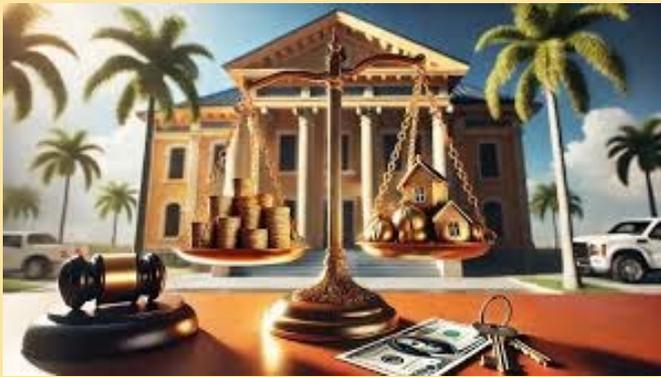




Case Law/Legislative Update 2025

Christina Mahoney and Bryan Tribble

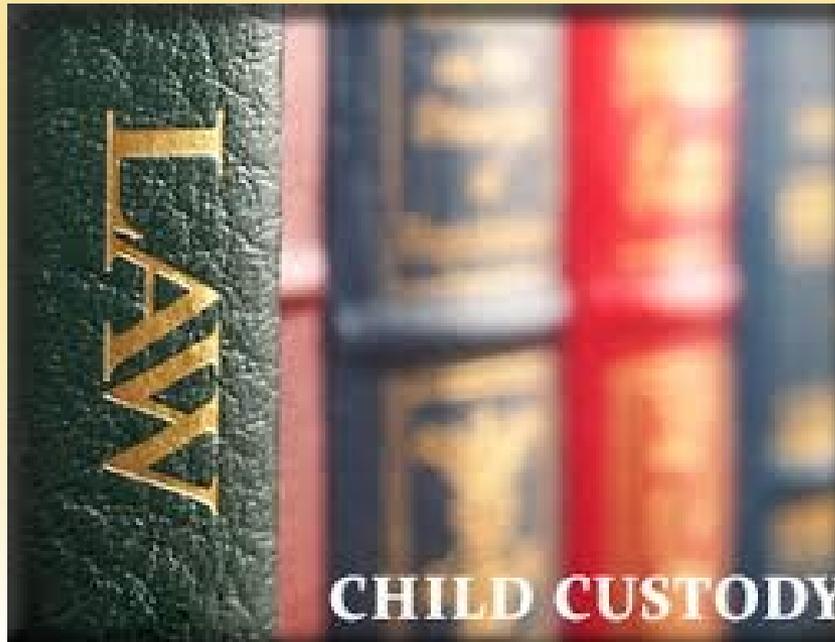
In re Marriage of Xinos & Marino (2025 IL App 1st 232326)



- Husband claimed accounts were nonmarital but gave no discovery responses.
- Court barred him from presenting evidence on nonmarital status.
- All 13 accounts classified as marital and divided 75/25.
- Appeal failed – discovery failures were fatal.
- **Takeaway: Courts strictly enforce disclosure; failure to trace = loss of nonmarital claims.**

Hulsh v. Hulsh (2025 IL 130931)

- Father abducted children internationally with relatives' help.
- Mother sued family for interference with custodial rights.
- Illinois Supreme Court refused to recognize that tort.
- Left remedy to legislature despite sympathy for mother.
- **Takeaway: Illinois courts won't create new family-law torts, even on egregious facts.**



In re Marriage of Culm (2025 IL App 1st 240566)

