

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 Military Code of Illinois is amended by
5 adding Section 22-10 as follows:

6 (20 ILCS 1805/22-10 new)

7 Sec. 22-10. Whenever the Adjutant General is notified by
8 the Child and Spouse Support Unit of the Illinois Department of
9 Public Aid that a member of the Illinois National Guard
10 obtained relief under the Child Support Military Modification
11 program, pursuant to Section 10-3.1 of the Illinois Public Aid
12 Code, the Adjutant General shall notify the Child and Spouse
13 Support Unit when that member is released from active military
14 duty within 21 days of the release.

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

17 (305 ILCS 5/10-1) (from Ch. 23, par. 10-1)

18 Sec. 10-1. Declaration of Public Policy - Persons Eligible
19 for Child Support Enforcement Services - Fees for
20 Non-Applicants and Non-Recipients.) It is the intent of this
21 Code that the financial aid and social welfare services herein
22 provided supplement rather than supplant the primary and
23 continuing obligation of the family unit for self-support to
24 the fullest extent permitted by the resources available to it.
25 This primary and continuing obligation applies whether the
26 family unit of parents and children or of husband and wife
27 remains intact and resides in a common household or whether the
28 unit has been broken by absence of one or more members of the
29 unit. The obligation of the family unit is particularly
30 applicable when a member is in necessitous circumstances and

1 lacks the means of a livelihood compatible with health and
2 well-being.

3 It is the purpose of this Article to provide for locating
4 an absent parent or spouse, for determining his financial
5 circumstances, and for enforcing his legal obligation of
6 support, if he is able to furnish support, in whole or in part.
7 The Illinois Department of Public Aid shall give priority to
8 establishing, enforcing and collecting the current support
9 obligation, and then to past due support owed to the family
10 unit, except with respect to collections effected through the
11 intercept programs provided for in this Article.

12 The child support enforcement services provided hereunder
13 shall be furnished dependents of an absent parent or spouse who
14 are applicants for or recipients of financial aid under this
15 Code. It is not, however, a condition of eligibility for
16 financial aid that there be no responsible relatives who are
17 reasonably able to provide support. Nor, except as provided in
18 Sections 4-1.7 and 10-8, shall the existence of such relatives
19 or their payment of support contributions disqualify a needy
20 person for financial aid.

21 By accepting financial aid under this Code, a spouse or a
22 parent or other person having custody of a child shall be
23 deemed to have made assignment to the Illinois Department for
24 aid under Articles III, IV, V and VII or to a local
25 governmental unit for aid under Article VI of any and all
26 rights, title, and interest in any support obligation up to the
27 amount of financial aid provided. The rights to support
28 assigned to the Illinois Department of Public Aid or local
29 governmental unit shall constitute an obligation owed the State
30 or local governmental unit by the person who is responsible for
31 providing the support, and shall be collectible under all
32 applicable processes.

33 The Illinois Department of Public Aid shall also furnish
34 the child support enforcement services established under this
35 Article in behalf of persons who are not applicants for or
36 recipients of financial aid under this Code in accordance with

1 the requirements of Title IV, Part D of the Social Security
2 Act. The Department may establish a schedule of reasonable
3 fees, to be paid for the services provided and may deduct a
4 collection fee, not to exceed 10% of the amount collected, from
5 such collection. The Illinois Department of Public Aid shall
6 cause to be published and distributed publications reasonably
7 calculated to inform the public that individuals who are not
8 recipients of or applicants for public aid under this Code are
9 eligible for the child support enforcement services under this
10 Article X. The Illinois Department shall also cause to be
11 published and distributed a publication reasonably calculated
12 to inform members of the National Guard and the Reserves of the
13 United States Armed Forces of the CSMM program established in
14 Section 10-3.1 of this Act. Such publications shall set forth
15 an explanation, in plain language, that the child support
16 enforcement services program is independent of any public aid
17 program under the Code and that the receiving of child support
18 enforcement services in no way implies that the person
19 receiving such services is receiving public aid.

