



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB2598

Introduced 2/18/2005, by Rep. Kenneth Dunkin

SYNOPSIS AS INTRODUCED:

305 ILCS 5/10-1	from Ch. 23, par. 10-1
305 ILCS 5/10-3.1	from Ch. 23, par. 10-3.1

Amends the Illinois Public Aid Code. Requires the Child and Spouse Support Unit to establish the Child Support Military Modification program that shall provide for modification of child support paid by any member of the National Guard or Reserves of the United States Armed Forces called up to military active duty for more than 30 continuous days. Requires the Illinois Department of Public Aid to publish and distribute a publication reasonably calculated to inform members of the National Guard and the Reserves of the United States Armed Forces of the Child Support Military Modification program. Effective immediately.

LRB094 10956 LCB 41541 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning child support.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Aid Code is amended by
5 changing Sections 10-1 and 10-3.1 as follows:

6 (305 ILCS 5/10-1) (from Ch. 23, par. 10-1)

7 Sec. 10-1. Declaration of Public Policy - Persons Eligible
8 for Child Support Enforcement Services - Fees for
9 Non-Applicants and Non-Recipients.) It is the intent of this
10 Code that the financial aid and social welfare services herein
11 provided supplement rather than supplant the primary and
12 continuing obligation of the family unit for self-support to
13 the fullest extent permitted by the resources available to it.
14 This primary and continuing obligation applies whether the
15 family unit of parents and children or of husband and wife
16 remains intact and resides in a common household or whether the
17 unit has been broken by absence of one or more members of the
18 unit. The obligation of the family unit is particularly
19 applicable when a member is in necessitous circumstances and
20 lacks the means of a livelihood compatible with health and
21 well-being.

22 It is the purpose of this Article to provide for locating
23 an absent parent or spouse, for determining his financial
24 circumstances, and for enforcing his legal obligation of
25 support, if he is able to furnish support, in whole or in part.
26 The Illinois Department of Public Aid shall give priority to
27 establishing, enforcing and collecting the current support
28 obligation, and then to past due support owed to the family
29 unit, except with respect to collections effected through the
30 intercept programs provided for in this Article.

31 The child support enforcement services provided hereunder
32 shall be furnished dependents of an absent parent or spouse who

1 are applicants for or recipients of financial aid under this
2 Code. It is not, however, a condition of eligibility for
3 financial aid that there be no responsible relatives who are
4 reasonably able to provide support. Nor, except as provided in
5 Sections 4-1.7 and 10-8, shall the existence of such relatives
6 or their payment of support contributions disqualify a needy
7 person for financial aid.

8 By accepting financial aid under this Code, a spouse or a
9 parent or other person having custody of a child shall be
10 deemed to have made assignment to the Illinois Department for
11 aid under Articles III, IV, V and VII or to a local
12 governmental unit for aid under Article VI of any and all
13 rights, title, and interest in any support obligation up to the
14 amount of financial aid provided. The rights to support
15 assigned to the Illinois Department of Public Aid or local
16 governmental unit shall constitute an obligation owed the State
17 or local governmental unit by the person who is responsible for
18 providing the support, and shall be collectible under all
19 applicable processes.

20 The Illinois Department of Public Aid shall also furnish
21 the child support enforcement services established under this
22 Article in behalf of persons who are not applicants for or
23 recipients of financial aid under this Code in accordance with
24 the requirements of Title IV, Part D of the Social Security
25 Act. The Department may establish a schedule of reasonable
26 fees, to be paid for the services provided and may deduct a
27 collection fee, not to exceed 10% of the amount collected, from
28 such collection. The Illinois Department of Public Aid shall
29 cause to be published and distributed publications reasonably
30 calculated to inform the public that individuals who are not
31 recipients of or applicants for public aid under this Code are
32 eligible for the child support enforcement services under this
33 Article X. The Illinois Department shall also cause to be
34 published and distributed a publication reasonably calculated
35 to inform members of the National Guard and the Reserves of the
36 United States Armed Forces of the CSMM program established in

1 Section 10-3.1 of this Act. Such publications shall set forth
2 an explanation, in plain language, that the child support
3 enforcement services program is independent of any public aid
4 program under the Code and that the receiving of child support
5 enforcement services in no way implies that the person
6 receiving such services is receiving public aid.

7 (Source: P.A. 92-590, eff. 7-1-02.)

8 (305 ILCS 5/10-3.1) (from Ch. 23, par. 10-3.1)

9 Sec. 10-3.1. Child and Spouse Support Unit. The Illinois
10 Department shall establish within its administrative staff a
11 Child and Spouse Support Unit to search for and locate absent
12 parents and spouses liable for the support of persons resident
13 in this State and to exercise the support enforcement powers
14 and responsibilities assigned the Department by this Article.
15 The unit shall cooperate with all law enforcement officials in
16 this State and with the authorities of other States in locating
17 persons responsible for the support of persons resident in
18 other States and shall invite the cooperation of these
19 authorities in the performance of its duties.

