

1 AMENDMENT TO SENATE BILL 528

2 AMENDMENT NO. _____. Amend Senate Bill 528 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Public Aid Code is amended by
5 adding Section 10-8.2 as follows:

6 (305 ILCS 5/10-8.2 new)

7 Sec. 10-8.2. Military service; child support.

8 (a) Notwithstanding any other provision of law to the
9 contrary, whenever a parent in emergency military service has
10 a change in income due to military service, the change in
11 income shall be considered a substantial change in
12 circumstances so as to make the terms of any order or
13 judgment for child support unreasonable.

14 (b) Upon receipt of a notarized letter from the
15 commanding officer of a noncustodial parent in emergency
16 military service that contains the date of the commencement
17 of emergency military service and the compensation of the
18 parent in emergency military service, the Child and Spouse
19 Support Unit shall take appropriate action to seek
20 modification of the order or judgment of child support in
21 accordance with the guidelines and criteria set forth in
22 Section 505 of the Illinois Marriage and Dissolution of

1 Marriage Act and applicable court rules.

2 (c) Upon return from emergency military service, the
3 parent shall notify the Child and Spouse Support Unit, which
4 shall take appropriate action to seek modification of the
5 order or judgment of child support in accordance with the
6 guidelines and criteria set forth in of Section 505 of the
7 Illinois Marriage and Dissolution of Marriage Act and
8 applicable court rules.

9 (d) As used in this Section, the term "emergency
10 military service" means that the parent is a member of a
11 Reserve unit or National Guard unit that is called into
12 active military duty for a period of more than 30 days.

13 Section 10. The Illinois Marriage and Dissolution of
14 Marriage Act is amended by changing Sections 510, 607, and
15 610 as follows:

16 (750 ILCS 5/510) (from Ch. 40, par. 510)

17 (Text of Section before amendment by P.A. 92-876)

18 Sec. 510. Modification and termination of provisions for
19 maintenance, support, educational expenses, and property
20 disposition.

21 (a) Except as otherwise provided in paragraph (f) of
22 Section 502 and in subsection (b), clause (3) of Section
23 505.2, the provisions of any judgment respecting maintenance
24 or support may be modified only as to installments accruing
25 subsequent to due notice by the moving party of the filing of
26 the motion for modification and, with respect to maintenance,
27 only upon a showing of a substantial change in circumstances.
28 An order for child support may be modified as follows:

29 (1) upon a showing of a substantial change in
30 circumstances; and

31 (2) without the necessity of showing a substantial
32 change in circumstances, as follows:

1 (A) upon a showing of an inconsistency of at
2 least 20%, but no less than \$10 per month, between
3 the amount of the existing order and the amount of
4 child support that results from application of the
5 guidelines specified in Section 505 of this Act
6 unless the inconsistency is due to the fact that the
7 amount of the existing order resulted from a
8 deviation from the guideline amount and there has
9 not been a change in the circumstances that resulted
10 in that deviation; or

11 (B) Upon a showing of a need to provide for
12 the health care needs of the child under the order
13 through health insurance or other means. In no
14 event shall the eligibility for or receipt of
15 medical assistance be considered to meet the need to
16 provide for the child's health care needs.

17 The provisions of subparagraph (a)(2)(A) shall apply only
18 in cases in which a party is receiving child support
19 enforcement services from the Illinois Department of Public
20 Aid under Article X of the Illinois Public Aid Code, and only
21 when at least 36 months have elapsed since the order for
22 child support was entered or last modified.

23 (b) The provisions as to property disposition may not be
24 revoked or modified, unless the court finds the existence of
25 conditions that justify the reopening of a judgment under the
26 laws of this State.

27 (c) Unless otherwise agreed by the parties in a written
28 agreement set forth in the judgment or otherwise approved by
29 the court, the obligation to pay future maintenance is
30 terminated upon the death of either party, or the remarriage
31 of the party receiving maintenance, or if the party receiving
32 maintenance cohabits with another person on a resident,
33 continuing conjugal basis.

34 (d) Unless otherwise agreed in writing or expressly

1 provided in a judgment, provisions for the support of a child
2 are terminated by emancipation of the child, except as
3 otherwise provided herein, but not by the death of a parent
4 obligated to support or educate the child. An existing
5 obligation to pay for support or educational expenses, or
6 both, is not terminated by the death of a parent. When a
7 parent obligated to pay support or educational expenses, or
8 both, dies, the amount of support or educational expenses, or
9 both, may be enforced, modified, revoked or commuted to a
10 lump sum payment, as equity may require, and that
11 determination may be provided for at the time of the
12 dissolution of the marriage or thereafter.

