

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Rehabilitation of Persons with Disabilities  
5 Act is amended by changing Section 3 as follows:

6 (20 ILCS 2405/3) (from Ch. 23, par. 3434)

7 Sec. 3. Powers and duties. The Department shall have the  
8 powers and duties enumerated herein:

9 (a) To co-operate with the federal government in the  
10 administration of the provisions of the federal  
11 Rehabilitation Act of 1973, as amended, of the Workforce  
12 Innovation and Opportunity Act, and of the federal Social  
13 Security Act to the extent and in the manner provided in  
14 these Acts.

15 (b) To prescribe and supervise such courses of  
16 vocational training and provide such other services as may  
17 be necessary for the habilitation and rehabilitation of  
18 persons with one or more disabilities, including the  
19 administrative activities under subsection (e) of this  
20 Section, and to co-operate with State and local school  
21 authorities and other recognized agencies engaged in  
22 habilitation, rehabilitation and comprehensive  
23 rehabilitation services; and to cooperate with the

1 Department of Children and Family Services regarding the  
2 care and education of children with one or more  
3 disabilities.

4 (c) (Blank).

5 (d) To report in writing, to the Governor, annually on  
6 or before the first day of December, and at such other  
7 times and in such manner and upon such subjects as the  
8 Governor may require. The annual report shall contain (1) a  
9 statement of the existing condition of comprehensive  
10 rehabilitation services, habilitation and rehabilitation  
11 in the State; (2) a statement of suggestions and  
12 recommendations with reference to the development of  
13 comprehensive rehabilitation services, habilitation and  
14 rehabilitation in the State; and (3) an itemized statement  
15 of the amounts of money received from federal, State and  
16 other sources, and of the objects and purposes to which the  
17 respective items of these several amounts have been  
18 devoted.

19 (e) (Blank).

20 (f) To establish a program of services to prevent the  
21 unnecessary institutionalization of persons in need of  
22 long term care and who meet the criteria for blindness or  
23 disability as defined by the Social Security Act, thereby  
24 enabling them to remain in their own homes. Such preventive  
25 services include any or all of the following:

26 (1) personal assistant services;

- 1 (2) homemaker services;
- 2 (3) home-delivered meals;
- 3 (4) adult day care services;
- 4 (5) respite care;
- 5 (6) home modification or assistive equipment;
- 6 (7) home health services;
- 7 (8) electronic home response;
- 8 (9) brain injury behavioral/cognitive services;
- 9 (10) brain injury habilitation;
- 10 (11) brain injury pre-vocational services; or
- 11 (12) brain injury supported employment.

12 The Department shall establish eligibility standards  
13 for such services taking into consideration the unique  
14 economic and social needs of the population for whom they  
15 are to be provided. Such eligibility standards may be based  
16 on the recipient's ability to pay for services; provided,  
17 however, that any portion of a person's income that is  
18 equal to or less than the "protected income" level shall  
19 not be considered by the Department in determining  
20 eligibility. The "protected income" level shall be  
21 determined by the Department, shall never be less than the  
22 federal poverty standard, and shall be adjusted each year  
23 to reflect changes in the Consumer Price Index For All  
24 Urban Consumers as determined by the United States  
25 Department of Labor. The standards must provide that a  
26 person may not have more than \$10,000 in assets to be

1 eligible for the services, and the Department may increase  
2 or decrease the asset limitation by rule. The Department  
3 may not decrease the asset level below \$10,000.

4 The services shall be provided, as established by the  
5 Department by rule, to eligible persons to prevent  
6 unnecessary or premature institutionalization, to the  
7 extent that the cost of the services, together with the  
8 other personal maintenance expenses of the persons, are  
9 reasonably related to the standards established for care in  
10 a group facility appropriate to their condition.  
11 Notwithstanding this paragraph, medical services shall be  
12 provided, including, but not limited to, nursing staff  
13 services for basic medical care. These non-institutional  
14 services, pilot projects or experimental facilities may be  
15 provided as part of or in addition to those authorized by  
16 federal law or those funded and administered by the  
17 Illinois Department on Aging. The Department shall set  
18 rates and fees for services in a fair and equitable manner.  
19 Services identical to those offered by the Department on  
20 Aging shall be paid at the same rate.