20 In addition to other duties assigned the Child and Spouse
21 Support Unit by this Article, the Unit may refer to the
22 Attorney General or units of local government with the approval
23 of the Attorney General, any actions under this Section,
24 Section ~~Sections~~ 10-10, and Section 10-15 for judicial
25 enforcement or modification of the support liability. The Child
26 and Spouse Support Unit shall act for the Department in
27 referring to the Attorney General support matters requiring
28 judicial enforcement under other laws. If requested by the
29 Attorney General to so act, as provided in Section 12-16,
30 attorneys of the Unit may assist the Attorney General or
31 themselves institute actions in behalf of the Illinois
32 Department under the Revised Uniform Reciprocal Enforcement of
33 Support Act; under the Illinois Parentage Act of 1984; under
34 the Non-Support of Spouse and Children Act; under the
35 Non-Support Punishment Act; or under any other law, State or

1 Federal, providing for support of a spouse or dependent child.

2 The Illinois Department shall also have the authority to
3 enter into agreements with local governmental units or
4 individuals, with the approval of the Attorney General, for the
5 collection of moneys owing because of the failure of a parent
6 to make child support payments for any child receiving services
7 under this Article. Such agreements may be on a contingent fee
8 basis, but such contingent fee shall not exceed 25% of the
9 total amount collected.

10 An attorney who provides representation pursuant to this
11 Section shall represent the Illinois Department exclusively.
12 Regardless of the designation of the plaintiff in an action
13 brought pursuant to this Section, an attorney-client
14 relationship does not exist for purposes of that action between
15 that attorney and (i) an applicant for or recipient of child
16 support enforcement services or (ii) any other party to the
17 action other than the Illinois Department. Nothing in this
18 Section shall be construed to modify any power or duty
19 (including a duty to maintain confidentiality) of the Child and
20 Spouse Support Unit or the Illinois Department otherwise
21 provided by law.

22 The Illinois Department may also enter into agreements with
23 local governmental units for the Child and Spouse Support Unit
24 to exercise the investigative and enforcement powers
25 designated in this Article, including the issuance of
26 administrative orders under Section 10-11, in locating
27 responsible relatives and obtaining support for persons
28 applying for or receiving aid under Article VI. Payments for
29 defrayment of administrative costs and support payments
30 obtained shall be deposited into the DHS Recoveries Trust Fund.
31 Support payments shall be paid over to the General Assistance
32 Fund of the local governmental unit at such time or times as
33 the agreement may specify.

34 With respect to those cases in which it has support
35 enforcement powers and responsibilities under this Article,
36 the Illinois Department may provide by rule for periodic or

1 other review of each administrative and court order for support
2 to determine whether a modification of the order should be
3 sought. The Illinois Department shall provide for and conduct
4 such review in accordance with any applicable federal law and
5 regulation.

6 As part of its process for review of orders for support,
7 the Illinois Department, through written notice, may require
8 the responsible relative to disclose his or her Social Security
9 Number and past and present information concerning the
10 relative's address, employment, gross wages, deductions from
11 gross wages, net wages, bonuses, commissions, number of
12 dependent exemptions claimed, individual and dependent health
13 insurance coverage, and any other information necessary to
14 determine the relative's ability to provide support in a case
15 receiving child support enforcement services under this
16 Article X.

17 The Illinois Department may send a written request for the
18 same information to the relative's employer. The employer shall
19 respond to the request for information within 15 days after the
20 date the employer receives the request. If the employer
21 willfully fails to fully respond within the 15-day period, the
22 employer shall pay a penalty of \$100 for each day that the
23 response is not provided to the Illinois Department after the
24 15-day period has expired. The penalty may be collected in a
25 civil action which may be brought against the employer in favor
26 of the Illinois Department.

27 A written request for information sent to an employer
28 pursuant to this Section shall consist of (i) a citation of
29 this Section as the statutory authority for the request and for
30 the employer's obligation to provide the requested
31 information, (ii) a returnable form setting forth the
32 employer's name and address and listing the name of the
33 employee with respect to whom information is requested, and
34 (iii) a citation of this Section as the statutory authority
35 authorizing the employer to withhold a fee of up to \$20 from
36 the wages or income to be paid to each responsible relative for

1 providing the information to the Illinois Department within the
2 15-day period. If the employer is withholding support payments
3 from the responsible relative's income pursuant to an order for
4 withholding, the employer may withhold the fee provided for in
5 this Section only after withholding support as required under
6 the order. Any amounts withheld from the responsible relative's
7 income for payment of support and the fee provided for in this
8 Section shall not be in excess of the amounts permitted under
9 the federal Consumer Credit Protection Act.

10 In a case receiving child support enforcement services, the
11 Illinois Department may request and obtain information from a
12 particular employer under this Section no more than once in any
13 12-month period, unless the information is necessary to conduct
14 a review of a court or administrative order for support at the
15 request of the person receiving child support enforcement
16 services.

