

**FAMILY SUPPORT
FORUM**

The Official Newsletter of the Illinois Family Support Enforcement Association

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No. 3

Providing Support at the Point of Re-entry: IDPA Helps Ex-offenders Re-enter Society and Reunite with their Families

For over six years, Illinois Department of Public Aid's (IDPA) Division of Child Support Enforcement (DCSE) has helped imprisoned fathers connect with their children through paternity establishment. Now DCSE is going beyond the bars to help ex-offenders reconnect with their children and society.

Ex-offenders face many obstacles when returning to society: hiring biases against people with criminal records, poor education, and spotty or nonexistent histories. In addition, many accumulate substantial child support debts in prison as Illinois does not automatically suspend or abate orders when an individual enters prison.

Thus, many inmates leave prison without a job, with few contacts outside the prison, and a hefty child support debt. If they are fortunate enough to secure employment, they often experience child support's punitive enforcement measures such as income withholding, income tax interception, driver's license suspension, and information reported to credit bureaus and collection agencies. Their child support debt, coupled with other issues, leave inmates feeling helpless. Because of their difficulties on the outside,

they often return to prison.

IDPA Demonstration Grant Assists Released Inmates

IDPA's Division of Child Support Enforcement is working with the Illinois Department of Corrections and the Safer Foundation to help inmates with their child support issues. Through a demonstration grant from the Federal Office of Child Support Enforcement, inmates are getting help having their child support payments adjusted to reflect their income. In addition, they receive job training and placement and courses on building healthy relationships with their families, including their children and their children's mother(s).

"If we can remove just one barrier, it may mean the difference between returning to prison or becoming a productive member of society," says Joseph Mason, Program Manager of DCSE's Community Outreach Unit. "People should realize that these guys are not *dead beats*, they are *dead broke*, and are trying to become better people and better parents. We at child support realize this, and we are helping remove barriers

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FAMILY SUPPORT FORUM

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

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

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

Contact the Editor or Assignment Editor for details.

Please Contribute - its YOUR Newsletter!

*The ILLINOIS FAMILY SUPPORT
ENFORCEMENT ASSOCIATION*

Invites you to its

***FIFTEENTH ANNUAL CONFERENCE
ON SUPPORT ENFORCEMENT
& MEMBERS' MEETING***

Stoney Creek Inn, East Peoria, Illinois
October 19 – 21, 2003

TENTATIVE AGENDA

SUNDAY OCTOBER 19, 2003

3:00 - 7:00 p. m.	REGISTRATION	Foyer
6:00 - 7:00 p. m.	APPETIZERS / CASH BAR	Northwoods Rm.
7:00 – 9:00 p. m.	ANNUAL BANQUET	Northwoods Rm.
	Keynote Address: Speaker TBA	
9:00 – 11:30 p. m.	HOSPITALITY SUITE	Club Room

MONDAY, OCTOBER 20, 2003

7:00 – 9:00 a. m.	CONTINENTAL BREAKFAST (<i>Complimentary for guests of Stoney Creek Inn (Available in Northwoods Rm. from 8:15 to 9:15 a.m. for non-guests only)</i>)	
8:30 a. m. - 4:30 p. m.	REGISTRATION	
8:45 - 10:15 a. m.	PLENARY SESSION	
	Opening Remarks:	Yvette Perez-Trevino, IFSEA President
	Federal IV-D Update:	Speaker: TBA
	Illinois IV-D Update:	Lonnie Nasatir, Director, IDPA DCSE, Chicago/Springfield
	Case Law Update:	Diane Potts, Assistant Attorney General, Civil Appeals Division, Chicago
	Legislative Update:	James Ryan, Attorney at Law, Hillside
	Attorney General Update:	Speaker: TBA
10:15 -10:30 a. m.	BREAK	Foyer

(Cont'd. on page 4)

(Tentative Agenda, cont'd. from page 3)

10:30 – 11:45 a. m. GENERAL SESSION

- 1. Military Support Issues:** Northwoods Rm.
An overview of issues affecting child support collection from members of the United States Armed Forces, including the Soldiers' and Sailors' Civil Relief Act.
Speaker: Rodney Wynn, U. S. Dept. of Defense

11:45 a. m. – 12:00 p. m. **ANNUAL MEMBERS MEETING - PART 1**
Consideration of Proposed By-Law Amendments
Nominations and Election of Directors for 2003-05

12:00 - 1:15 p. m. LUNCH (included in registration) Northwoods Rm.