21 Except as otherwise provided in this paragraph,  
22 personal assistants shall be paid at a rate negotiated  
23 between the State and an exclusive representative of  
24 personal assistants under a collective bargaining  
25 agreement. In no case shall the Department pay personal  
26 assistants an hourly wage that is less than the federal

1 minimum wage. Within 30 days after July 6, 2017 (the  
2 effective date of Public Act 100-23), the hourly wage paid  
3 to personal assistants and individual maintenance home  
4 health workers shall be increased by \$0.48 per hour.

5 Solely for the purposes of coverage under the Illinois  
6 Public Labor Relations Act, personal assistants providing  
7 services under the Department's Home Services Program  
8 shall be considered to be public employees and the State of  
9 Illinois shall be considered to be their employer as of  
10 July 16, 2003 (the effective date of Public Act 93-204),  
11 but not before. Solely for the purposes of coverage under  
12 the Illinois Public Labor Relations Act, home care and home  
13 health workers who function as personal assistants and  
14 individual maintenance home health workers and who also  
15 provide services under the Department's Home Services  
16 Program shall be considered to be public employees, no  
17 matter whether the State provides such services through  
18 direct fee-for-service arrangements, with the assistance  
19 of a managed care organization or other intermediary, or  
20 otherwise, and the State of Illinois shall be considered to  
21 be the employer of those persons as of January 29, 2013  
22 (the effective date of Public Act 97-1158), but not before  
23 except as otherwise provided under this subsection (f). The  
24 State shall engage in collective bargaining with an  
25 exclusive representative of home care and home health  
26 workers who function as personal assistants and individual

1 maintenance home health workers working under the Home  
2 Services Program concerning their terms and conditions of  
3 employment that are within the State's control. Nothing in  
4 this paragraph shall be understood to limit the right of  
5 the persons receiving services defined in this Section to  
6 hire and fire home care and home health workers who  
7 function as personal assistants and individual maintenance  
8 home health workers working under the Home Services Program  
9 or to supervise them within the limitations set by the Home  
10 Services Program. The State shall not be considered to be  
11 the employer of home care and home health workers who  
12 function as personal assistants and individual maintenance  
13 home health workers working under the Home Services Program  
14 for any purposes not specifically provided in Public Act  
15 93-204 or Public Act 97-1158, including but not limited to,  
16 purposes of vicarious liability in tort and purposes of  
17 statutory retirement or health insurance benefits. Home  
18 care and home health workers who function as personal  
19 assistants and individual maintenance home health workers  
20 and who also provide services under the Department's Home  
21 Services Program shall not be covered by the State  
22 Employees Group Insurance Act of 1971.

23 The Department shall execute, relative to nursing home  
24 prescreening, as authorized by Section 4.03 of the Illinois  
25 Act on the Aging, written inter-agency agreements with the  
26 Department on Aging and the Department of Healthcare and

1 Family Services, to effect the intake procedures and  
2 eligibility criteria for those persons who may need long  
3 term care. On and after July 1, 1996, all nursing home  
4 prescreenings for individuals 18 through 59 years of age  
5 shall be conducted by the Department, or a designee of the  
6 Department.

7 The Department is authorized to establish a system of  
8 recipient cost-sharing for services provided under this  
9 Section. The cost-sharing shall be based upon the  
10 recipient's ability to pay for services, but in no case  
11 shall the recipient's share exceed the actual cost of the  
12 services provided. Protected income shall not be  
13 considered by the Department in its determination of the  
14 recipient's ability to pay a share of the cost of services.  
15 The level of cost-sharing shall be adjusted each year to  
16 reflect changes in the "protected income" level. The  
17 Department shall deduct from the recipient's share of the  
18 cost of services any money expended by the recipient for  
19 disability-related expenses.