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

21 (305 ILCS 5/10-3.1) (from Ch. 23, par. 10-3.1)

22 Sec. 10-3.1. Child and Spouse Support Unit. The Illinois
23 Department shall establish within its administrative staff a
24 Child and Spouse Support Unit to search for and locate absent
25 parents and spouses liable for the support of persons resident
26 in this State and to exercise the support enforcement powers
27 and responsibilities assigned the Department by this Article.
28 The unit shall cooperate with all law enforcement officials in
29 this State and with the authorities of other States in locating
30 persons responsible for the support of persons resident in
31 other States and shall invite the cooperation of these
32 authorities in the performance of its duties.

33 In addition to other duties assigned the Child and Spouse
34 Support Unit by this Article, the Unit may refer to the
35 Attorney General or units of local government with the approval

1 of the Attorney General, any actions under this Section,
2 Section ~~Sections~~ 10-10, and Section 10-15 for judicial
3 enforcement or modification of the support liability. The Child
4 and Spouse Support Unit shall act for the Department in
5 referring to the Attorney General support matters requiring
6 judicial enforcement under other laws. If requested by the
7 Attorney General to so act, as provided in Section 12-16,
8 attorneys of the Unit may assist the Attorney General or
9 themselves institute actions in behalf of the Illinois
10 Department under the Revised Uniform Reciprocal Enforcement of
11 Support Act; under the Illinois Parentage Act of 1984; under
12 the Non-Support of Spouse and Children Act; under the
13 Non-Support Punishment Act; or under any other law, State or
14 Federal, providing for support of a spouse or dependent child.

15 The Illinois Department shall also have the authority to
16 enter into agreements with local governmental units or
17 individuals, with the approval of the Attorney General, for the
18 collection of moneys owing because of the failure of a parent
19 to make child support payments for any child receiving services
20 under this Article. Such agreements may be on a contingent fee
21 basis, but such contingent fee shall not exceed 25% of the
22 total amount collected.

23 An attorney who provides representation pursuant to this
24 Section shall represent the Illinois Department exclusively.
25 Regardless of the designation of the plaintiff in an action
26 brought pursuant to this Section, an attorney-client
27 relationship does not exist for purposes of that action between
28 that attorney and (i) an applicant for or recipient of child
29 support enforcement services or (ii) any other party to the
30 action other than the Illinois Department. Nothing in this
31 Section shall be construed to modify any power or duty
32 (including a duty to maintain confidentiality) of the Child and
33 Spouse Support Unit or the Illinois Department otherwise
34 provided by law.

35 The Illinois Department may also enter into agreements with
36 local governmental units for the Child and Spouse Support Unit

1 to exercise the investigative and enforcement powers
2 designated in this Article, including the issuance of
3 administrative orders under Section 10-11, in locating
4 responsible relatives and obtaining support for persons
5 applying for or receiving aid under Article VI. Payments for
6 defrayment of administrative costs and support payments
7 obtained shall be deposited into the DHS Recoveries Trust Fund.
8 Support payments shall be paid over to the General Assistance
9 Fund of the local governmental unit at such time or times as
10 the agreement may specify.

11 With respect to those cases in which it has support
12 enforcement powers and responsibilities under this Article,
13 the Illinois Department may provide by rule for periodic or
14 other review of each administrative and court order for support
15 to determine whether a modification of the order should be
16 sought. The Illinois Department shall provide for and conduct
17 such review in accordance with any applicable federal law and
18 regulation.

19 As part of its process for review of orders for support,
20 the Illinois Department, through written notice, may require
21 the responsible relative to disclose his or her Social Security
22 Number and past and present information concerning the
23 relative's address, employment, gross wages, deductions from
24 gross wages, net wages, bonuses, commissions, number of
25 dependent exemptions claimed, individual and dependent health
26 insurance coverage, and any other information necessary to
27 determine the relative's ability to provide support in a case
28 receiving child support enforcement services under this
29 Article X.