1:15 - 2:15 p. m. BREAKOUT SESSIONS

- 2. Bankruptcy Issues** Northwoods Rm.
A discussion of the interplay between Chapter 7 and Chapter 13 bankruptcy and the collection of current support, arrearages and the enforcement of judgments from debtor obligors.
Moderator: Angela Williams, Asst. Attorney General, Peoria
Speaker: TBA

- 3. Circuit Clerks' Issues** Pines Rm.
A discussion between Circuit Clerks, IDPA and SDU staff regarding the role of the Clerks in the enforcement and collection of child support.
Moderator: Brenda Miller, Mason County Circuit Clerk, Havana
Panelists: Pam Gardner, Tazewell County Circuit Clerk, Pekin
Debra Roan, IDPA, DCSE
Others: TBA

2:15 - 2:30 p. m. BREAK Northwoods Rm.

2:30 - 3:30 p. m. BREAKOUT SESSIONS

- 4. Disestablishment of Parentage**
An overview of the law regarding the disestablishment of parentage. Topics include actions under § 2-1401 of the Code of Civil Procedure, rescission of Voluntary Acknowledgment of Paternity and actions under § 7 (b) of the Parentage Act.
Moderator: Georgia Heth, Asst. Attorney General, Peoria
Panelists: Richard Saavedra, Office of General Counsel, IDPA
Diane Potts, Asst. Attorney General, Civil Appeals Division, Chicago
Others: TBA

- 5. Certification of IV-D Staff**
A session devoted to a proposed professional certification program for IV-D staff.
Moderator: Pam Compton, Associate Administrator, IDPA DCSE, Springfield
Speakers: TBA

3:30 - 3:45 p. m. BREAK

(Cont'd. on page 5)

Conference Facilities & Accommodations

IFSEA's Fifteenth Annual Conference and Members' Meeting will be held at Stoney Creek Inn, located at 101 Mariners Way, East Peoria, Illinois 61611. The Inn, opened in January, 2000, is located along Route 116 at EastPort Marina on the Illinois River, less than 10 minutes from downtown Peoria, 15-20 minutes from the Peoria airport and less than two miles from the Par-a-Dice Casino

The Inn's 165 guest rooms offer a variety of room types, including 15 suites, each with a gas burning stone fireplace and a unique theme decor. Some of these suites are complete with a whirlpool spa while others offer a spectacular view of the Illinois River and a private deck or patio. Inn amenities include an exercise room, video game room, indoor-outdoor pool, whirlpool, sauna, hair dryer and internet access in every room, complimentary airport shuttle, evening bar and complimentary continental breakfast.

A block of 85 rooms is being reserved for IFSEA Conference participants at Stoney Creek Inn for each night of the conference. Be sure to mention IFSEA when making reservations. The nightly Downstate State Government Rate of \$69.00 (plus tax) applies. Reservations can be made by phone to (309) 694-1300 or toll-free at (800) 659-2220. (See their web site at www.stoneycreekinn.com.)

There is also a block of 20 rooms being held at the Hampton Inn located 2 miles south (adjacent to the Par-a-Dice Casino) at 11 Winners Way, East Peoria, Illinois 61611. Their number is (309) 694-0711. Again, State Rates apply and mention the IFSEA Conference when making reservations. Rooms at both facilities will be held in a block until October 6th, so make reservations early.

Driving Directions: From I-74, from either direction, use exit 95 B (Rte. 116, to Metamora). After you come down the exit ramp you can only make a right turn, whether coming from I-74 east or west. Turn right onto Rte. 116 East. To the Hampton Inn, go about 1 mile east on Rte. 116. Take a left on Winners Way (next to the Par-a-Dice Riverboat Casino). To Stoney Creek Inn, continue past the Hampton Inn turnoff on Rte. 116 approximately 2 more miles (east). Then turn left onto Mariners Way.

If coming on I-80, take the I-180 Exit (towards Peoria). I-180 ends and flows into Rte. 29 South. Continue on Rte. 29 South into Peoria. Once in Peoria you will come to Rte. 150. Take Rte. 150 East, crossing the Illinois River. Take the exit for Rte. 116 west, toward East Peoria. Turn right onto Rte. 116. Go about 1-1/2 miles. Turn right onto Mariners Way to Stoney Creek Inn. If staying at the Hampton Inn, continue on Rte. 116 another two miles to Winners Way, then turn right.

Conference Registration

The cost for this year's conference, including all materials and IFSEA membership for 2003-04 is \$110 if received by October 6, 2003, and \$135 for registrations received later. You may, of course, register as a walk-in at the conference. The registration fee includes the Sunday banquet, Monday luncheon, continental breakfasts Monday and Tuesday and a get-away box lunch on Tuesday. Extra tickets for conference meals may be purchased (see the registration form, page 7). Let us know if you prefer vegetarian meals. And to help us plan for adequate space for each session, please indicate your probable session preferences on your registration form.

