



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5705

Introduced 2/16/2012, by Rep. La Shawn K. Ford

SYNOPSIS AS INTRODUCED:

305 ILCS 5/10-3.1
730 ILCS 5/3-6-9 new

from Ch. 23, par. 10-3.1

Amends the Illinois Public Aid Code. Provides that the programs of the Department of Healthcare and Family Services concerning child support orders shall include cases in which a responsible relative who is in Department of Corrections custody requests modification of the support order. Provides that the Department shall enter into a cooperative agreement with the Department of Corrections to facilitate these requests. Amends the Unified Code of Corrections. Provides that the Department of Corrections shall establish a program to assist committed persons who are obligors under child support orders in cases in which child support enforcement services are provided by the Department of Healthcare and Family Services. Provides that the Department shall enter into a cooperative agreement with the Department of Healthcare and Family Services to facilitate these requests.

LRB097 16022 KTG 61173 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning public aid.

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 Section 10-3.1 as follows:

6 (305 ILCS 5/10-3.1) (from Ch. 23, par. 10-3.1)

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

18 In addition to other duties assigned the Child and Spouse
19 Support Unit by this Article, the Unit may refer to the
20 Attorney General or units of local government with the approval
21 of the Attorney General, any actions under Sections 10-10 and
22 10-15 for judicial enforcement of the support liability. The
23 Child and Spouse Support Unit shall act for the Department in

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

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

19 An attorney who provides representation pursuant to this
20 Section shall represent the Illinois Department exclusively.
21 Regardless of the designation of the plaintiff in an action
22 brought pursuant to this Section, an attorney-client
23 relationship does not exist for purposes of that action between
24 that attorney and (i) an applicant for or recipient of child
25 support enforcement services or (ii) any other party to the
26 action other than the Illinois Department. Nothing in this

1 Section shall be construed to modify any power or duty
2 (including a duty to maintain confidentiality) of the Child and
3 Spouse Support Unit or the Illinois Department otherwise
4 provided by law.

5 The Illinois Department may also enter into agreements with
6 local governmental units for the Child and Spouse Support Unit
7 to exercise the investigative and enforcement powers
8 designated in this Article, including the issuance of
9 administrative orders under Section 10-11, in locating
10 responsible relatives and obtaining support for persons
11 applying for or receiving aid under Article VI. Payments for
12 defrayment of administrative costs and support payments
13 obtained shall be deposited into the DHS Recoveries Trust Fund.
14 Support payments shall be paid over to the General Assistance
15 Fund of the local governmental unit at such time or times as
16 the agreement may specify.

17 With respect to those cases in which it has support
18 enforcement powers and responsibilities under this Article,
19 the Illinois Department may provide by rule for periodic or
20 other review of each administrative and court order for support
21 to determine whether a modification of the order should be
22 sought. The Illinois Department shall provide for and conduct
23 such review in accordance with any applicable federal law and
24 regulation. The Illinois Department's program for review and
25 modification of orders for support in cases in which support
26 enforcement services are being provided under this Article X

1 shall include, but not be limited to, cases in which a
2 responsible relative who is committed to the custody of the
3 Department of Corrections requests review and modification of
4 the order for support. The Illinois Department shall enter into
5 a cooperative agreement with the Department of Corrections to
6 facilitate receipt of such requests from committed persons.

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

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

1 of the Illinois Department.

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

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

1 services.

2 The Illinois Department shall establish and maintain an
3 administrative unit to receive and transmit to the Child and
4 Spouse Support Unit information supplied by persons applying
5 for or receiving child support enforcement services under
6 Section 10-1. In addition, the Illinois Department shall
7 address and respond to any alleged deficiencies that persons
8 receiving or applying for services from the Child and Spouse
9 Support Unit may identify concerning the Child and Spouse
10 Support Unit's provision of child support enforcement
11 services. Within 60 days after an action or failure to act by
12 the Child and Spouse Support Unit that affects his or her case,
13 a recipient of or applicant for child support enforcement
14 services under Article X of this Code may request an
15 explanation of the Unit's handling of the case. At the
16 requestor's option, the explanation may be provided either
17 orally in an interview, in writing, or both. If the Illinois
18 Department fails to respond to the request for an explanation
19 or fails to respond in a manner satisfactory to the applicant
20 or recipient within 30 days from the date of the request for an
21 explanation, the applicant or recipient may request a
22 conference for further review of the matter by the Office of
23 the Administrator of the Child and Spouse Support Unit. A
24 request for a conference may be submitted at any time within 60
25 days after the explanation has been provided by the Child and
26 Spouse Support Unit or within 60 days after the time for

1 providing the explanation has expired.

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

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

26 The Office of the Administrator shall conduct a conference

1 and inform all interested parties, in writing, of the results
2 of the conference within 60 days from the date of filing of the
3 request for a conference.

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

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

11 Section 10. The Unified Code of Corrections is amended by
12 adding Section 3-6-9 as follows:

13 (730 ILCS 5/3-6-9 new)

14 Sec. 3-6-9. Assistance in requesting review and
15 modification of support orders. The Department shall develop
16 and establish a program to assist committed persons who are
17 obligors under support orders in cases in which child support
18 enforcement services are being provided by the Department of
19 Healthcare and Family Services under Article X of the Illinois
20 Public Aid Code in requesting review and modification of such
21 support orders as provided for under that Code. The Department
22 shall enter into a cooperative agreement with the Department of
23 Healthcare and Family Services to facilitate transmittal of
24 such requests from committed persons.