligibility for a pregnant woman.

KidCare Monthly Income Disregards

The Department of Public Aid will not count certain family expenses in determining eligibility. These "income disregards" help compensate for the expenses that often devour a monthly paycheck. The table below shows items that will be subtracted from monthly income measurements.

Employment related expenses	$90 per family.
Child Care Costs	Up to $200 per month for each child under age two and up to $175 per month for each child age two or over.
Child Support Receipt	The first $50 of child support award.
Child Support Payment	Total monthly child support payments are fully deducted in determining income eligibility.

For more on Voices for Illinois Children, see their web page as www.voices4kids.org.htm.

State-by-State Comparison of Child Health Insurance Coverage

State	# Uninsured Children*	% Uninsured Children*	% Children In Medicaid*	SCHIP Plans	Max. Poverty Level Covered
Alabama	222,033	19.5%	17.2%	Approved	100%
Alaska	16,793	9.6	19.4	Submitted	200%
Arizona	249,051	20.6	21.4	Approved	175%
Arkansas	109,141	18.7	19.4	Approved	200%
California	1,726,447	19.6	29.2	Approved	200%
Colorado	112,643	11.5	11.8	Approved	185%
Connecticut	71,095	9.6	14.6	Approved	300%
Delaware	14,845	10.2	18.8	Approved	200%
Florida	525,435	14.9	24.2	Approved	200%
Georgia	306,288	15.3	20.8	Approved	200%
Hawaii	17,890	7.5	16.6	None	
Idaho	44,185	13.5	17.3	Approved	150%
Illinois	303,164	9.5	23.6	Approved	185%
Indiana	174,645	10.0	22.3	Approved	150%
Iowa	80,419	10.8	15.1	Approved	185%
Kansas	51,362	7.5	17.5	Submitted	200%
Kentucky	124,412	12.5	32.0	Submitted	200%
Louisiana	202,400	16.2	33.7	Submitted	133%
Maine	31,657	11.4	17.6	Approved	185%
Maryland	156,775	12.3	15.4	Approved	200%
Massachusetts	134,681	9.4	17.5	Approved	200%
Michigan	202,766	7.9	26.1	Approved	200%
Minnesota	94,610	7.9	17.7	Approved	275-280%
Mississippi	99,976	15.1	31.9	Submitted	100%
Missouri	104,833	8.8	23.8	Approved	300%
Montana	21,238	9.6	19.3	Approved	150%
Nebraska	42,739	8.9	9.8	Approved	185%
Nevada	66,779	17.1	11.0	Approved	200%
New Hampshire	36,498	13.2	16.0	Approved	300%
New Jersey	213,410	10.4	17.9	Approved	200%
New Mexico	130,160	26.1	27.7	Submitted	235%
New York **	640,701	13.8	25.6	Approved	222%
North Carolina	179,080	11.4	23.6	Approved	200%
North Dakota	11,713	6.6	14.1	Submitted	150%
Ohio	301,707	9.8	21.9	Approved	150%
Oklahoma **	176,452	20.6	21.6	Approved	185-200%
Oregon	88,724	10.7	23.3	Approved	170%
Pennsylvania	320,389	11.0	19.8	Approved	235%
Rhode Island	21,158	9.1	16.9	Submitted	250%
South Carolina	140,231	15.1	18.7	Approved	150%
South Dakota	15,735	6.8	18.3	Approved	133%
Tennessee	130,398	9.4	30.1	Submitted	200%
Texas	1,352,894	23.9	23.2	Approved	100%
Utah	56,388	8.6	9.0	Approved	200%
Vermont	7,362	4.8	20.4	Withdrawn	
Virginia	187,063	11.0	14.2	Submitted	185%
Washington	139,089	10.4	21.9	None	
West Virginia	40,024	10.1	30.4	Approved	150%
Wisconsin	81,848	6.2	13.4	Approved	185%
Wyoming	19,081	13.4	11.9	None	
Total & Natl. Ave.	10,003,217	14.2	22.9		

Sources: National Conference of State Legislatures and the Children's Defense Fund

* 1994 data. More recent data will not be available until January 1999.

** Legislative action pending that may affect eligibility and other matters

From the I D P A . . .
. . . ILLINOIS IV-D UPDATE

(From the Office of the Administrator, Illinois Dept. of Public Aid, Office of Child Support)

Governor Announces Record Child Support Collections Of $321 Million

On September 21, 1998, Gov. Jim Edgar announced that child support collections reached a record $321 million over the past year, bringing the total amount collected since January 1991 to more than $1.8 billion, which has helped tens of thousands of families.

Illinois also established a record 50,259 paternities in the last year, an 18.1 percent increase over the previous high of 42,539 established in the preceding year. Since 1991, the state has established more than 212,000 paternities.