Payment of Registration fees must accompany registration forms or be arranged by the beginning of the conference. Checks made payable to IFSEA and separate registration forms for each attendee should be mailed to **Illinois Family Support Enforcement Association, P. O. Box 370, Tolono, IL 61880-0370.**

Cancellations and Refunds

Registration fees in excess of \$20 (membership dues for 2003-04) will be refunded if notice of cancellation is received by Tom Sweeney, IFSEA Registration, **before October 6, 2003**. **NO REFUNDS WILL BE GIVEN FOR CANCELLATIONS RECEIVED AFTER THAT DATE.**

2003 Conference Registration Form

(Please submit separate registration for each person attending)

Please Register me for IFSEA's Fifteenth Annual Conference on Support Enforcement, October 19-21, 2003.

PLEASE TYPE OR PRINT LEGIBLY.

Name (to appear on Membership Certificate): _____

Title & Employer: _____

Office Address: _____

City/State/Zip _____ Phone: _____

Preferred Mailing Address: _____

My Registration fee of \$ _____ is enclosed will be paid by (agency): _____

Please confirm, in advance, with the appropriate authority if you think your agency is paying your registration!

(Registration fees must be paid in full, or firm billing arrangements made, prior to the start of the conference.)

(\$110.00 fee required for registrations received on or before October 6, 2003, \$135.00 required thereafter)

NOTE: If payment is not enclosed, the signature of an official authorized to guarantee payment is required.

The undersigned hereby certifies that (s)he is authorized to guarantee payment by the agency indicated below.

Signature: _____

Agency: _____

Please answer: I will will not be attending the Sunday dinner. _____

Vegetarian Meals preferred.

**(If any of your meal plans change, please notify the conference Chair
Scott Michalec (309 686 7853) at least 5 days before the conference.)**

Please include ____ additional tickets for the Sunday dinner (include \$25.00 extra for each additional ticket).

Please include ____ additional tickets for all meals (include \$50.00 extra for each additional set of tickets).

(Guest's Meal Preferences: ____ Regular meals ____ Vegetarian meals.)

I am particularly interested in the following Sessions (tentative, subject to change): (please circle)

- | | |
|--|--------------------------------|
| G. Plenary Session I - General Session | 1. Military Support Issues |
| 2. Bankruptcy Issues | 3. Circuit Clerk's Issues |
| 4. Disestablishment of Parentage | 5. Certification of IDPA Staff |
| 6. Hot Tips for Lawyers | |

Tuesday morning sessions:

- | | |
|--|----------------------|
| 7. Judicial vs. Administrative Process | 8. Interstate Issues |
|--|----------------------|

Please return with Registration Fee to:

IFSEA Conference Registration

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

(FEIN No. 37-1274237)

2003 Proposed By-Law Amendments

The following Amendments to the By-Laws of the Illinois Family Support Enforcement Association, tabled from IFSEA's Fourteenth Annual Members' Meeting in 2002, have been proposed and are presented to the Membership for its approval at the Fifteenth Annual Members' Meeting, October 20, 2003. (Proposed new language is underscored; language to be deleted is ~~lined through~~.)

Vote "Yes" to approve the amendment; vote "No" to reject it.

Proposed Amendment # 1: To amend Paragraph B of Article VIII (Officers) as follows:

ARTICLE VIII: Officers.

- B. Election and Term of Office: Officers shall be elected from among elected Directors by majority vote of Directors in attendance at a meeting of the Board of Directors held immediately following or in conjunction with the Association's Annual Meeting. Officers shall serve terms of one year expiring one month following the first meeting of Directors held immediately following or in conjunction with the Association's next Annual Meeting. Vacancies in the position of any officer shall be filled by vote of the Board of Directors. No person may be elected to the office of President for more than two consecutive terms.

* * *

Proposed Amendment # 2: To amend Article X (Amendment to By-Laws) as follows:

ARTICLE X: Amendments to By-Laws. These By-Laws may be amended at any annual or special meeting of the general membership by a majority vote of regular members in attendance. Only proposed amendments provided to the membership in writing with or prior to the official notice of the membership meeting at which such proposal is to be considered may be considered at that meeting, although minor amendments to any such proposed amendment may be approved without such prior written notice.

* * *

Nominations Sought for IFSEA Director Election

Half of the twenty member-elected IFSEA Director positions will be subject to election at the Annual Members' Meeting to be held during the 15th Annual Conference on Support Enforcement. Two directors are to be elected from Cook County plus four from each of the two downstate regions. Terms of office for Directors elected this year extend until 2005.

The Annual Meeting will again be split into two parts during IFSEA's Conference program. The election of Directors (including any nominations from the floor) will take place Monday, October 20th at 11:45 a.m. in the Northwoods Room of the Stoney Creek Inn in East Peoria. Results will be announced at the Annual Members' Meeting on Tuesday, October 21st.