30 The Illinois Department may send a written request for the
31 same information to the relative's employer. The employer shall
32 respond to the request for information within 15 days after the
33 date the employer receives the request. If the employer
34 willfully fails to fully respond within the 15-day period, the
35 employer shall pay a penalty of \$100 for each day that the
36 response is not provided to the Illinois Department after the

1 15-day period has expired. The penalty may be collected in a
2 civil action which may be brought against the employer in favor
3 of the Illinois Department.

4 A written request for information sent to an employer
5 pursuant to this Section shall consist of (i) a citation of
6 this Section as the statutory authority for the request and for
7 the employer's obligation to provide the requested
8 information, (ii) a returnable form setting forth the
9 employer's name and address and listing the name of the
10 employee with respect to whom information is requested, and
11 (iii) a citation of this Section as the statutory authority
12 authorizing the employer to withhold a fee of up to \$20 from
13 the wages or income to be paid to each responsible relative for
14 providing the information to the Illinois Department within the
15 15-day period. If the employer is withholding support payments
16 from the responsible relative's income pursuant to an order for
17 withholding, the employer may withhold the fee provided for in
18 this Section only after withholding support as required under
19 the order. Any amounts withheld from the responsible relative's
20 income for payment of support and the fee provided for in this
21 Section shall not be in excess of the amounts permitted under
22 the federal Consumer Credit Protection Act.

23 In a case receiving child support enforcement services, the
24 Illinois Department may request and obtain information from a
25 particular employer under this Section no more than once in any
26 12-month period, unless the information is necessary to conduct
27 a review of a court or administrative order for support at the
28 request of the person receiving child support enforcement
29 services.

30 The Illinois Department shall establish and maintain an
31 administrative unit to receive and transmit to the Child and
32 Spouse Support Unit information supplied by persons applying
33 for or receiving child support enforcement services under
34 Section 10-1. In addition, the Illinois Department shall
35 address and respond to any alleged deficiencies that persons
36 receiving or applying for services from the Child and Spouse

1 Support Unit may identify concerning the Child and Spouse
2 Support Unit's provision of child support enforcement
3 services. Within 60 days after an action or failure to act by
4 the Child and Spouse Support Unit that affects his or her case,
5 a recipient of or applicant for child support enforcement
6 services under Article X of this Code may request an
7 explanation of the Unit's handling of the case. At the
8 requestor's option, the explanation may be provided either
9 orally in an interview, in writing, or both. If the Illinois
10 Department fails to respond to the request for an explanation
11 or fails to respond in a manner satisfactory to the applicant
12 or recipient within 30 days from the date of the request for an
13 explanation, the applicant or recipient may request a
14 conference for further review of the matter by the Office of
15 the Administrator of the Child and Spouse Support Unit. A
16 request for a conference may be submitted at any time within 60
17 days after the explanation has been provided by the Child and
18 Spouse Support Unit or within 60 days after the time for
19 providing the explanation has expired.

20 The applicant or recipient may request a conference
21 concerning any decision denying or terminating child support
22 enforcement services under Article X of this Code, and the
23 applicant or recipient may also request a conference concerning
24 the Unit's failure to provide services or the provision of
25 services in an amount or manner that is considered inadequate.
26 For purposes of this Section, the Child and Spouse Support Unit
27 includes all local governmental units or individuals with whom
28 the Illinois Department has contracted under Section 10-3.1.

29 Upon receipt of a timely request for a conference, the
30 Office of the Administrator shall review the case. The
31 applicant or recipient requesting the conference shall be
32 entitled, at his or her option, to appear in person or to
33 participate in the conference by telephone. The applicant or
34 recipient requesting the conference shall be entitled to be
35 represented and to be afforded a reasonable opportunity to
36 review the Illinois Department's file before or at the

1 conference. At the conference, the applicant or recipient
2 requesting the conference shall be afforded an opportunity to
3 present all relevant matters in support of his or her claim.
4 Conferences shall be without cost to the applicant or recipient
5 requesting the conference and shall be conducted by a
6 representative of the Child or Spouse Support Unit who did not
7 participate in the action or inaction being reviewed.