"Establishing record-high numbers for child-support collections and paternities provides a strong measurement of success, but it's far more gratifying to know that thousands of single parents today are getting the financial support they desperately need to raise their kids," the Governor said. "Parents are receiving record levels of payment from non-custodial parents because Illinois child support workers have introduced a variety of tools and techniques over the last seven and a half years to make the process more effective and efficient."

Under the Edgar administration, measures to increase child-support collections have included authorization for tax collectors from the Department of Revenue to pursue parents owing child support; revocation of state professional and occupational licenses for those who refuse to pay child support; better tracking of hiring in Illinois and across the nation to ensure that child support payment orders accompany non-custodial parents moving to new jobs; the use of private collection agencies; and reporting names of child support debtors to national credit bureaus.

"As a result of these and other approaches, the last seven and a half years have been the most productive for child support since the program began in 1976," Edgar said. "More than two thirds of the total $2.7 billion of child support collected in the history of the Illinois program has occurred just since 1991."

The department received the "Most Improved Award" from the National Child Support Enforcement Association in 1997 for the state's record-setting child-support collection performance in recent years.

Collections for the one-year period ending June 30, 1998, continued that trend, totaling $321 million and reflecting an increase of more than $25.2 million from the previous year's $295.8 million.

Of the total collected in the last year, $232.5 million went to families not on welfare, and $88.5 million went to families receiving welfare.

Record Number of Illinois Welfare Clients Now Earning Paychecks

State officials report the number of Illinois welfare clients who are now employed and working their way off welfare hit an all time record statewide. According to a November 19, 1998, press release issued by the Governor's office, November statistics show a record-setting 40 percent of TANF clients statewide are now employed while receiving some benefits to ease their transitions from welfare to work.

"These record-setting results show that Illinois' welfare-to-work efforts have been a resounding success," the Governor said. "Tens of thousands more Illinois families now are able to appreciate the pride and independence that comes from earning a regular paycheck, and that's good news for all Illinoisians."

Despite initial concerns that welfare reform would fail in large urban areas such as Chicago, Cook County statistics show that the number of TANF clients now working their way off welfare soared from 19 percent in July 1997 to 34 percent in November 1998.

"Families are much better off when the head of the household is working," said Illinois Department of Human Services Secretary Howard A. Peters III, "We're giving our clients the supports they need and the results are gratifying. We remain committed to helping people move from dependency to self-sufficiency."

Other important statistics reported include the following:

- The number of welfare case cancellations due to employment skyrocketed 41.4 percent to 3,880 in November 1998, compared with 2,743 in November 1997. In Cook County, cancellations due to employment surged 77.5 percent, from 1,177 in 1997 to 2,090 cancellations in 1998.
- Illinois' total welfare caseload declined by 22 per cent, from 140,012 in November 1997 to 109,394

(Cont'd. on page 16)

Lively Judicial Roundtable Highlights 1998 IFSEA Conference

By William C. Henry

The 1998 IFSEA conference was held October 18-20, at the Ramada Inn South Plaza in Springfield. The conference was the best attended of any in the history of the organization as nearly 250 participants attended. The large attendance resulted in the conference making a sizable profit for the organization.

The conference began with a Sunday evening banquet followed by a keynote speech by retired Illinois Supreme Court Justice and Administrative Office of Illinois Courts Director Joseph Cunningman.

Monday morning saw the usual plenary session consisting of presentations on new case law and statutes, a federal OCSE update, and presentations by Cheryl Niro of the Office of the Attorney General on proposed uniform forms and by National Child Support Enforcement Association President Casey Hoffman. Mr. Hoffman updated IFSEA on the NCSEA conference to be held in August 1999, in Chicago. The plan is for IFSEA to dovetail its 1999 conference with NCSEA and hold a scaled back conference. [*See page 9.*]

Monday afternoon saw individual breakout sessions dedicated to varied topics such as Internet child support sources, the new State Disbursement Unit, "Twenty Questions," problem solving for clerks and "hot topics" for lawyers. The SDU and Problem Solving for Clerks sessions drew greater than anticipated, capacity crowds resulting in many attendees standing or sitting on counters.

The highlight of the conference was the Tuesday morning Judicial Roundtable. This session, first presented at Rockford in 1997, provided 75 minutes of very energetic discussion of child support by nine members of the Illinois bench. Very early in the session, disagreement emerged between members of the panel over the efficacy of contempt and jail in the enforcement of child support. The lines were clearly drawn between some panelists who strongly believe jail produces results and those who think jail is not always the best solution to the problem. Post session feedback indicated many wished the Roundtable could have been longer and that it definitely should be repeated in future years.

Plans are well under way for the 1999 conference to be held in Chicago in August. Plans are also being made to hold the 2000 conference at Starved Rock State Park in October of that year.

The 1998 conference, the 10th in the history of the organization, was one of IFSEA's most successful and provided an impetus for IFSEA to continue to grow into the next century.