Pursuant to Art. VII of the By-Laws, nominations for election are to be submitted in writing to the Nominations & Resolutions Committee at least seven days prior to the election - i. e., by October 13, 2003. Nominations may also be made from the floor if supported by five members from the region to be represented by the elected Director. However, time is extremely limited at the meetings, so advance nominations are urged.

If you would like to be elected to the IFSEA Board of Directors, or you know someone you would like to see elected, please complete the Director Nomination form provided below and return it to: IFSEA, Nominations & Resolutions Committee, P.O. Box 370, Tolono, IL 61880-0370. Incumbents seeking re-election also require nomination. Only regular members in good standing (membership dues paid for 2003-2004) may be elected or appointed to the Board of Directors.

Those holding elected positions on the current IFSEA Board of Directors and their terms of office are as follows (see page 2 for the complete Board and officers):

Region	2001 – 2003 *	2002- 2004
1.	Norris A. Stevenson, (Mgr., IDPA DCSE); James W. Ryan, (Atty. at Law);	Christa Fuller, (Project Mgr., MAXIMUS); Durman Jackson, (Asst. State's Atty.)
2.	Jeffrey McKinley, (Asst. Atty. Gen'l.); Lawrence Nelson, (Asst. Atty. Gen'l.); Yvette Perez-Trevino, (IDPA, DCSE); Daun Perino, (Asst. State's Atty.)	Deanie Bergbreiter, (Asst. Atty. Gen'l.); Jeanne Fitzpatrick, (Asst. Atty. Gen'l.); Scott Michalec, (Asst. Atty. Gen'l.); Mary Morrow (Reg. Mgr., IDPA, DCSE)
3.	Cheryl Drda, (Asst. State's Atty.); Christine Kovach, (Asst. State's Atty.); Thomas P. Sweeney, (Atty. at Law); Thomas M. Vaught, (Asst. Atty. Gen'l.)	Pamela Compton, (Assoc. Admin, IDPA, DCSE); Linda Dirksen, (Super., IDPA, DCSE); Marjie Haning, Asst. Mgr., IDPA, DCSE); Matthew J. Ryan III, (Asst. Atty. Gen'l.)

* Directors whose terms end this year. The one-year terms of "At-Large" Directors Scott Black, Asst. Attorney General from Springfield, and James Sledge, Asst. State's Attorney from Chicago, also expire at this year's election.

**NOMINATION FOR ELECTION TO THE BOARD OF DIRECTORS
ILLINOIS FAMILY SUPPORT ENFORCEMENT ASSOCIATION
October 20 – 21, 2003
For a two-year term of office
2003 - 2005**

I hereby nominate the following person for election to the IFSEA Board of Directors:

Nominee: _____

Position/Employer: _____

Office Address (County): _____

Credentials/Comments: _____

Person Making Nomination if other than Nominee: _____

Office Address (County): _____

To be eligible for election the nominee must be a regular member of the association, in good standing (with dues paid for the upcoming year) prior to the election.

**Return before October 13, 2003, to:
IFSEA, Nominating & Resolutions Committee
P.O. Box 370, Tolono, IL 61880-0370**

("Providing Support at Re-entry," cont'd. from page 1)

to their reentry into society."

Studies show that regular child support payments can contribute to the establishment of increased and regular contact between the NCP and his/her children, fostering the positive emotional development of the entire family. Studies also show that ex-offenders who build relationships with their children are less likely to return to prison.

Transition Center Programs Include Child Support Modification Help

The project began with two Adult Transition Centers (ATCs), run by the Safer Foundation (Safer) under contract with the Illinois Department of Corrections. For 30 years Safer has been working with ex-offenders in Illinois and other states to help them not only re-enter society, but to stay out of prison and become productive members of society. Inmates reside in ATCs up to a year before their parole date and are given intensive training and counseling to help prepare them for their return to life on the "outside." The ATCs are also work release centers, allowing the inmates to search for and secure employment prior to being paroled. As part of the grant activities, Safer's orientation sessions for all new inmates include information on child support. Lessons on relationship building and parental responsibility have been added to the inmates' courses.

ATC residents who agree to participate in the grant program receive assistance with modifying their child support orders. When appropriate, participants are referred to the state's Access and Visitation program to help them establish contact with their children.

"Resolving child support issues for offender fathers benefits everyone. It is the basis for the re-establishment of positive relationships with the offenders' children and their mothers. It directly provides support to the custodial household, it eliminates a major disincentive to work for returning offenders," says Ron Tonn, Associate Vice President, Safer Foundation. For the most part, offender fathers want positive nurturing relationships with their children. 'Getting right' with their financial obligations is the necessary first step."