13 (e) The right to petition for support or educational
14 expenses, or both, under Sections 505 and 513 is not
15 extinguished by the death of a parent. Upon a petition filed
16 before or after a parent's death, the court may award sums of
17 money out of the decedent's estate for the child's support or
18 educational expenses, or both, as equity may require. The
19 time within which a claim may be filed against the estate of
20 a decedent under Sections 505 and 513 and subsection (d) and
21 this subsection shall be governed by the provisions of the
22 Probate Act of 1975, as a barrable, noncontingent claim.

23 (f) A petition to modify or terminate child support,
24 custody, or visitation shall not delay any child support
25 enforcement litigation or supplementary proceeding on behalf
26 of the obligee, including, but not limited to, a petition for
27 a rule to show cause, for non-wage garnishment, or for a
28 restraining order.

29 (g) Military service; child support.

30 (1) Notwithstanding any other provision of law to
31 the contrary, whenever a parent in emergency military
32 service has a change in income due to military service,
33 the change in income shall be considered a substantial
34 change in circumstances so as to make the terms of any

1 order or judgment for child support unreasonable.

2 (2) Upon receipt of a notarized letter from the
3 commanding officer of a noncustodial parent in emergency
4 military service that contains the date of the
5 commencement of emergency military service and the
6 compensation of the parent in emergency military service,
7 the Child and Spouse Support Unit established under
8 Article X of the Illinois Public Aid Code shall take
9 appropriate action to seek modification of the order or
10 judgment of child support in accordance with the
11 guidelines and criteria set forth in Section 505 of this
12 Act and applicable court rules.

13 (3) Upon return from emergency military service the
14 parent shall notify the Child and Spouse Support Unit,
15 which shall take appropriate action to seek modification
16 of the order or judgment of child support in accordance
17 with the guidelines and criteria set forth in of Section
18 505 of this Act and applicable court rules.

19 (4) As used in this subsection (g), "emergency
20 military service" means that the parent is a member of a
21 Reserve unit or National Guard unit that is called into
22 active military duty for a period of more than 30 days.

23 (Source: P.A. 92-289, eff. 8-9-01; 92-590, eff. 7-1-02;
24 92-651, eff. 7-11-02.)

25 (Text of Section after amendment by P.A. 92-876)

26 Sec. 510. Modification and termination of provisions for
27 maintenance, support, educational expenses, and property
28 disposition.

29 (a) Except as otherwise provided in paragraph (f) of
30 Section 502 and in subsection (b), clause (3) of Section
31 505.2, the provisions of any judgment respecting maintenance
32 or support may be modified only as to installments accruing
33 subsequent to due notice by the moving party of the filing of
34 the motion for modification and, with respect to maintenance,

1 only upon a showing of a substantial change in circumstances.

2 An order for child support may be modified as follows:

3 (1) upon a showing of a substantial change in
4 circumstances; and

5 (2) without the necessity of showing a substantial
6 change in circumstances, as follows:

7 (A) upon a showing of an inconsistency of at
8 least 20%, but no less than \$10 per month, between
9 the amount of the existing order and the amount of
10 child support that results from application of the
11 guidelines specified in Section 505 of this Act
12 unless the inconsistency is due to the fact that the
13 amount of the existing order resulted from a
14 deviation from the guideline amount and there has
15 not been a change in the circumstances that resulted
16 in that deviation; or

17 (B) Upon a showing of a need to provide for
18 the health care needs of the child under the order
19 through health insurance or other means. In no
20 event shall the eligibility for or receipt of
21 medical assistance be considered to meet the need to
22 provide for the child's health care needs.

23 The provisions of subparagraph (a)(2)(A) shall apply only
24 in cases in which a party is receiving child support
25 enforcement services from the Illinois Department of Public
26 Aid under Article X of the Illinois Public Aid Code, and only
27 when at least 36 months have elapsed since the order for
28 child support was entered or last modified.

29 (b) The provisions as to property disposition may not be
30 revoked or modified, unless the court finds the existence of
31 conditions that justify the reopening of a judgment under the
32 laws of this State.

33 (c) Unless otherwise agreed by the parties in a written
34 agreement set forth in the judgment or otherwise approved by

1 the court, the obligation to pay future maintenance is
2 terminated upon the death of either party, or the remarriage
3 of the party receiving maintenance, or if the party receiving
4 maintenance cohabits with another person on a resident,
5 continuing conjugal basis.

