

# MEMO

TO: IFLSC

CC: ADAM MARGOLIN  
ELANA T. VINER

FROM: P. ANDRÉ KATZ

DATE: MARCH 4, 2011

RE: SECTION 700

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## **750 ILCS 5/701 Marital Residence—Order granting possession to a spouse:**

- We recommend removing this provision as it is now dealt with under Section 501.

## **750 ILCS 5/702 Maintenance in case of bigamy**

- No recommended changes other than to clean up the language

## **750 ILCS 5/703 Lien of judgment—Sales**

- We recommend the elimination of this provision as the Code of Civil Procedure addresses this.

## **750 ILCS 5/704 Public aid provisions**

- This section mandates that the trial court order and support or maintenance obligor to pay the support/maintenance to IDPA if the recipient is receiving public aid. This makes sense and there may be federal regulations that require the section. But it is covered more expansively by 750 ILCS 5/705(4) addressed below and this section seems unnecessary as it is more comprehensively dealt with in 705.

## **750 ILCS 5/705 Support payments—Receiving and disbursing agents**

- This section obviously pre-existed the rules mandating payments to the clerk that emanated from the federal regulations (709-712). This section, which makes payments to the clerk permissive rather than mandatory, may be in conflict. There is an exception for those latter federal rules mandating withholding, but the exceptions largely ameliorate this particular section.
- Subsection 4 of this statute seems to mirror 750 ILCS 5/704 and is thus somewhat duplicative. It is more expansive and perhaps 704 become unnecessary. I am sure this is federally required and we probably shouldn't tinker with it.

**750 ILCS 5/706.1 Withholding of income to secure payment of support**

- No change is necessary

**750 ILCS 5/706.2 Posting security, bond or guarantee to secure**

- No change is necessary

**750 ILCS 5/706.3 Information concerning obligors**

- No change is necessary

**750 ILCS 5/707 Certificate of dissolution or invalidity of marriage—Filing with the Department of Public Health**

- No change is necessary but is the information in the certificate of dissolution available to the public? It has social security numbers on it. If so we recommend it should be subject to redaction

**750 ILCS 5/708. Disclosure of address**

- No change is necessary

**750 ILCS 5/709. Mandatory child support payments to the clerk**

- Per Muller Davis in Illinois Practice, this section (through 712) is part of the enabling legislation required by Title IV-D of the Social Security Act. It is clear as mud but we shouldn't tinker with it

**750 ILCS 5/710. Enforcement; Penalties**

- No change is necessary

**750 ILCS 5/711. Fees**

- No change is necessary

**750 ILCS 5/712. Child support enforcement program—Certification—Child and Spouse Support Unit in Department of Public Aid—Powers and duties—Financial assistance in counties**

- No change is necessary

**750 ILCS 5/713. Attachment of the Body**

- No change is necessary

**750 ILCS 5/714. Information to locate putative fathers and noncustodial parents**

- No change is necessary