17 The Illinois Department shall establish and maintain an
18 administrative unit to receive and transmit to the Child and
19 Spouse Support Unit information supplied by persons applying
20 for or receiving child support enforcement services under
21 Section 10-1. In addition, the Illinois Department shall
22 address and respond to any alleged deficiencies that persons
23 receiving or applying for services from the Child and Spouse
24 Support Unit may identify concerning the Child and Spouse
25 Support Unit's provision of child support enforcement
26 services. Within 60 days after an action or failure to act by
27 the Child and Spouse Support Unit that affects his or her case,
28 a recipient of or applicant for child support enforcement
29 services under Article X of this Code may request an
30 explanation of the Unit's handling of the case. At the
31 requestor's option, the explanation may be provided either
32 orally in an interview, in writing, or both. If the Illinois
33 Department fails to respond to the request for an explanation
34 or fails to respond in a manner satisfactory to the applicant
35 or recipient within 30 days from the date of the request for an
36 explanation, the applicant or recipient may request a

1 conference for further review of the matter by the Office of
2 the Administrator of the Child and Spouse Support Unit. A
3 request for a conference may be submitted at any time within 60
4 days after the explanation has been provided by the Child and
5 Spouse Support Unit or within 60 days after the time for
6 providing the explanation has expired.

7 The applicant or recipient may request a conference
8 concerning any decision denying or terminating child support
9 enforcement services under Article X of this Code, and the
10 applicant or recipient may also request a conference concerning
11 the Unit's failure to provide services or the provision of
12 services in an amount or manner that is considered inadequate.
13 For purposes of this Section, the Child and Spouse Support Unit
14 includes all local governmental units or individuals with whom
15 the Illinois Department has contracted under Section 10-3.1.

16 Upon receipt of a timely request for a conference, the
17 Office of the Administrator shall review the case. The
18 applicant or recipient requesting the conference shall be
19 entitled, at his or her option, to appear in person or to
20 participate in the conference by telephone. The applicant or
21 recipient requesting the conference shall be entitled to be
22 represented and to be afforded a reasonable opportunity to
23 review the Illinois Department's file before or at the
24 conference. At the conference, the applicant or recipient
25 requesting the conference shall be afforded an opportunity to
26 present all relevant matters in support of his or her claim.
27 Conferences shall be without cost to the applicant or recipient
28 requesting the conference and shall be conducted by a
29 representative of the Child or Spouse Support Unit who did not
30 participate in the action or inaction being reviewed.

31 The Office of the Administrator shall conduct a conference
32 and inform all interested parties, in writing, of the results
33 of the conference within 60 days from the date of filing of the
34 request for a conference.

35 In addition to its other powers and responsibilities
36 established by this Article, the Child and Spouse Support Unit

1 shall conduct an annual assessment of each institution's
2 program for institution based paternity establishment under
3 Section 12 of the Vital Records Act.

4 The Child and Spouse Support Unit shall establish a program
5 to modify the child support paid by any member of the National
6 Guard or Reserves of the United States Armed Forces called up
7 to military active duty for more than 30 continuous days. This
8 program shall be known as the Child Support Military
9 Modification program or CSMM. The CSMM program shall be
10 available regardless of whether the custodial parent of the
11 child for whose benefit the support is paid is an applicant or
12 recipient of financial aid under this Code in accordance with
13 the requirements of Title IV, Part D of the Social Security
14 Act. The Child and Spouse Support Unit shall establish an
15 application for members of the National Guard and Reserves who
16 wish to avail themselves of the CSMM program. The application
17 shall consist of an instruction sheet and one or more forms
18 that the applicant must complete. The forms may include a form
19 that the applicant must sign authorizing the Child and Spouse
20 Support Unit to obtain income information from the applicant's
21 military employer. The application shall be made available on
22 the internet, at all military Mobilization Centers, and
23 elsewhere at the discretion of the Child and Spouse Support
24 Unit. Any member of the National Guard or Reserves may avail
25 himself or herself of the CSMM program by filling out the CSMM
26 application and submitting it to the Child and Spouse Support
27 Unit or to his or her Mobilization Center Officer-in-Charge,
28 who shall forward the application to the Child and Spouse
29 Support Unit.

30 If the Child and Spouse Support Unit determines the
31 applicant's military income will vary from the applicant's
32 civilian income and the applicant is paying court-ordered child
33 support, the Child and Spouse Support Unit shall seek a
34 temporary modification in the child support paid by the
35 applicant during his or her military active duty by filing a
36 motion on behalf of the Department in the court in which the

1 child support order was entered. The motion shall seek to
2 modify the child support paid by the applicant by the same
3 proportion that the applicant's military pay varies from his or
4 her civilian pay.

5 If the Child and Spouse Support Unit determines the
6 applicant's military income will vary from the applicant's
7 civilian income and the applicant is paying child support under
8 an Administrative Order entered pursuant to this Article X, the
9 Child and Spouse Support Unit shall temporarily modify the
10 child support paid by the applicant by the same proportion that
11 the applicant's military pay varies from his or her civilian
12 pay, if the Child and Spouse Support Unit determines that the
13 modification is appropriate.

14 The Department shall promulgate any rules necessary for the
15 Child and Spouse Support Unit to carry out the Child Support
16 Military Modification program.

17 (Source: P.A. 91-24, eff. 7-1-99; 91-613, eff. 10-1-99; 92-16,
18 eff. 6-28-01; 92-590, eff. 7-1-02.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.