6 (d) Unless otherwise provided in this Act, or as agreed
7 in writing or expressly provided in the judgment, provisions
8 for the support of a child are terminated by emancipation of
9 the child, or if the child has attained the age of 18 and is
10 still attending high school, provisions for the support of
11 the child are terminated upon the date that the child
12 graduates from high school or the date the child attains the
13 age of 19, whichever is earlier, but not by the death of a
14 parent obligated to support or educate the child. An existing
15 obligation to pay for support or educational expenses, or
16 both, is not terminated by the death of a parent. When a
17 parent obligated to pay support or educational expenses, or
18 both, dies, the amount of support or educational expenses, or
19 both, may be enforced, modified, revoked or commuted to a
20 lump sum payment, as equity may require, and that
21 determination may be provided for at the time of the
22 dissolution of the marriage or thereafter.

23 (e) The right to petition for support or educational
24 expenses, or both, under Sections 505 and 513 is not
25 extinguished by the death of a parent. Upon a petition filed
26 before or after a parent's death, the court may award sums of
27 money out of the decedent's estate for the child's support or
28 educational expenses, or both, as equity may require. The
29 time within which a claim may be filed against the estate of
30 a decedent under Sections 505 and 513 and subsection (d) and
31 this subsection shall be governed by the provisions of the
32 Probate Act of 1975, as a barrable, noncontingent claim.

33 (f) A petition to modify or terminate child support,
34 custody, or visitation shall not delay any child support

1 enforcement litigation or supplementary proceeding on behalf
2 of the obligee, including, but not limited to, a petition for
3 a rule to show cause, for non-wage garnishment, or for a
4 restraining order.

5 (g) Military service; child support.

6 (1) Notwithstanding any other provision of law to
7 the contrary, whenever a parent in emergency military
8 service has a change in income due to military service,
9 the change in income shall be considered a substantial
10 change in circumstances so as to make the terms of any
11 order or judgment for child support unreasonable.

12 (2) Upon receipt of a notarized letter from the
13 commanding officer of a noncustodial parent in emergency
14 military service that contains the date of the
15 commencement of emergency military service and the
16 compensation of the parent in emergency military service,
17 the Child and Spouse Support Unit established under
18 Article X of the Illinois Public Aid Code shall take
19 appropriate action to seek modification of the order or
20 judgment of child support in accordance with the
21 guidelines and criteria set forth in Section 505 of this
22 Act and applicable court rules.

23 (3) Upon return from emergency military service the
24 parent shall notify the Child and Spouse Support Unit,
25 which shall take appropriate action to seek modification
26 of the order or judgment of child support in accordance
27 with the guidelines and criteria set forth in of Section
28 505 of this Act and applicable court rules.

29 (4) As used in this subsection (g), "emergency
30 military service" means that the parent is a member of a
31 Reserve unit or National Guard unit that is called into
32 active military duty for a period of more than 30 days.

33 (Source: P.A. 92-289, eff. 8-9-01; 92-590, eff. 7-1-02;
34 92-651, eff. 7-11-02; 92-876, eff. 6-1-03; revised 1-14-03.)

1 (750 ILCS 5/607) (from Ch. 40, par. 607)

2 Sec. 607. Visitation.

3 (a) A parent not granted custody of the child is
4 entitled to reasonable visitation rights unless the court
5 finds, after a hearing, that visitation would endanger
6 seriously the child's physical, mental, moral or emotional
7 health. If the custodian's street address is not identified,
8 pursuant to Section 708, the court shall require the parties
9 to identify reasonable alternative arrangements for
10 visitation by a non-custodial parent, including but not
11 limited to visitation of the minor child at the residence of
12 another person or at a local public or private facility.

13 (b) (1) The court may grant reasonable visitation
14 privileges to a grandparent, great-grandparent, or sibling of
15 any minor child upon petition to the court by the
16 grandparents or great-grandparents or on behalf of the
17 sibling, with notice to the parties required to be notified
18 under Section 601 of this Act, if the court determines that
19 it is in the best interests and welfare of the child, and may
20 issue any necessary orders to enforce such visitation
21 privileges. Except as provided in paragraph (2) of this
22 subsection (b), a petition for visitation privileges may be
23 filed under this paragraph (1) whether or not a petition
24 pursuant to this Act has been previously filed or is
25 currently pending if one or more of the following
26 circumstances exist:

27 (A) the parents are not currently cohabiting on a
28 permanent or an indefinite basis;

29 (B) one of the parents has been absent from the
30 marital abode for more than one month without the spouse
31 knowing his or her whereabouts;

32 (C) one of the parents is deceased;

33 (D) one of the parents joins in the petition with
34 the grandparents, great-grandparents, or sibling; or

1 (E) a sibling is in State custody.

