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LRB094 10956 LCB 42989 a

1 AMENDMENT TO HOUSE BILL 2598

2 AMENDMENT NO. _____. Amend House Bill 2598 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

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

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

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

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

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

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

18 (305 ILCS 5/10-3.1) (from Ch. 23, par. 10-3.1)

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

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

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

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

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

34 The Illinois Department may also enter into agreements with

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

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

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

31 The Illinois Department may send a written request for the
32 same information to the relative's employer. The employer shall
33 respond to the request for information within 15 days after the
34 date the employer receives the request. If the employer

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

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

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

33 The Illinois Department shall establish and maintain an
34 administrative unit to receive and transmit to the Child and

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

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

34 Upon receipt of a timely request for a conference, the

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

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

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

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

1 application for members of the National Guard and Reserves who
2 wish to avail themselves of the CSMM program. The application
3 shall consist of an instruction sheet and one or more forms
4 that the applicant must complete. The forms may include a form
5 that the applicant must sign authorizing the Child and Spouse
6 Support Unit to obtain income information from the applicant's
7 military employer. The application shall be made available on
8 the Internet, at all military Mobilization Centers, and
9 elsewhere at the discretion of the Child and Spouse Support
10 Unit. Any member of the National Guard or Reserves may avail
11 himself or herself of the CSMM program by filling out the CSMM
12 application and submitting it to the Child and Spouse Support
13 Unit or to his or her Mobilization Center Officer-in-Charge,
14 who shall forward the application to the Child and Spouse
15 Support Unit.

16 If the Child and Spouse Support Unit determines the
17 applicant's military income will vary from the applicant's
18 civilian income in an amount that would support a modification
19 under Section 510 of the Illinois Marriage and Dissolution of
20 Marriage Act and the Illinois Department's rules on review and
21 adjustment of child support orders and the applicant is paying
22 court-ordered child support, the Child and Spouse Support Unit
23 shall seek a modification in the child support paid by the
24 applicant by filing a motion on behalf of the Department in the
25 court in which the child support order was entered. The motion
26 shall seek to modify the child support paid by the applicant in
27 accordance with the guidelines in Section 505 of the Illinois
28 Marriage and Dissolution of Marriage Act and other applicable
29 Acts.

30 If the Child and Spouse Support Unit determines the
31 applicant's military income will vary from the applicant's
32 civilian income in an amount that would support a modification
33 under Section 510 of the Illinois Marriage and Dissolution of
34 Marriage Act and the Illinois Department's rules on review and

1 adjustment of child support orders and the applicant is paying
2 child support under an Administrative Order entered pursuant to
3 this Article X, the Child and Spouse Support Unit shall modify
4 the child support paid by the applicant in accordance with the
5 guidelines in Section 505 of the Illinois Marriage and
6 Dissolution of Marriage Act and any guidelines established by
7 the Illinois Department, pursuant to Section 10-3 of this Act.

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

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

13 Section 99. Effective date. This Act takes effect upon
14 becoming law."