MAXIMUS, Attorney General Assist in Support Modifications

MAXIMUS Inc., the company which handles modification and enforcement related services for DCSE in Cook County, and the Illinois Attorney General's offices are crucial players in the project. MAXIMUS staff review the cases, and calculate the arrearage and amount of current support that should be paid based on the inmate's current income. The Attorney General's office represents IDPA in court hearings on modification of these child support orders.

"The modification process we are developing through the grant will eventually be replicated state-wide for anyone needing their child support order modified," says Mason. "A lot of people will benefit from this project."

The modification hearings take place in Chicago at the Expedited Child Support Program of the Circuit Court of Cook County and are conducted by Hearing Officers. The support of Judge Moshe Jacobius, Presiding Judge of the Domestic Relations Division of the Circuit Court of Cook County and Mr. Yehuda Lebovits, Director of the Expedited Child Support Program was instrumental in establishing a special call for these cases. The custodial as well as the non-custodial parent has the right to appear at the hearing.

Custodial Parent Response Positive

The response of the custodial parents has been overwhelmingly positive. "The mothers are pleased that they are getting any action on these cases which have been stagnant for so long," says Assistant Attorney General Deanie Bergbreiter who represents IDPA at the hearings. "In addition to being interested in receiving payments, they also want the fathers to have a relationship with their children, and we can help make that happen."

"I am impressed with the non-adversarial nature of the hearings," says Hearing Officer Sterling Cary who hears modification cases at the Expedited Child Support Program. "IDPA is there in the best interest of the family and no one feels as though the system favors one parent over the other."

Video, Materials Being Developed

In addition to helping inmates with their cases, staff working on the grant are also developing a video highlighting the project and written materials that provide information on child support services including modification of orders. These items will have a shelf life far beyond the grant which ends in September. The modification process will continue and eventually all inmates in IDOC facilities will receive information on child support services.

"The Father Reintegration Program has allowed offenders at the ATCs to better understand their child support obligations," says Janice Hope, Auditor, Illinois Department of Corrections. "These offenders have developed the understanding that financial support is an important part of their parental responsibility. With the opportunity to have their child support obligations modified according to their current job income, they can begin to develop positive practices in respect to their redeveloping relationships with their families."



From the IDPA . . .

. . . ILLINOIS IV-D UPDATE

IDPA Commended by Federal Office for Use of Automation

The most recent issue of *Tips, Techniques and Technology for Using FPLS Data* includes an article on "The State of Illinois' Use of Automation in Its Processes". IDPA's Division of Child Support Enforcement (DCSE) and Office of Information Services (OIS) are commended for the Locate Unit's intranet site for IDPA Locate Staff, for automation in income withholding, for automation of liens, and for reduction in postage costs through use of automation.

DCSE's Locate Unit created an intranet site that includes links to internet web sites used by program staff. Some of the included sites are: the Federal OCSE, Federal Bureau of Prisons, Federal Department of Defense, Vital Records.com, GovSpot.com, State of Illinois Professional Licenses, numerous free phone directory sites and a number of search engines. Locate unit workers also have desktop access to credit bureaus, drivers' license information, and commercial license information. Access to these sites enables staff to perform Locate functions more efficiently.

OIS KIDS staff and DCSE KIDS Support staff focused on automation as a key aspect of KIDS capabilities. The implementation of the National New Hire Database as an element of the Personal Responsibility and Work Opportunity Act made this an even more effective tool for collection of child support. Illinois uses automation throughout the income withholding function.

Automation of lien processing is being piloted in Illinois. Use of multi-state financial institution data matching for asset seizure resulted in collections of \$2,595,799 in fiscal year 2002. In addition to financial institution data matching, Illinois works with the Illinois Department of Revenue and with several contracted private collection companies to collect on hard-to-collect accounts. In fiscal year 2002, \$31,775,442 was collected through the private collection agencies.

Illinois has also analyzed and implemented use of the United States Postal Service's Address Change Service to reduce postage costs. Undeliverable mail is handled more efficiently and in a more timely manner through automation of information received from the Postal Service.

IDPA Reports Plans to Publicize Child Support Deadbeats

(from the DCSE Web site: www.ilchildsupport.com)

The department will be adding a list of Non-Custodial Parent names that are delinquent in their child support to the agency Web site. Included will be the name of the Non-Custodial Parent, their last known address and the amount of past-due support owed as of a given date. Our intent is to use this enforcement tool in cases where other enforcement remedies administered by the department have not been successful.

Non-Custodial Parents will be notified in advance of the department's intent and be provided with the right to contest our determination of balance due.

The Illinois Department of Public Aid has the authority to publicize delinquent Non-Custodial Parent (NCP) names via the Internet. Legislation was enacted July 1, 2002, but authority via the Illinois Administrative Code was not adopted by JCAR (Joint Committee on Administrative Rules) until May 1, 2003.