2 (1.5) The Court may grant reasonable visitation
3 privileges to a stepparent upon petition to the court by the
4 stepparent, with notice to the parties required to be
5 notified under Section 601 of this Act, if the court
6 determines that it is in the best interests and welfare of
7 the child, and may issue any necessary orders to enforce
8 those visitation privileges. A petition for visitation
9 privileges may be filed under this paragraph (1.5) whether or
10 not a petition pursuant to this Act has been previously filed
11 or is currently pending if the following circumstances are
12 met:

13 (A) the child is at least 12 years old;

14 (B) the child resided continuously with the parent
15 and stepparent for at least 5 years;

16 (C) the parent is deceased or is disabled and is
17 unable to care for the child;

18 (D) the child wishes to have reasonable visitation
19 with the stepparent; and

20 (E) the stepparent was providing for the care,
21 control, and welfare to the child prior to the initiation
22 of the petition for visitation.

23 (2)(A) A petition for visitation privileges shall not be
24 filed pursuant to this subsection (b) by the parents or
25 grandparents of a putative father if the paternity of the
26 putative father has not been legally established.

27 (B) A petition for visitation privileges may not be
28 filed under this subsection (b) if the child who is the
29 subject of the grandparents' or great-grandparents' petition
30 has been voluntarily surrendered by the parent or parents,
31 except for a surrender to the Illinois Department of Children
32 and Family Services or a foster care facility, or has been
33 previously adopted by an individual or individuals who are
34 not related to the biological parents of the child or is the

1 subject of a pending adoption petition by an individual or
2 individuals who are not related to the biological parents of
3 the child.

4 (3) When one parent is deceased, the surviving parent
5 shall not interfere with the visitation rights of the
6 grandparents.

7 (c) The court may modify an order granting or denying
8 visitation rights of a parent whenever modification would
9 serve the best interest of the child; but the court shall
10 not restrict a parent's visitation rights unless it finds
11 that the visitation would endanger seriously the child's
12 physical, mental, moral or emotional health. The court may
13 modify an order granting, denying, or limiting visitation
14 rights of a grandparent, great-grandparent, or sibling of any
15 minor child whenever a change of circumstances has occurred
16 based on facts occurring subsequent to the judgment and the
17 court finds by clear and convincing evidence that the
18 modification is in the best interest of the minor child.

19 (d) If any court has entered an order prohibiting a
20 non-custodial parent of a child from any contact with a child
21 or restricting the non-custodial parent's contact with the
22 child, the following provisions shall apply:

23 (1) If an order has been entered granting
24 visitation privileges with the child to a grandparent or
25 great-grandparent who is related to the child through the
26 non-custodial parent, the visitation privileges of the
27 grandparent or great-grandparent may be revoked if:

28 (i) a court has entered an order prohibiting
29 the non-custodial parent from any contact with the
30 child, and the grandparent or great-grandparent is
31 found to have used his or her visitation privileges
32 to facilitate contact between the child and the
33 non-custodial parent; or

34 (ii) a court has entered an order restricting

1 the non-custodial parent's contact with the child,
2 and the grandparent or great-grandparent is found to
3 have used his or her visitation privileges to
4 facilitate contact between the child and the
5 non-custodial parent in a manner that violates the
6 terms of the order restricting the non-custodial
7 parent's contact with the child.

8 Nothing in this subdivision (1) limits the authority
9 of the court to enforce its orders in any manner
10 permitted by law.

11 (2) Any order granting visitation privileges with
12 the child to a grandparent or great-grandparent who is
13 related to the child through the non-custodial parent
14 shall contain the following provision:

15 "If the (grandparent or great-grandparent, whichever
16 is applicable) who has been granted visitation privileges
17 under this order uses the visitation privileges to
18 facilitate contact between the child and the child's
19 non-custodial parent, the visitation privileges granted
20 under this order shall be permanently revoked."

21 (e) No parent, not granted custody of the child, or
22 grandparent, or great-grandparent, or stepparent, or sibling
23 of any minor child, convicted of any offense involving an
24 illegal sex act perpetrated upon a victim less than 18 years
25 of age including but not limited to offenses for violations
26 of Article 12 of the Criminal Code of 1961, is entitled to
27 visitation rights while incarcerated or while on parole,
28 probation, conditional discharge, periodic imprisonment, or
29 mandatory supervised release for that offense, and upon
30 discharge from incarceration for a misdemeanor offense or
31 upon discharge from parole, probation, conditional discharge,
32 periodic imprisonment, or mandatory supervised release for a
33 felony offense, visitation shall be denied until the person
34 successfully completes a treatment program approved by the

1 court.