IFSEA Directors Elected at Annual Meeting

By Thomas P. Sweeney

Just over 60% of eligible members attending IFSEA's 1998 Conference and Annual Meeting cast ballots in the election of Directors for two-year terms ending in the year 2000. The Annual Meeting was opened at the luncheon on Monday, October 19, for the purpose of nomination and casting of ballots. Results were announced at the conclusion of the meeting on Tuesday, October 20, 1998.

Including nominations from the floor, there were two candidates for the two Directors to be elected from Region 1 (Cook County), and seven candidates for the four positions in Region 2. After Jeanne Teter declined nomination for re-election, there were five candidates for the four positions in Region 3. Other incumbents not seeking re-election were Lois Rakov (Region 1), Jean Davis (Region 2), and Melissa German (Region 3).

Directors elected for the terms ending in 2000 are:

- From Region 1: incumbent Anne Jeskey, IDPA Deputy Administrator; and newcomer Durman Jackson, Asst. State's Attorney, both of Chicago;
- From Region 2: incumbents Deanie Bergbreiter, IDPA Asst. Deputy Administrator, Aurora, and Jeanne Fitzpatrick, Asst. Attorney General, Ottawa; and newcomers Scott Michalec, Asst. Attorney General, Peoria and Deborah Seyller, Kane County Circuit Clerk, Geneva; and
- From Region 3: incumbents William Henry, Asst. Attorney General, and IDPA Family Support Specialist Marilynn Bates, both of Springfield; and newcomers John Rogers, IDPA Deputy Administrator, Belleville and Debra Roan, IDPA Office Administrator, Marion.

Marilynn Bates and Springfield Asst. State's Attorney Cheryl Drda were tied in balloting for the final seat in Region 3. By agreement the two-year seat was decided by a coin toss. Outgoing President Larry Nelson appointed Cheryl Drda to one of two one-year "at large" positions. Lake County Asst. State's Attorney Nancy Waites was named to the other "at large" post.

1998-99 Officers Elected

At the Board of Directors' Meeting held following IFSEA's 10th Annual Conference the following officers were elected for 1998-99: President, William C. Henry; First Vice-President (and Chair of IFSEA's 1999 conference), Anne Jeskey; Second Vice-President (and presumed Chair of IFSEA's 2000 conference), Jeanne Fitzpatrick; Secretary, Tom Sweeney; and Treasurer, Jim Ryan.

IFSEA Joins With NCSEA for 1999 Conference

By Thomas P. Sweeney

The Illinois Family Support Enforcement Association (IFSEA) will hold its 1999 annual conference in conjunction with NCSEA's 48th Annual Conference & Exhibition to be held at the Palmer House in Chicago August 8 – 12, 1999, -- NOT during October as has been IFSEA's history. Current plans call for a scaled-down, Illinois-specific program to be presented, probably on Tuesday afternoon, August 10, 1999, at the Palmer House. The agenda is expected to consist primarily of updates on Illinois case law, legislation and IV-D program developments. IFSEA's Annual Members' Meeting and Election of Directors will also be conducted during this session.

Fees to participate in the IFSEA program will be $20 – essentially the membership dues for 1999-2000. Registration fees for the full NCSEA conference are expected to be $375 (though daily registration is usually also offered). Room rates at the Palmer House are not yet known. However, they are likely to exceed state rates, and the Palmer House cannot accommodate all who are expected to attend this conference.

IFSEA has arranged for a ***limited*** number of rooms to be held for our members at the Chicago Hilton & Towers, 720 S. Michigan Ave. (tele. (312) 922-4400 or (800) 445-8667) at state rates of $104.44 per night. These rooms are being held for us ***for a very limited time,*** and IFSEA will be held liable if they are not used, so any one planning to attend any part of the NCSEA conference is urged to make reservations early. And make sure to mention IFSEA to get the reduced rate.

The IDPA administration is encouraging as many as possible to attend the NCSEA conference, and has assured IFSEA that funds are available to reimburse the higher costs to county offices under IV-D contracts. Offices whose contract budgets did not contemplate this expense are urged to contact IDPA about any necessary amendment.

More specifics about IFSEA's and NCSEA's conferences will appear in the next *FORUM*.

Volunteers Needed for NCSEA Conference

by Sally McKenzie

For the first time ever the National Child Support Enforcement Association (NCSEA) will hold its annual conference and exhibition in Chicago in 1999.

NCSEA's 48th Annual Conference and Exhibition will be held August 8 – 12, 1999, at the Palmer House in downtown Chicago.