The department will seek a signed Delinquent Parent Consent to Release Information and a recent photo of the NCP, to publicize on the Internet, from the custodial parent of the affected case.

The notice process takes a minimum of 60 days so look for the new information this summer!!

The full article is included in the U.S. Department of Health & Human Services, Administration for Children and Families Information Memorandum IM-03-04. The memorandum can be found on the web at: www.acf.dhhs.gov/programs/cse/pol/im-03-04.htm.

The Application of Child Support Interest: More Than Just a Sharp Pencil

By Donald Ray *

By now we should all be aware that child support accrues interest at nine percent a year, as stated at 750 ILCS 45/20.7 and 5/505(b) Interest on support obligations:

"A support obligation or any portion of a support obligation, which becomes due, and remains unpaid for 30 days or more shall accrue simple interest at the rate of nine percent per annum. An order for support entered or modified on or after January 1, 2002 shall contain a statement that a support obligation required under the order, or any portion of a support obligation required under the order, that becomes due and remains unpaid for 30 days or more shall accrue simple interest at the rate of nine percent per annum. Failure to include the statement in the order for support does not affect the validity of the order or the accrual of interest as provided in this Section."

It is my experience that most attorneys do not know what this actually means to our everyday practice, which may be due to the fact that there is no case law or a specific statute which explains how this interest is to be applied. This article will address several maxims to follow in your practice: Interest is mandatory, each installment of current support due is a separate judgment in itself, interest accrues each day, and payments made to reduce or satisfy the unpaid amounts must be applied to interest first. If this article drives home any point let it be this--you must account for the accrual of interest when entering an order which applies a payment(s) made by the obligor.

Interest is Mandatory

The following example is common and has malpractice written all over it. The obligor was ordered to pay \$100 in current child support on a weekly basis and failed to do so for five consecutive years. The parties show up to court with their attorneys and the obligor turns over a check for \$10,000. The attorney for the obligee drafts an order which includes an arrearage

judgment for \$16,000. The problem with this scenario and hopefully obvious to all is that the amount of unpaid current support that accrued over the five years totaled \$26,000, and that entering a judgment for \$16,000 neglected to account for the interest owed. The amount of interest owed on the first-week installment alone would have been \$45.65. The interest owed for each of the remaining weeks decreases, but remember the obligor owed interest on 260 installments, which is almost \$6,000 in interest the attorney for the obligor may now be facing in a malpractice situation.

Each Installment of Unpaid Current Support Becomes a Separate Judgment

Child support is unlike most civil actions in that each case has multiple payments due. The calculation of interest owed is not like determining interest on a single judgment as most people think. I cannot remember how many attorneys have told me that calculating the amount of interest in a child support case is just like calculating the interest for a mortgage. Each of them failed to account for the fact that there is not just one judgment to consider; essentially there are multiple mortgages to take into account. That is a lot of pencil sharpening. Each separate payment which is due and not paid -- be it weekly, biweekly, semi-monthly, or monthly, becomes a separate judgment. 750 ILCS 45/14(c) and 5/505(d) provide as follows:

"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

(Cont'd. on page 13)

(* Reprinted, by permission of the author, from the June, 2003 issue of the Family Law Section Council Newsletter of the Illinois State Bar Association. Donald Ray is an attorney in private practice in Rockford, Illinois, concentrating in child support enforcement.

As a participant in IFSEA's 2002 conference, Mr. Ray may be remembered as having generated some heated exchanges regarding differences between his views on interest calculation and the methods employed by the IDPA. The opinions expressed in this article are those of the author, and do not necessarily reflect the views or endorsement of IFSEA, its Directors or membership. "Equal time" has been offered to a knowledgeable advocate on behalf of IDPA to present any contrary position.)

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." (Emphasis added).

Interest Accrues on a Daily Basis

When looking at all the missed payments over a given length of time, most people can determine what is owed for any single unpaid installment that occurred exactly one year removed by simply multiplying the individual amount by nine percent (.09). However, for each payment period which is less than or more than a year old, simply multiplying the amount owed for that unsatisfied judgment week by nine percent does not work. Obviously an installment of \$100 which was not paid on January 1, 1995 has accrued more interest than the installment which was due on January 1, 2002. The calculation of the interest accrued becomes precise and uniform after finding out the interest owed for each passing day--simply multiply the number of days that have passed by the daily interest or, the "Per Diem Interest Approach." This method, "Per Diem Interest Approach," takes into consideration the nine percent per annum language of 750 ILCS 45/20.7, and the language of the Interest Act, 815 ILCS 205/10 which provides as follows:

"In all computations of time, and of interest and discounts, a month shall be considered to mean a calendar month, and a year shall consist of twelve calendar months; and in computation of interest or discount for any number of days less than a month, a day shall be considered a thirtieth part of a month, and interest or discount shall be computed for such fractional parts of a month upon the ratio which such number of days shall bear to thirty."

