



Sen. Iris Y. Martinez

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1 AMENDMENT TO SENATE BILL 2895

2 AMENDMENT NO. _____. Amend Senate Bill 2895 by replacing
3 everything after the enacting clause with the following:

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.

1 The Illinois Department of Public Aid shall give priority to
2 establishing, enforcing and collecting the current support
3 obligation, and then to past due support owed to the family
4 unit, except with respect to collections effected through the
5 intercept programs provided for in this Article.

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

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

27 The Illinois Department of Public Aid shall also furnish
28 the child support enforcement services established under this
29 Article in behalf of persons who are not applicants for or
30 recipients of financial aid under this Code in accordance with
31 the requirements of Title IV, Part D of the Social Security
32 Act. The Department may establish a schedule of reasonable
33 fees, to be paid for the services provided and may deduct a
34 collection fee, not to exceed 10% of the amount collected, from

1 such collection. The Illinois Department of Public Aid shall
2 cause to be published and distributed publications reasonably
3 calculated to inform the public that individuals who are not
4 recipients of or applicants for public aid under this Code are
5 eligible for the child support enforcement services under this
6 Article X. The Illinois Department shall also cause to be
7 published and distributed a publication reasonably calculated
8 to inform members of the National Guard and the Reserves of the
9 United States Armed Forces of the CSMM program established in
10 Section 10-3.1 of this Act. Such publications shall set forth
11 an explanation, in plain language, that the child support
12 enforcement services program is independent of any public aid
13 program under the Code and that the receiving of child support
14 enforcement services in no way implies that the person
15 receiving such services is receiving public aid.

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

17 (305 ILCS 5/10-3.1) (from Ch. 23, par. 10-3.1)

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

29 In addition to other duties assigned the Child and Spouse
30 Support Unit by this Article, the Unit may refer to the
31 Attorney General or units of local government with the approval
32 of the Attorney General, any actions under this Section,
33 Section ~~Sections~~ 10-10, and Section 10-15 for judicial

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

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

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

33 The Illinois Department may also enter into agreements with
34 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

1 employer shall pay a penalty of \$100 for each day that the
2 response is not provided to the Illinois Department after the
3 15-day period has expired. The penalty may be collected in a
4 civil action which may be brought against the employer in favor
5 of the Illinois Department.

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

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

32 The Illinois Department shall establish and maintain an
33 administrative unit to receive and transmit to the Child and
34 Spouse Support Unit information supplied by persons applying

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

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

33 Upon receipt of a timely request for a conference, the
34 Office of the Administrator shall review the case. The

1 applicant or recipient requesting the conference shall be
2 entitled, at his or her option, to appear in person or to
3 participate in the conference by telephone. The applicant or
4 recipient requesting the conference shall be entitled to be
5 represented and to be afforded a reasonable opportunity to
6 review the Illinois Department's file before or at the
7 conference. At the conference, the applicant or recipient
8 requesting the conference shall be afforded an opportunity to
9 present all relevant matters in support of his or her claim.
10 Conferences shall be without cost to the applicant or recipient
11 requesting the conference and shall be conducted by a
12 representative of the Child or Spouse Support Unit who did not
13 participate in the action or inaction being reviewed.

14 The Office of the Administrator shall conduct a conference
15 and inform all interested parties, in writing, of the results
16 of the conference within 60 days from the date of filing of the
17 request for a conference.

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

23 The Child and Spouse Support Unit shall establish a program
24 to modify the child support paid by any member of the National
25 Guard or Reserves of the United States Armed Forces called up
26 to military active duty for more than 30 continuous days. This
27 program shall be known as the Child Support Military
28 Modification program or CSMM. The CSMM program shall be
29 available regardless of whether the custodial parent of the
30 child for whose benefit the support is paid is an applicant or
31 recipient of financial aid under this Code in accordance with
32 the requirements of Title IV, Part D of the Social Security
33 Act. The Unit shall establish an application for soldiers who
34 wish to avail themselves of the CSMM program. The application

1 shall consist of an instruction sheet and one or more forms
2 that the applicant must complete. The forms shall require the
3 applicant to state the name and last known address of the
4 obligee. The forms may include a form that the applicant must
5 sign authorizing the Unit to obtain income information from the
6 applicant's military employer. The application shall be made
7 available on the internet, at all military Mobilization
8 Centers, and elsewhere at the discretion of the Unit. Any
9 soldier, who believes his or her military active duty income
10 will be less than his or her civilian income, may avail himself
11 or herself of the CSMM program by filling out the CSMM
12 application and submitting it to the Unit or to his or her
13 Mobilization Center Officer-in-Charge, who shall forward the
14 application to the Unit.

15 As soon as practicable after receiving the application, the
16 Unit shall mail a copy of it to the obligee at his or her last
17 known address with a notice informing the obligee that the
18 application constitutes a petition for modification of child
19 support during the applicant's military active duty.

