PROTOCOL ESTABLISHING USE OF APPROVED NOTICE AND FINANCIAL AFFIDAVIT FORMS IN CHILD SUPPORT ENFORCEMENT CASES

The United States Supreme Court, in ***Turner v. Roger et al.*** 564 U. S. ____ (2011), held that in child support enforcement cases, where the State is prosecuting a Petition for Adjudication of Indirect Civil Contempt, the State must have in place alternative procedures that assure a fundamentally fair determination of the criminal incarceration-related questions, and whether the supporting parent is able to comply with a child support order.

Those procedure safeguards include:

1. Providing Notice to the Obligor that his or her ability to pay is a critical issue in the contempt proceedings;

2. The use of a form to elicit relevant financial information;

3. An opportunity at the hearing for the Obligor to respond to statements and questions about his or her financial status; and

4. An express finding by the Court that the Obligor has the ability to pay.

The Conference of Chief Judges, in consultation with the Illinois Department of Healthcare and Family Services, the Cook County State's attorney's Office, and the Illinois Attorney General's Office has approved a standardized Notice and Financial Affidavit for Petitions for Adjudication of Indirect Civil Contempt, and has further recommended that all Circuit Courts in Illinois use said standardized forms.

In all Dissolution and Family cases, when a party files a Petition for Adjudication of Indirect Civil Contempt for failure to pay child support, a Notice and Financial Affidavit shall be attached and served on the Obligor in accordance with the Illinois Code of Civil Procedure. The Notice and Financial Affidavit shall be in substantially similar form as Exhibit A (Notice) and Exhibit B (Financial Affidavit) attached hereto.

These forms are available through the Circuit Clerk of McLean County; the McLean county Law Library, located on the 6th Floor of the Law & Justice Center; and online at

www.mcleancountyil.gov (to access these forms select Forms and Resources from the Circuit Court index).

Dated this 6th day of January, 2012

Elizabeth A. Robb, Chief Judge
Eleventh Judicial Circuit