The Illinois Department of Public Aid's Child Support Program is the host organization for the conference, assisting NCSEA in its planning and facilitation. Volunteers are needed to work with the following committees to plan and staff the convention:

Material Assembly: Chairperson - Marla Carter Cook

Volunteer Ready Room: Chairperson - John Rogers

Speaker Ready Room: Chairpersons – Karen Newton-Matza, Sharon Gogola

Main Registration Desk: Chairpersons – Estelle Hardiman, Marcia Smith, Kellie Holsopple

Silent Auction: Chairpersons – Celine Bentley, Georgia Heth, Jeanne Teter

Room Monitors: Chairperson – Luz Solano

Hall Monitors: Chairpersons – Carlos Rodriguez, Marjie Haning

Event Monitors: Chairperson – Linda Nicot

Chicago Volunteer Co-chair – Safiya Felters

Volunteers must register with the conference to participate. NCSEA is not able to pay or provide any of their expenses, but it is believed some form of discount may be offered for volunteers. Volunteers will be assigned to a committee for half days so they may attend sessions the other half of the day.

Anybody wishing to volunteer for the conference may contact Volunteer Coordinator Chairperson Sally McKenzie at IDPA, OCS, 509 S. Sixth St., 2nd floor, Springfield, IL 62701, phone (217) 524-4589, e-mail aid9c46@mail.idpa.state.il.us.

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. Anyone 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.

by Thomas P. Sweeney

Income Finding, Basis for Deviation, Not Needed When Clear Indication of Income is Not Available

In Re Marriage of Severino, 298 Ill. App. 3d 224, 698 N.E. 2d 193 (2nd Dist., 7/20/98), affirmed maintenance and child support awards in light of obligor's "less than candid" income disclosures.

In the parties' dissolution of marriage Victor was ordered to pay $6,500 per month in maintenance and $650 per week in child support for one child. Victor appeals, claiming the court based the maintenance award on improper factors and failed to make a finding of his income and reasons for deviation from guidelines sufficient to justify the child support award.

Orders affirmed. Proper factors were considered in the maintenance award. On the issue of child support the record disclosed Victor had been "less than candid" in his income disclosure. Inconsistent tax returns and unexplained bank deposits demonstrated his lack of credibility. "Without credible evidence of respondent's net income, the trial court was compelled" by § 505 (a)(5) to make the award of child support in an amount that was reasonable in the case. . . . In cases where the trial court is unable to determine the net income of the party, it is illogical to assert that the trial court must make express findings for varying the child support award from a percentage recommended by the statute." Under the circumstances there was no obligation to make a specific finding of Victor's income. The Appellate Court could use the statutory rates and the child support ordered to calculate the amount that the trial court may have estimated respondent's income to be. Based on the evidence presented it could not be said the trial court abused its discretion in its support award.

Support Trust Requires Special Findings, Specific Directions; Net Income Limited to Lost Wages During Child's Minority

In Re Marriage of Wolfe, 298 Ill. App. 3d 510, 699 N.E. 2d 190 (2nd Dist., 8/12/98), reversed a judgment requiring 20% of the net proceeds of a Structural Work Act settlement to be placed in a trust for future child support, and vacated the order creating the trust as lacking sufficient directions for its implementation.

In July, 1993, Janet filed for dissolution of her marriage to Steve, and for custody of and support for their one child. One year earlier Steve had been permanently injured in a work related accident, leaving him unable to work for the rest of his life. Temporary support was ordered based on his income from Social Security. In February, 1996, a judgment of dissolution ordered Steve to satisfy $1,717.16 in arrearages, to pay support of $146 per month (calculated at 20% of his Social Security income) and to pay Janet additional sums from a worker's compensation settlement. The court reserved jurisdiction to allocate the proceeds of Steve's pending Structural Work Act claim.

In February, 1997, the Court addressed allocation of the settlement. After payment of liens, costs and attorney's fees Steve had received a net of $375,337.33, of which 80%, or $324,425.88 represented Steve's future lost wages. The balance was attributed to past and future medical costs and pain and suffering. The Court ordered Steve to pay $50,000 to a joint obligation to the bankruptcy court plus some other costs – a total apparently equal to 20% of his net settlement – leaving (coincidentally?) a $324,425.88 balance. From this Steve was ordered to pay 10% ($32,442.50) to Janet as marital property and deposit 20% ($64, 885) into a trust for the future support of the parties' child. Steve appeals the calculation of the trust funding.

In a confusing decision the Appellate Court (with one, more intelligible dissent) first concluded that the funding of a trust for support of a child must be governed by the guidelines in § 505(a) of the IMDMA. Thus any deviation from 20% of the obligor's net income must be explained, and "net income" must be limited to the portion of the settlement attributable to lost wages. The majority agreed with the $50,000 bankruptcy payment order, but then concluded that the $324,425.88 figure on which the support trust was calculated should have been further reduced by the $32,442.50 marital distribution to Janet and the $50,911.45 attributable to medical costs and pain and suffering before the 20% trust fund calculation. But even if the court had used the proper determination of

(Cont'd. on page 11)

("Cases & Commentary," cont'd. from page 10)

Steve's "net income," the resulting support figure actually exceeded guidelines because the lost wages portion of Steve's settlement compensated him for the remainder of his expected work life – arguably 25 years – while his child support obligation only continued until the child attained majority – 12 years. "[T]he trial court, without comment or explanation, awarded child support for 25 years of future net income rather than the 12 years that would have taken [the child] to majority. Because the trial court deviated from the statutory minimum for child support without stating its reasons for doing so, the trial court abused its discretion." Thus the net income determination and child support calculation must be reversed.