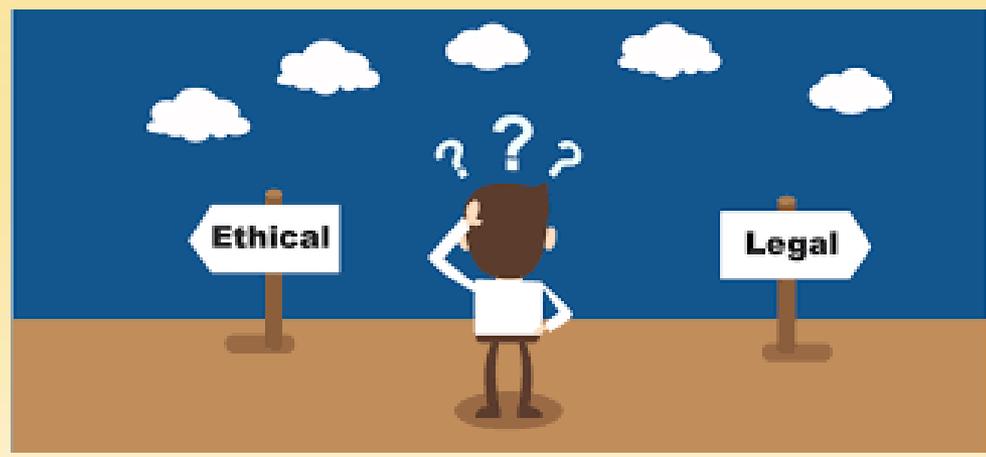
- Ex-husband sought to terminate maintenance for alleged de facto marriage.
- Relationship spanned 7–8 years but had breaks; no cohabitation or shared finances.
- Court held it was long-term dating, not a marriage-like partnership.
- **Takeaway: Serious dating ≠ de facto marriage; maintenance continues absent full integration.**





In re Marriage of Hipes & Lozano (2025 IL App 1st 240601)

- Attorney-mother acted as both key witness and son’s lawyer in custody case.
- Conflict of interest and advocate-witness rule barred representation.
- Ignored disqualification, ghostwrote briefs → contempt and sanctions.
- **Takeaway: Courts enforce ethics strictly — no dual role as witness and advocate.**



Ethics Spotlight: Hipes & Lozano

- Rule 3.7: Lawyers cannot act as advocates if they are necessary witnesses.
- Rule 1.7: Personal/family interests create conflicts.
- Court prioritized child's welfare and professional integrity over parent's counsel choice.
- **Lesson: Family cases test boundaries, but ethics rules remain firm.**

In re Marriage of Lugo (2025 IL App 1st 231478)

- Husband filed for divorce; wife resisted and ignored discovery.
- Court sanctioned her – barred financial testimony and witnesses.
- At trial, she received no maintenance and only a reduced pension share.
- Appellate court upheld sanctions and property division.
- **Takeaway: Discovery sanctions have real consequences; appellate courts won't rescue noncompliance.**



In re Marriage of Spangler & DeFauw (2025 IL App 2d 240303)

- Father paid flat \$700 for years, never disclosed income.
- Court found \$79k arrears + attorney fees; held him in contempt.
- Verbal 'side deals' and equitable estoppel rejected.
- **Takeaway: Child support disclosure and court-approved modifications are mandatory; arrears enforced strictly.**



In re Marriage of Tronsrue (2025 IL 130596)

- 1992 divorce: husband agreed to share veterans' disability benefits.
- Decades later, he argued federal law barred the agreement.
- Illinois Supreme Court upheld it as contractual, not preempted.
- Contempt and attorney fees affirmed.
- **Takeaway: Settlement agreements endure; courts will enforce them decades later.**



In re Marriage of Alpert Knight, 2024 IL App (1st) 230629



High net worth parents – support modification

- Child support \$10k/month
- Father's income: 1.6M to over \$3.6M/year
- Trial court finding - needs had not increased
- Reversed – high income cases; look to standard of living of each parent's household
- Among other things, home repairs was a basis for increased support

Takeaways:

- **Lifestyle disparity matters**
- **Extraordinary income growth counts**
- **Discovery limits – when high-income parent concedes ability to pay, discovery for assets may be restricted**
- **Equity over necessity (affluent families) – child support ensures children share in parent's prosperity, not just meet basic needs**