20 If the Unit determines the applicant's military income will
21 vary from the applicant's civilian income and the applicant is
22 paying court-ordered child support, the Unit shall seek a
23 temporary modification in the child support paid by the
24 applicant during his or her military active duty by filing a
25 motion on behalf of the Department in the court in which the
26 child support order was entered. The motion shall seek to
27 modify the child support paid by the applicant by the same
28 proportion that the applicant's military pay varies from his or
29 her civilian pay. The court may make the modification
30 retroactive to the date the obligee was mailed a copy of the
31 application.

32 If the Unit determines the applicant's military income will
33 vary from the applicant's civilian income and the applicant is
34 paying child support under an Administrative Order entered

1 pursuant to this Article X, the Unit shall temporarily modify
2 the child support paid by the applicant by the same proportion
3 that the applicant's military pay varies from his or her
4 civilian pay, if the Unit determines that the modification is
5 appropriate. The Unit may make the modification retroactive to
6 the date the obligee was mailed a copy of the application.

7 The Department shall promulgate any rules necessary for the
8 Child and Spouse Support Unit to carry out the Child Support
9 Military Modification program.

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

12 Section 10. The Illinois Marriage and Dissolution of
13 Marriage Act is amended by changing Section 510 as follows:

14 (750 ILCS 5/510) (from Ch. 40, par. 510)

15 Sec. 510. Modification and termination of provisions for
16 maintenance, support, educational expenses, and property
17 disposition.

18 (a) Except as otherwise provided in paragraph (f) of
19 Section 502, ~~and~~ in subsection (b), clause (3) of Section
20 505.2, and in Section 10-3.1 of the Illinois Public Aid Code
21 the provisions of any judgment respecting maintenance or
22 support may be modified only as to installments accruing
23 subsequent to due notice by the moving party of the filing of
24 the motion for modification. An order for child support may be
25 modified as follows:

26 (1) upon a showing of a substantial change in
27 circumstances; and

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

30 (A) upon a showing of an inconsistency of at least
31 20%, but no less than \$10 per month, between the amount
32 of the existing order and the amount of child support

1 that results from application of the guidelines
2 specified in Section 505 of this Act unless the
3 inconsistency is due to the fact that the amount of the
4 existing order resulted from a deviation from the
5 guideline amount and there has not been a change in the
6 circumstances that resulted in that deviation; or

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

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

19 (a-5) An order for maintenance may be modified or
20 terminated only upon a showing of a substantial change in
21 circumstances. In all such proceedings, as well as in
22 proceedings in which maintenance is being reviewed, the court
23 shall consider the applicable factors set forth in subsection
24 (a) of Section 504 and the following factors:

25 (1) any change in the employment status of either party
26 and whether the change has been made in good faith;

27 (2) the efforts, if any, made by the party receiving
28 maintenance to become self-supporting, and the
29 reasonableness of the efforts where they are appropriate;

30 (3) any impairment of the present and future earning
31 capacity of either party;

32 (4) the tax consequences of the maintenance payments
33 upon the respective economic circumstances of the parties;

34 (5) the duration of the maintenance payments

1 previously paid (and remaining to be paid) relative to the
2 length of the marriage;

3 (6) the property, including retirement benefits,
4 awarded to each party under the judgment of dissolution of
5 marriage, judgment of legal separation, or judgment of
6 declaration of invalidity of marriage and the present
7 status of the property;

8 (7) the increase or decrease in each party's income
9 since the prior judgment or order from which a review,
10 modification, or termination is being sought;

11 (8) the property acquired and currently owned by each
12 party after the entry of the judgment of dissolution of
13 marriage, judgment of legal separation, or judgment of
14 declaration of invalidity of marriage; and

15 (9) any other factor that the court expressly finds to
16 be just and equitable.

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

21 (c) Unless otherwise agreed by the parties in a written
22 agreement set forth in the judgment or otherwise approved by
23 the court, the obligation to pay future maintenance is
24 terminated upon the death of either party, or the remarriage of
25 the party receiving maintenance, or if the party receiving
26 maintenance cohabits with another person on a resident,
27 continuing conjugal basis.

28 (d) Unless otherwise provided in this Act, or as agreed in
29 writing or expressly provided in the judgment, provisions for
30 the support of a child are terminated by emancipation of the
31 child, or if the child has attained the age of 18 and is still
32 attending high school, provisions for the support of the child
33 are terminated upon the date that the child graduates from high
34 school or the date the child attains the age of 19, whichever

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

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

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

26 (Source: P.A. 92-289, eff. 8-9-01; 92-590, eff. 7-1-02; 92-651,
27 eff. 7-11-02; 92-876, eff. 6-1-03; 93-353, eff. 1-1-04.)

28 Section 99. Effective date. This Act takes effect upon
29 becoming law."