The majority concluded that in creating a trust for the benefit of a child under § 503(g) the court must consider the guidelines under § 505. Additionally it must make certain findings and provide some rationale for its decision regarding its funding, and must describe its terms with sufficient particularity. Since such findings and rationale were not stated here the order creating the trust was vacated, and the cause remanded.

Penalty for Failure to Transmit Withheld Support Does Not Apply to Failure to Withhold

Vrombaut vs. Norcross Safety Products, 298 Ill. App. 3d 560, 699 N.E. 2d 155 (3rd Dist., 8/7/98), affirmed denial of a $100 per day penalty against an employer for failure to withhold support pursuant to an Order for Withholding.

In their dissolution judgment Thomas was ordered to pay support of $90 per week to Suzann. An Order for Withholding was served on Thomas' employer, Norcross Safety Products in February, 1996. Once in October, 1996, and twice in January, 1997, Norcross failed to withhold the required payments. Suzann filed a complaint against Norcross seeking penalties of $100 per day under § 706.1 (G)(1) of the IMDMA. The employer's motion to dismiss was granted. Suzann appeals.

Affirmed. The clear language of §706.1(G)(1) limits imposition of the $100 per day penalty to failure to remit payments withheld, not to a failure to withhold. "The penalty provision specifically imposes a fine for failing to remit a withholding. The provision, however, does not reference an employer's initial failure to withhold the child support. . . . Unless or until the legislature indicates that the penalty provision is meant to apply to all duties imposed upon the employer under the act, we decline to apply the penalty in the manner urged by Suzann." While the $200 fine provided as a penalty for failure to withhold is significantly less severe, there is still a remedy.

Award of Interest Discretionary – Not Mandatory – for Arrearage Judgments

In Re Marriage of Kaufman, 299 Ill. App. 3d 508, ___ N.E. 2d ____ (1st Dist., 2nd Div., 9/29/98), affirmed the denial of interest on arrearages in maintenance, finding the award of interest on support and maintenance to be discretionary rather than mandatory.

In their dissolution judgment Harold was ordered to pay maintenance to Gail. Due to reduced income he fell behind in payments from January, 1991, to April, 1994, but made up the arrearage by a lump sum payment in May, 1994. Gail then sought interest on the arrearages, but the trial court denied it. She appeals, claiming assessment of interest is mandatory under § 2-1303 of the Code of Civil Procedure.

§ 2-1303 provides "[j]udgments recovered in any court *shall* draw interest at the rate of 9% per annum from the date of the judgment until satisfied." However, in 1980 the Illinois Supreme Court held, in *Finley vs. Finley*, 81 Ill. 2d 317, that § 2-1303 does not apply to support ordered in dissolution cases, as those matters are governed by rules of equity. The Appellate Court here concluded the same should be true of maintenance ordered in a dissolution. The Court was not persuaded that amendment of § 505 (d) of the IMDMA called for a different result. That section provides that support payments shall be deemed judgments as of the date due, which judgments "shall have the full force, effect and attributes of any other judgment of this State, including the ability to be enforced." However, nowhere in that section itself or in its legislative history is there any hint that it was intended to involve the issue of interest. Accordingly, *Finley* still controls, and the award of interest on unpaid support or maintenance remains discretionary, not mandatory. Affirmed.

More recently, ***In Re Marriage of Steinberg***, ___ Ill. App. 3d ___, ___ N.E. 2d ____ (1st Dist., 3rd Div., No. 1-97-0834, 11/12/98), reversed an award of interest on child support arrearages because the trial court had held it was mandatory, while affirming several rulings related to contempt and enforcement of a percent of income support order.

In this case two lawyers were divorced in 1989. Their child support agreement required respondent to pay $850 per month, to be adjusted annually to 20% of his net income based on that year's tax return, but not to less than $600 per month. In 1994, respondent was held in contempt for failure to disclose his tax returns as ordered, and in 1996, was held in contempt for accruing an arrearage of more than $27,000. To the arrearage the court added nearly $2,500 in interest, concluding it had no discretion but to do so. Respondent appeals the contempt, interest and other rulings against him.