2 (f) Unless the court determines, after considering all
3 relevant factors, including but not limited to those set
4 forth in Section 602(a), that it would be in the best
5 interests of the child to allow visitation, the court shall
6 not enter an order providing visitation rights and pursuant
7 to a motion to modify visitation shall revoke visitation
8 rights previously granted to any person who would otherwise
9 be entitled to petition for visitation rights under this
10 Section who has been convicted of first degree murder of the
11 parent, grandparent, great-grandparent, or sibling of the
12 child who is the subject of the order. Until an order is
13 entered pursuant to this subsection, no person shall visit,
14 with the child present, a person who has been convicted of
15 first degree murder of the parent, grandparent,
16 great-grandparent, or sibling of the child without the
17 consent of the child's parent, other than a parent convicted
18 of first degree murder as set forth herein, or legal
19 guardian.

20 (g) If an order has been entered limiting, for cause, a
21 minor child's contact or visitation with a grandparent,
22 great-grandparent, or sibling on the grounds that it was in
23 the best interest of the child to do so, that order may be
24 modified only upon a showing of a substantial change in
25 circumstances occurring subsequent to the entry of the order
26 with proof by clear and convincing evidence that modification
27 is in the best interest of the minor child.

28 (h) If a parent who is a member of a Reserve or National
29 Guard unit is placed on temporary active duty military
30 status, the court shall review and consider the military
31 family care plan filed by the reservist prior to deployment
32 and order that a reasonable amount of visitation continue as
33 facilitated and directed by the military parent in the plan.

34 (Source: P.A. 90-782, eff. 8-14-98; 90-801, eff. 6-1-99;

1 91-357, eff. 7-29-99; 91-610, eff. 8-19-99.)

2 (750 ILCS 5/610) (from Ch. 40, par. 610)

3 Sec. 610. Modification.

4 (a) Unless by stipulation of the parties, no motion to
5 modify a custody judgment may be made earlier than 2 years
6 after its date, unless the court permits it to be made on the
7 basis of affidavits that there is reason to believe the
8 child's present environment may endanger seriously his
9 physical, mental, moral or emotional health.

10 (b) The court shall not modify a prior custody judgment
11 unless it finds by clear and convincing evidence, upon the
12 basis of facts that have arisen since the prior judgment or
13 that were unknown to the court at the time of entry of the
14 prior judgment, that a change has occurred in the
15 circumstances of the child or his custodian, or in the case
16 of a joint custody arrangement that a change has occurred in
17 the circumstances of the child or either or both parties
18 having custody, and that the modification is necessary to
19 serve the best interest of the child. In the case of joint
20 custody, if the parties agree to a termination of a joint
21 custody arrangement, the court shall so terminate the joint
22 custody and make any modification which is in the child's
23 best interest. The court shall state in its decision
24 specific findings of fact in support of its modification or
25 termination of joint custody if either parent opposes the
26 modification or termination.

27 (b-3) Except as otherwise provided in subsection (b-5) of
28 this Section, if a custodial parent is a member of the United
29 States Armed Forces, the court shall consider the terms of
30 that parent's military family care plan in determining what
31 is in the child's best interest during the custodial parent's
32 military deployment.

33 (b-5) For the purposes of a motion to modify a custody

1 decree, the military deployment of a custodial parent who is
2 a member of the United States Armed Forces is not a change in
3 circumstances that affects the best interests of the child if
4 the custodial parent has filed a military family care plan
5 with the court at a previous custody proceeding and if the
6 military deployment is less than 6 months.

7 (c) Attorney fees and costs shall be assessed against a
8 party seeking modification if the court finds that the
9 modification action is vexatious and constitutes harassment.

10 (d) Notice under this Section shall be given as provided
11 in subsections (c) and (d) of Section 601.

12 (Source: P.A. 87-1255.)

13 Section 95. No acceleration or delay. Where this Act
14 makes changes in a statute that is represented in this Act by
15 text that is not yet or no longer in effect (for example, a
16 Section represented by multiple versions), the use of that
17 text does not accelerate or delay the taking effect of (i)
18 the changes made by this Act or (ii) provisions derived from
19 any other Public Act.

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