Current Law on Child Support:
Issues Dealing with Children from Multiple Marriages, College Expenses, etc.

Pursuant to 750 ILCS 5/505(a), the court may order either or both parents to pay a "reasonable and necessary" amount of child support for minor children (aged 19, if still attending high school, or younger) born out of the marriage. This duty of support includes "the obligation to provide for the reasonable and necessary physical, mental and emotional health needs of the child." Below is a common set of circumstances for a divorcing/divorced couple with multiple children:

- Mr. and Mrs. Grossman have been married for 14 years, and have 3 children, ages 12, 9, and 7 years old.
- Prior to their marriage, Mr. Grossman was married and had one child who is currently 17 years old and will soon be going off to college.
- Mr. and Mrs. Grossman currently earn the same annual income.
- How much child support should Mr. Grossman be ordered to pay Mrs. Grossman, the custodial parent of their 3 children, if he is already paying 20% of his net income in child support for his child from a prior marriage.

The child support statute provides guidelines as to how much should be allocated to child support payments from the non-residential parent's net income: 1 child= 20% of net income; 2 children= 28% of net income; 3 children= 32% of net income, 4 children= 40% of net income, etc. In determining Mr. Grossman's available net income, "prior obligations of support or maintenance. . . paid pursuant to a court order" shall be deducted from net income. 750 ILCS 5/505(a)(3)(g); *In re Marriage of Potts*, 297 Ill. App.3d 110, 114-115, 696 N.E.2d 1263 (2nd Dist. 1998). "Prior" refers to the obligations to children coming from a previous marriage in relation to children from one's current marriage. *See In re Marriage of Zukausky,* 244 Ill.App.3d 614, 624, 613 N.E.2d 394 (1993). This means that a divorced spouse's obligations to his "first" family must be met before the obligations to the "second" family can be considered. *Potts,* 297 Ill.App.3d at 115. While a payor-parent's obligation may limit his available resources, thus warranting a deviation below statutory guidelines support pursuant to § 505(a)(2)(b), such deviation must not be made "*solely* because the noncustodial parent has a prior child support obligation pursuant to a court order." The *Stanley* Court reasoned that children in separate families "cannot combine or share their expenses and do not benefit from the economies of scale," so if the payor-parent's income is substantial enough to pay child support for all children in accordance to the statutory guidelines, he should be so ordered. *Stanley*, 279 Ill. App. 3d at 1086.

The same rulings also apply to children from an out of wedlock relationship once paternity is established.