All but the interest determination are affirmed. As a preliminary matter the Court rejected respondent's argument that the trial court was without jurisdiction to enforce the judgment entered more than seven years

(Cont'd. on page 12)

("Cases & Commentary," cont'd. from page 11)

earlier without it first being revived under §§ 12-108(a) and 2-1601 of the Code of Civil Procedure. The Court ruled that even before §12-108(a) was amended in 1997 the court had held courts had continuing jurisdiction to enforce child support orders beyond seven years. The Court also held the percent of income order, while erroneous, was enforceable. The Court rejected respondent's excuse for nonpayment that he had read and understood several appellate decisions to hold such orders were unenforceable.

On the interest issue the court again referred to *Finley* and the reasoning in *Kaufman*. It may be noteworthy that in neither case does the Court mention § 12-109 of the Code, also adopted since the *Finley* decision, which states, "Every judgment arising by operation of law *from a child support order shall* bear interest as provided in section 2-1303 commencing 30 days from the effective date of each such judgment." (Emphasis added.)

Constitutional Challenge Waived by Untimely Notice to Attorney General; Dr. Boon's "Lone Voice" Needs No Rebuttal

Villareal vs. Peebles, 299 Ill. App. 3d 556, ___ N.E. 2d ____ (1st Dist., 9/24/98), affirmed a paternity finding, rejecting expert testimony challenging the significance of blood test results and claims the presumption created by blood test results is unconstitutional.

A parentage complaint was filed in November, 1994. DNA tests using the RFLP protocol on four probes resulted in a combined paternity index of 2,582 to 1. Those test results were provided to the defendant on June 6, 1995. On February 1, 1996, defendant filed a challenge to admissability of the test results pursuant to § 11(e) of the Parentage Act. This motion was denied because it was filed well beyond the 28 days allowed under the statute.

At a bench trial plaintiff testified she had engaged in sexual intercourse with the defendant during the probable month of conception. She and her sister testified that the defendant had admitted paternity to them. The defendant testified that he had never engaged in sexual intercourse with plaintiff. The DNA test results were admitted into evidence without supporting testimony.

Dr. Pravatchai Wang Boonlayangoor (Dr. Boon) testified for the defendant that the DNA-RFLP protocol was "misleading," and that the most reliable test would involve four to six DNA probes plus the 20-system classical testing protocol including ABO, serum proteins and HLA. He further testified that, in his opinion, a CPI of 2,582 to 1was not "significant," that for a CPI to be significant in this case it should exceed 10,000. Dr. Boon did admit that the majority of experts in the field consider the DNA-RFLP protocol to be good and acceptable, but no other evidence was offered either to support or contradict Dr. Boon's opinions.

On February 26, 1996, the court entered an order finding paternity. Defendant appealed. On June 2, 1997, defendant filed with the Appellate Court a notice of intent to challenge the constitutionality of § 11(f) of the Parentage Act (creating the presumption of paternity based on a paternity index of 500 to 1). On appeal defendant urges that § 11(f) is unconstitutional and that he had overcome the presumption of paternity by Dr. Boon's uncontroverted testimony.

Defendant's constitutional challenge of § 11(f) was held to have been waived. First the defendant had not raised his challenge to this section in the trial court. Moreover defendant had failed to give timely notice of the constitutional challenge to the Attorney General as required by Supreme Court Rule 19. The rule requires the notice be given "promptly after the constitutional issue arises." Here the issue arose on February 16, 1996, when the defendant's motion to deny admission of the DNA results was denied, since at that point he was in immediate danger of being injured by application of the presumption. Waiting until June, 1997, when the decision was on appeal, was not "prompt."

Also rejected was defendant's claim that Dr. Boon's testimony provided "clear and convincing" evidence to overcome the presumption of paternity. The court noted that no scientific article or decision was offered to support Dr. Boonn's opinion that only a CPI of 10,000 to 1 was significant. "It appears that defendant [sic] is a lone voice in the woods. . . . The trial court need not accept the opinion of one expert, *even where that expert's testimony is not directly countered by the expert opinion of another*. . . . The trial court heard Dr. Boon's testimony and decided to reject it as was its province." (emphasis in original.) Defendant's testimony alone is insufficient to overcome the presumption created by the blood tests. Affirmed.

Guidelines May be Disregarded In Shared Custody Cases

In Re Marriage of Sonneson, ___ Ill. App. 3d ___, ___ N.E. 2d ____ (2nd Dist., No. 2-97-1075, ets., 10/14/98), affirmed various orders regarding property valuation and distribution, maintenance, attorney's fees and child support.

The case involved dissolution of Judy and Robert's 15-year marriage. The parties have three children, and apparently share equally in their legal and physical custody. Following a hearing the parties were awarded portions of marital property, though Robert received both income-producing apartment buildings. In valuation of the property Robert's construction business was valued at 0, and his net income was found to be $500 *per month*. Nevertheless he was ordered to pay several debts totaling more than $29,000, $3,000 of Judy's attorney's fees and the cost of Judy's insurance. He was also ordered to maintain insurance on the three children and pay 75% of any extraordinary medical expenses, to

(Cont'd. on page 13)

("Cases & Commentary," cont'd. from page 12)

pay Judy $75 per week as maintenance (to be reviewed in two years) and pay $75 per week as child support. Judy appeals just about everything!