The "Per Diem Interest Approach" in practice multiplies the installment (an individual child support payment due) by nine percent or .09, then divides that figure by 12 for the number of months and 30 for the number of days per month, resulting with an amount of interest owed each day--a per diem interest. Unsatisfied judgments in the amount of \$100 carry a per diem interest of \$0.025 and will accrue that amount each day until that \$100 judgment is satisfied. Remember, interest only accumulates on the installment if such is not paid within the 30-day grace period. Once the per diem interest is determined, you simply multiply the per diem rate for every day not paid, thereby being able to verify the interest owed on any day for any unpaid installment of any given period of time. This systematic accountability of calculations for each unsatisfied judgment eliminates skepticism that the interest results are in error, especially when the interest calculations cover large periods of time. I am not saying performing these calculations for all the missed payments using just a legal

pad and a No. 2 pencil is going to be quick and easy, but this is what needs to be done.

For those of you who still think simply multiplying the total amount of missed payments by nine percent is the proper method to determine the interest owed--what I call the "Lump Sum Approach"--should consider the following example. An obligor has missed 52 weeks of \$100 child support payments, \$5,200 would be owed if we do not consider the interest. If the "Lump Sum Approach" is used, the amount owed for interest would be an additional \$468 ($5,200 \times .09$). After one year has elapsed since the initial installment was due and numerous \$100 installments thereafter remain unpaid, the amount of interest accrued for the first week installment is more than the interest accrued for week two, simply due to the fact that more days have passed. Weeks 2-52 of \$100 payments which remain unpaid have not yet each accrued \$9 of interest because a full year has yet to elapse for each of those unsatisfied judgments. Thus, the amount of \$468 is too high. The lump sum approach produces an inaccurate interest amount in that the result exceeds what the actual interest would be for those individual 52 weeks of missed payments. Not to mention a very important fact that weeks 49-52 are still within the 30-day grace period where no interest attaches yet. [750 ILCS 45/20.7].

How Payments Made to Reduce a Delinquency/arrearage Are to be Applied

Whenever an amount is paid in a child support case it is crucial to first reduce such payment by the amount owed for current child support with the remaining amount, if any, to be applied to the past due amounts. Thus, if the obligor is required to pay \$125 per week for current support and the amount of \$200 is sent to the State Disbursement Unit only \$75 should be used for purposes of reducing the amount of unsatisfied judgments.

In the event there are funds available such as the \$75 above, how do we apply this? The application process is derived from the maxims stated earlier--determine which payments were not made, figure the interest owed for each and then apply the available funds. If week one was never paid and the interest owed is only \$25 then the \$75 is reduced and the remaining \$50 is used to reduce the current support that has yet to be paid in full. If there are multiple unsatisfied judgments, the \$75 is applied to the oldest judgment with its correlating interest reduced first as opposed to picking a judgment to satisfy at random.

The necessity for applying a payment to the oldest unsatisfied judgment first is demonstrated by the following: An obligor is ordered to pay \$100 per week for current support and fails to pay the first four weeks or

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28 days. The obligor would owe a delinquency of \$400 on day 29 with no accrued interest because 30 days has not yet elapsed on the week one payment [750 ILCS, refer to 45/20.7 and 5/505(b)]. If the obligor makes a \$200 payment on day 29, we first apply \$100 to current support for week five and the remaining \$100 is applied to the unsatisfied judgment from week-one and therefore no interest will accrue. The obligor has technically paid the week one installment within 30 days and should thus be given credit and not penalized.

The really difficult part of these calculations--calculations that are essential in the representation of your client--arise when there have been missed payments and payments that were made sporadically to reduce the judgments. Realistically, it may take several payments by the obligor to satisfy one judgment, which requires you to recalculate the interest because the amount of the judgment itself has been reduced, thus changing the per diem interest. The results of calculating nine percent interest is not the same for \$100 as it is for \$75--when you reduce a judgment this change in the per diem rate must be taken into account. It is common to have a case involving a five-year period of time which is 260 weekly payments, and you may have to apply three payments to satisfy a single judgment. This also requires an additional three or more calculations to reset the proper interest for each of the 260 weeks that were not paid.

Conclusion

In sum, the consideration of interest is mandatory. Every payment made to reduce what is owed should be applied first to any accrued interest on the oldest unsatisfied judgment and then to the oldest unsatisfied judgment itself. This process does require multiple calculations; however, it provides for specific and consistent results. The following example illustrates this entire analysis: The obligor is required to pay \$100 per week commencing Friday, January 4, 2002. He makes no payments until the 40th week, when he pays \$125 on October 4, 2002 (a difference of 273 days).