- High net worth cases – competing concerns:
 - Child support not intended to be windfalls (*IRMO Lee*, 246 Ill. App. 3d 628, 643 (1993), but court must consider the standard of living the children would have enjoyed if parents had not separated and divorced. *Id.* at 643-44.
 - Child support is not to be based solely upon the shown needs of the child. *IRMO Freesen*, 275 Ill. App. 3d 97, 105 (1995).
 - When Section 505 guidelines don't apply, the factors considered in setting any modified amount of support are the same as those used in initially determining support. *IRMO Heil*, 233 Ill. App. 3d 888, 890 (1992).
 - See 5/505(a)(2) for factors –
 - Financial resources and needs of the child
 - Financial resources and needs of the parents
 - Standard of living the child would have enjoyed...
 - Physical and emotional condition of child and their educational needs

In re Marriage of Zechman, 2024 IL App (2d) 23003-U



Voluntary unemployment/Imputation/Gift Income

- Former executive earning \$90-300k/year
- After termination worked part-time at Apple Store for \$43k/year; claimed job change due to mental health but testified could still work in executive roles
- Trial court found voluntary underemployment
- Imputed \$89k employment income and \$99k annual “gift income” based on long-standing financial support from family
- Upheld on appeal

Takeaways:

- **Voluntary underemployment = impute income**
- **Reliance on regular family gifts = impute income**
- **Mental health claims (without medical proof of incapacity) will not insulate parent from imputation**

LEGISLATIVE UPDATES



Public Act 104-0340

Clarified the definition of "child" for purposes of child support to include any child under age 18 and any child over the age of 18 who has not attained age 19 and is still attending high school

- Previously, any child under age 18 and any child age 19 or younger who is still attending high school.

Effective immediately

Public Act 104-0002

Provides that:

- No individual or family should be forced to remain in a violent living situation or place themselves or others at risk in order to attain or retain assistance; and
- No individual or family should be unfairly penalized because past or present domestic or sexual violence or the risk of domestic or sexual violence causes them to fail to comply with TANF program requirements for assistance.

Effective immediately

HB2568

Amends the Illinois Parentage Act by creating the Equality for Every Family Act

- Provides that the policy of this State is that a child has the same rights and protections under law to parentage without regard to the marital status, age, gender, gender identity or sexual orientation of the child's parents, or the circumstances of the child's birth, including whether the child was born as a result of assisted reproduction or surrogacy.
- Provides for who may sign an acknowledgment of parentage to establish the parentage of a child. Changes provisions regarding the use of genetic testing.
- Provides that a parentage proceeding under the Gestational Surrogacy Act may be commenced in any county in the State.

HB2568 (continued)

Amends the Adoption Act

- Provides for a process for a confirmatory adoption for children born through assisted reproduction.
- Makes other formatting and cross-referencing changes.

Lastly

- Provides that a proceeding to adjudicate parentage that was commenced before the effective date of the amendatory Act is governed by the law in effect at the time the proceeding was commenced.

Effective immediately, except that some provisions amending the Illinois Parentage Act of 2015 are effective January 1, 2026.

IV-D UPDATE



What are KPI's Again?

KPI's, or key performance indicators, are a set of five performance areas which are established and monitored on a federal level by the Office of Child Support Services (OCSS). Each state receives a federal ranking within each of the areas measured.

The Five Areas Measured

- ▶ Paternity Establishment Percentage
- ▶ Support Order Percentage
- ▶ Current Collection Percentage
- ▶ Arrears Percentage
- ▶ Cost Effectiveness

Paternity Establishment Percentage

The number of children in the state with paternity established or acknowledged divided by the number of children born out of wedlock the prior year.

FY 2024

98.71

PATERNITY
ESTABLISHMENT

Support Order Percentage

A case open at the end of the federal fiscal year with an order established divided by the number of cases open at the end of the federal fiscal year.

FY 2024

85.14%
SUPPORT
ORDERS

Current Collection Percentage

The total amount of support distributed as current support during the federal fiscal year divided by the total amount of support due for the federal fiscal year.



Arrears Percentage

A case paying toward arrears during the federal fiscal year divided by the number of cases with arrears during the federal fiscal year.

FY 2023

61.52%
ARREARS
PERCENTAGE