Affirmed. The Court found the valuation of Robert's business was not unjustified based on the evidence presented. And the maintenance award and property distribution was not inequitable. On Judy's assertion that the child support order did not comport with the 32% guidelines the Court pointed out that both parents have a support obligation. "When custody is shared, the court may apportion the percentage between the parents . . . or may disregard the statutory guidelines in the Act and instead consider the factors listed in section 505(a)(2)." Given Robert's other obligations the child support order was not an abuse of discretion.

Leaving Papers in Door Is Valid Personal Service

Freund Equipment, Inc., vs. Fox, ___ Ill. App. 3d ___, ___ N.E. 2d ____ (2nd Dist., No. 2-97-1274, 11/13/98), affirmed refusal to quash service of a summons left in the defendant's door.

A contract dispute – nothing to do with child support. After repeated unsuccessful attempts to serve the defendant, plaintiff employed a private process server. The process server made a return stating he had personally served the defendant at his residence. Defendant moved to quash service. The process server testified he had identified defendant's residence and the vehicles he drove. On the date of service he approached a man he believed to be the defendant near one of the vehicles outside his residence, but when he attempted service the man went inside. The process server continued to tell the man about the papers and the court date, then left them in the door. The process server's in-court identification of the defendant was uncertain. The defendant testified he was not home at the time he was supposedly served, but only found the papers later. The trial court refused to quash the service. Defendant appeals.

Affirmed. A sheriff's return of service is *prima facie* proof of service and should not be set aside unless the return is impeached by clear and satisfactory evidence. No lesser standard should apply when a private process server makes the return. A defendant's uncorroborated testimony that he was never served is insufficient to overcome the presumption of service. "[N]o requirement exists that the process server physically place the papers in defendant's hand." Illinois is "among the states accepting the 'general method' of placing the papers 'in the general vicinity of the person to be served and announcing the nature of the papers.' Given defendant's evident unwillingness to accept service, the method [the process server] employed here satisfied the statute."

Children's Refusal to Visit Does Not Justify Support Termination

In Re Marriage of Heldebrandt, ___ Ill. App. 3d ___, ___ N.E. 2d ____ (4th Dist., No. 4-98-0225, 12/2/98), affirmed denial of father's petitions to terminate child support based on the children's refusal to associate with him.

A judgment of dissolution was entered in 1989. Custody of the parties' five children was granted to Debi. James was granted visitation and ordered to pay child support. James declined to visit the children for the first year, saying he was "not ready" for it. When he tried to initiate visitation in 1991 the children resisted. Over the next three years James pursued modification of his visitation orders. The children testified about experiences with James' bad temper and actions toward them. James was eventually granted supervised visitation. Still the children refused to go with him, and since 1994 he had not seen or spoken with the children.

In January, 1997, James filed to reduce or terminate child support based on the children's refusal to visit with him. (Two children had also attained majority.) Support was eventually reduced to a sum equal to 25% of his income, but his request for termination was denied. James appeals. James loses.

"To grant James' motion would have the effect of punishing his children for their apparent inability to forgive and forget his outbursts and absences during their childhoods. Authorizing a reduction in child support payments by noncustodial parents in James' position would put a premium on parental misbehavior toward—or neglect of—their children. Such a decision might be viewed by noncustodial parents who consider themselves burdened by child support payments as containing the following message: behave badly enough toward the children and maybe the courts will reduce or eliminate those payments. This is a message the courts must never send."

In the Next FORUM?

What Can YOU Contribute?

(%State Disbursement Unit,Âcont£d. from page 1)

4. Problem solving with the SDU.

5. Testing and implementation.

It has been a long process to get to the point we've reached. Working in partnership with Illinois' Child Support Program assures that our top priority, children and their families, continue to receive quality service.

The goals:

1. Maintain service level for all users—custodial parents, non-custodial parents, employers, circuit clerks and the Illinois Child Support Program,

2. Cost efficiency,

3. Increase collections,

4. Timeliness of payments,

5. Accuracy of records, especially balances,

6. Match authority and responsibility at local level,

7. One functional statewide system,

8. Maintain partnerships toward seamless service delivery,

9. Maintain integrity of court records / clerk records.

"Embracing the philosophy that service is best provided at the local level, the state program has offered to be a partner with the circuit clerks in finding the best solution."

The basic functions of an SDU are to make collection and payment to customers within two days. The SDU does not calculate payments or do enforcement.

There are three main choices for an SDU:

1. Out source to a private vendor,

2. Use another public entity as the contractor,

3. Establish a unit within the state program itself.

The committee looked at what other states have been doing to meet the federal requirements. In-house operations was the solution used most frequently by the states from which we gathered information. However, the committee remained concerned about the level of customer service provided by private vendors and, consequently, outsourcing became a last resort.