The first \$100 of the \$125 is applied to current support for October 4, 2002. The remaining \$25 is applied to pay off the interest owed on the oldest unsatisfied judgment--and in this case it is week one. The interest owed on week one (\$100 times .09, divided by 12, divided by 30, multiplied by 273 for the number of days) is \$6.83. The remaining \$25 payment is reduced to \$18.17, which is then applied to the unsatisfied judgment of week one, \$100, leaving a balance of \$81.83 still owed for week one. Because the January 4th payment is not paid in full and remains as an unsatisfied judgment, on October 5, 2002 interest will begin to run again and continue to run until the obligor makes a payment large enough to pay off the entire interest and the oldest unpaid week of support. On October 5, 2002 the obligor would owe \$81.83 for the current support of week one and an additional amount of \$0.02 of interest (\$81.83 times .09 divided by 12, divided by 30, multiplied by one for the number of days) which would increase each day by that amount until another payment is made by the obligor.

With this information you can be more prepared in a child support enforcement case, not to mention avoid a malpractice claim. Now if we could just adapt the legal system to enforce the support owed for children with the same vigor the system prosecutes traffic fines, our state can take the lead in enforcement as opposed to the being at the bottom of the barrel. But that issue is for a different day.

(Mr. Ray has developed and is promoting a computer program for the calculation of interest according to the principles espoused in his article. A 30-day trial version of the program, called PAID (Payments Applied to Interest and Delinquency) is available through Davison Solutions, Inc. at www.paidpro.com. For printable results a single-case version of the program is offered at about \$50, and a version for use by attorneys on an unlimited number of cases is offered at \$145.

Mention of this program is for informational purposes only, and is not intended and should not be inferred to suggest any endorsement of the product by IFSEA, its Directors or membership.)

Check out IFSEA on the Internet

www.illinoisfamilysupport.org

Status of 2003 Illinois Legislation

The following summarizes the status of legislation of potential relevance to child support enforcement passed by in the Spring, 2003 of the 93rd General Assembly. For more information, see IFSEA's web site.

Bill No.	Topic	Public Act No.	Effective Date
H.B. 0016	Requires employer, union, utility disclosure of location information to support enforcement agency within 15 days of request	P.A. 93-0116	7/10/03
H.B. 1382	Authorizes injunction against removal of child under Paternity Act; applies removal provisions of IMDMA.	P.A. 93-0139	7/10/03
H.B. 2863	Increases support guideline for 2 children from 25% to 28%	P.A. 93-0148	7/10/03
S.B. 1503	Extends \$100 per day penalty in income withholding act for failure to withhold support	P.A. 93-0294	1/1/04
H.B. 0525	Requires IDPA, Dept. of Employment Security, to disclose to State's Attorneys addresses of recipient victim or witness	P.A. 93-0311	1/1/04
S.B. 0363	Provides factors for review, modification, termination of maintenance; removes changed circumstances to terminate	P.A. 93-0353	1/1/04
H.B. 3504	Requires bond in criminal cases not be released toward obligations in other case until child support is satisfied	P.A. 93-0371	1/104
S.B. 0922	Adopt recent revision of UIFSA	P.A. 93-0479	7/1/04 with stated events
H.B. 2895	Would require IDPA to attempt location of absent parents w/in 60 days of being provided credible location info	Vetoed by Governor 8/7/03	

Can't make it to the Conference?

Don't forget to renew your IFSEA Membership!

ILLINOIS FAMILY SUPPORT ENFORCEMENT ASSOCIATION Application for Membership / Address Correction

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

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

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

Applicant's Name: _____

Position/Title: _____

Employer/Agency: _____

Office _____

City/State/Zip: _____ Office Phone: _____

Preferred Mailing Address: _____

E-mail Address: _____

Is this a New Application Renewal Address Correction ONLY?

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

(FEIN: 37-1274237)

(8/03)

OFFICIAL NOTICE TO MEMBERS

**The Fifteenth Annual Members' Meeting
& Election of Directors
of the Illinois Family Support
Enforcement Association**

will be held in two parts:

Part I: Monday, October 20, 2003, at 11:45 a.m.

Part II: Tuesday, October 21, 2003, at 11:30 a.m.

both sessions in the Northwoods Room of the

**Stoney Creek Inn
101 Mariners Way
East Peoria, Illinois 61611**

The primary items of business will be
the nomination and election of Directors for 2003-05 (see page 9)
and consideration of proposed By-Law Amendments (see page 8)

SEE YOU AT THE CONFERENCE!

See Pages 3 through 6 for Details!

**Illinois Family Support
Enforcement Association**

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