8 The Office of the Administrator shall conduct a conference
9 and inform all interested parties, in writing, of the results
10 of the conference within 60 days from the date of filing of the
11 request for a conference.

12 In addition to its other powers and responsibilities
13 established by this Article, the Child and Spouse Support Unit
14 shall conduct an annual assessment of each institution's
15 program for institution based paternity establishment under
16 Section 12 of the Vital Records Act.

17 The Child and Spouse Support Unit shall establish a program
18 to modify the child support paid by any member of the National
19 Guard or Reserves of the United States Armed Forces called up
20 to military active duty for more than 30 continuous days. This
21 program shall be known as the Child Support Military
22 Modification program or CSMM. The CSMM program shall be
23 available regardless of whether the custodial parent of the
24 child for whose benefit the support is paid is an applicant or
25 recipient of financial aid under this Code in accordance with
26 the requirements of Title IV, Part D of the Social Security
27 Act. The Child and Spouse Support Unit shall establish an
28 application for members of the National Guard and Reserves who
29 wish to avail themselves of the CSMM program. The application
30 shall consist of an instruction sheet and one or more forms
31 that the applicant must complete. The forms may include a form
32 that the applicant must sign authorizing the Child and Spouse
33 Support Unit to obtain income and status information from the
34 applicant's military employer. The application shall be made
35 available on the Internet, at all military Mobilization
36 Centers, and elsewhere at the discretion of the Child and

1 Spouse Support Unit. Any member of the National Guard or
2 Reserves may avail himself or herself of the CSMM program by
3 filling out the CSMM application and submitting it to the Child
4 and Spouse Support Unit or to his or her Mobilization Center
5 Officer-in-Charge, who shall forward the application to the
6 Child and Spouse Support Unit.

7 If the Child and Spouse Support Unit determines the
8 applicant's military income will vary from the applicant's
9 civilian income in an amount that would support a modification
10 under Section 510 of the Illinois Marriage and Dissolution of
11 Marriage Act and the Illinois Department's rules on review and
12 adjustment of child support orders and the applicant is paying
13 court-ordered child support, the Child and Spouse Support Unit
14 shall seek a temporary modification in the child support paid
15 by the applicant by filing a motion on behalf of the Department
16 in the court in which the child support order was entered. The
17 motion shall seek to modify the child support paid by the
18 applicant in accordance with the guidelines in Section 505 of
19 the Illinois Marriage and Dissolution of Marriage Act and other
20 applicable Acts.

21 If the Child and Spouse Support Unit determines the
22 applicant's military income will vary from the applicant's
23 civilian income in an amount that would support a modification
24 under Section 510 of the Illinois Marriage and Dissolution of
25 Marriage Act and the Illinois Department's rules on review and
26 adjustment of child support orders and the applicant is paying
27 child support under an Administrative Order entered pursuant to
28 this Article X, the Child and Spouse Support Unit shall
29 temporarily modify the child support paid by the applicant in
30 accordance with the guidelines in Section 505 of the Illinois
31 Marriage and Dissolution of Marriage Act and any guidelines
32 established by the Illinois Department, pursuant to Section
33 10-3 of this Act, and afford the parties an opportunity for a
34 hearing thereon pursuant to Sections 10-12 and 10-12.1 of this
35 Act and rules promulgated under the Act.

36 The Child and Spouse Support Unit must notify the Adjutant

1 General whenever any member of the Illinois National Guard
2 obtains relief under the CSMM program. Any person who receives
3 relief under the CSMM program must notify the Child and Spouse
4 Support Unit of his or her release from active military duty
5 within 21 days of the release in a manner prescribed by the
6 Department. Whenever the Child and Spouse Support Unit learns
7 that a person who received relief under the CSMM program is
8 released from active military service, it shall promptly notify
9 the person receiving child support of the release and afford
10 that person the opportunity to request a review and adjustment
11 of the child support order.

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

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

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.