Most states operate their own SDUs. The Illinois Child Support Program respectfully declined the opportunity to process all 4,600,000 estimated annual checks in the state. Having a circuit clerk as the public contractor meets all of federal requirements and addresses most of the circuit clerks' concerns. As a result, there is more confidence that the contractor has the same concern for customers as we have when dealing with issues, such as what happens when the employer leaves out crucial information.

On Sept. 4, 1998, the Illinois Association of Court Clerks unanimously voted in favor of recommending that Illinois Child Support Program contract with a public entity, specifically, the DuPage County Circuit Clerk, Joel Kagann. As best that can be determined, no other state has this type of SDU.

The SDU will process payments from both tracks of child support, judicial and administrative. Payments will go out the same day they are received, keeping our standard of service at its highest. Customer service will remain local for the court track with the Illinois Child Support Program maintaining the administrative track.

Presentations to SDU Committee

Dewey Hartman, Jim Nurss, and Jim Palmer, representing the DuPage County office, presented the DuPage County system to the SDU committee. Also making presentations at the meeting were Lara Lane and Enza Zacchigna of the Cook County clerk of the court's office; Gordon Mulleneaux, associate clerk with the Maricopa County, Ariz., clerk of the court's office, and Jane Bishop Howell, child support enforce-ment coordinator for the Colorado office of the state court administra-tor. Lane and Zacchigna presented information on creating regional disbursement centers to be located throughout the state. The regional centers would be linked by computer, but a waiver would be required for this type of system to be authorized by the federal government.

Both Mulleneaux and Howell spoke on the privatized SDU systems in their home states. Arizona has just begun implementation, while Colorado has been operating a statewide unit for several years. Lockheed Martin is the vendor in both states.

The Lockheed Martin systems are extremely high tech, requiring few employees. For example, the Colorado system collects, processes, disburses and distributes child support payments and provides customer service for nearly one million payments a year with a staff of seven.

County Settlements Screened For Child Support Obligations

By Steve Watts
Knox County Asst. State's Attorney

Throughout the state it is now common practice to collect current and child support arrearages from lump sum settlements received by responsible relatives. All defendants who sue the County of Knox are now being screened to determine if they owe child support. If they appear in the KIDS system we seek injunctive relief to prevent distribution of any award or settlement not only until all arrearages are paid but also to collect 20% or more of the net settlement for current child support. This is a winner for the payee, the Department, and your County Board. All it takes is regular communication between the State's Attorney civil division and child support enforcement with a brief protocol between divisions. Assistant Attorney Generals can also do this with the several counties they each serve

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If you attended the IFSEA Conference in Springfield in October your membership for 1998-99 was included in the registration fee. But if you didn't, and have not sent in a membership renewal form (and dues) since September 1, 1998, ***your membership has expired!***

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(FEIN: 37-1274237)

(12/98)

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

in November 1998. Cook County cases decreased 18 percent, from 94,685 to 77,703 during that same period.

- November statistics show the lowest-ever number of clients who lost their jobs--from 3,259 in 1997 to 2,531 in 1998. Only 6 percent of welfare clients working a year ago have lost their jobs.

IDPA Introduces Credit Cards to Collect Child Support Debts

The Illinois Department of Public Aid has made it possible for parents to pay their delinquent child support by credit card, resulting in collections of nearly $123,000 in a matter of weeks.

"By accepting credit card payments for the first time, the state is able to collect money that might not have otherwise been paid," said State Public Aid Manager Joan Walters. "The real beneficiaries are the children who would have probably missed out on the support without this new payment plan.

"The response to the credit card program has been exceptional. We wanted to give persons who owe child support the option of using their credit cards to settle their debts to their children, and dozens of parents have responded."

The 90 credit card transactions processed since late October have averaged more than $1,360 per payment.

The persons who paid with credit cards were among 180,000 persons who recently received department notices that their federal and state income tax refunds would be intercepted next year unless they paid off their delinquent child support obligations. Parents received the notices if the amount of unpaid child support was at least $150 for families receiving welfare and $500 for families not receiving welfare.

The pilot project gave persons the choice of mailing credit card authorization payment forms to the department or calling a special toll-free phone number.

Walters said the pilot project is being studied to see if credit card usage for payment of child support can be expanded.

Woodward Joins Reconciliation Team

On November 30, 1998, OCS Administrator Bob Lyons announced that Nancy Woodward has joined IDPA's Child Support team as Project Director of the Reconciliation Program. Her primary responsibility with OCS will be to get the KIDS and Clerks' reconciliation done prior to October 1, 1999. Woodward comes to IDPA from the Sangamon County Circuit Clerk's office, where she had been employed since 1989, most recently as Director of Operations.

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