20 To the extent permitted under the federal Social  
21 Security Act, the Department, or the Department's  
22 authorized representative, may recover the amount of  
23 moneys expended for services provided to or in behalf of a  
24 person under this Section by a claim against the person's  
25 estate or against the estate of the person's surviving  
26 spouse, but no recovery may be had until after the death of

1 the surviving spouse, if any, and then only at such time  
2 when there is no surviving child who is under age 21 or  
3 blind or who has a permanent and total disability. This  
4 paragraph, however, shall not bar recovery, at the death of  
5 the person, of moneys for services provided to the person  
6 or in behalf of the person under this Section to which the  
7 person was not entitled; provided that such recovery shall  
8 not be enforced against any real estate while it is  
9 occupied as a homestead by the surviving spouse or other  
10 dependent, if no claims by other creditors have been filed  
11 against the estate, or, if such claims have been filed,  
12 they remain dormant for failure of prosecution or failure  
13 of the claimant to compel administration of the estate for  
14 the purpose of payment. This paragraph shall not bar  
15 recovery from the estate of a spouse, under Sections 1915  
16 and 1924 of the Social Security Act and Section 5-4 of the  
17 Illinois Public Aid Code, who precedes a person receiving  
18 services under this Section in death. All moneys for  
19 services paid to or in behalf of the person under this  
20 Section shall be claimed for recovery from the deceased  
21 spouse's estate. "Homestead", as used in this paragraph,  
22 means the dwelling house and contiguous real estate  
23 occupied by a surviving spouse or relative, as defined by  
24 the rules and regulations of the Department of Healthcare  
25 and Family Services, regardless of the value of the  
26 property.



1           The Department shall submit an annual report on  
2 programs and services provided under this Section. The  
3 report shall be filed with the Governor and the General  
4 Assembly on or before March 30 each year.

5           The requirement for reporting to the General Assembly  
6 shall be satisfied by filing copies of the report as  
7 required by Section 3.1 of the General Assembly  
8 Organization Act, and filing additional copies with the  
9 State Government Report Distribution Center for the  
10 General Assembly as required under paragraph (t) of Section  
11 7 of the State Library Act.

12           (g) To establish such subdivisions of the Department as  
13 shall be desirable and assign to the various subdivisions  
14 the responsibilities and duties placed upon the Department  
15 by law.

16           (h) To cooperate and enter into any necessary  
17 agreements with the Department of Employment Security for  
18 the provision of job placement and job referral services to  
19 clients of the Department, including job service  
20 registration of such clients with Illinois Employment  
21 Security offices and making job listings maintained by the  
22 Department of Employment Security available to such  
23 clients.

24           (i) To possess all powers reasonable and necessary for  
25 the exercise and administration of the powers, duties and  
26 responsibilities of the Department which are provided for

1 by law.

2 (j) (Blank).

3 (k) (Blank).

4 (l) To establish, operate, and maintain a Statewide  
5 Housing Clearinghouse of information on available  
6 government subsidized housing accessible to persons with  
7 disabilities and available privately owned housing  
8 accessible to persons with disabilities. The information  
9 shall include, but not be limited to, the location, rental  
10 requirements, access features and proximity to public  
11 transportation of available housing. The Clearinghouse  
12 shall consist of at least a computerized database for the  
13 storage and retrieval of information and a separate or  
14 shared toll free telephone number for use by those seeking  
15 information from the Clearinghouse. Department offices and  
16 personnel throughout the State shall also assist in the  
17 operation of the Statewide Housing Clearinghouse.  
18 Cooperation with local, State, and federal housing  
19 managers shall be sought and extended in order to  
20 frequently and promptly update the Clearinghouse's  
21 information.

22 (m) To assure that the names and case records of  
23 persons who received or are receiving services from the  
24 Department, including persons receiving vocational  
25 rehabilitation, home services, or other services, and  
26 those attending one of the Department's schools or other

1 supervised facility shall be confidential and not be open  
2 to the general public. Those case records and reports or  
3 the information contained in those records and reports  
4 shall be disclosed by the Director only to proper law  
5 enforcement officials, individuals authorized by a court,  
6 the General Assembly or any committee or commission of the  
7 General Assembly, and other persons and for reasons as the  
8 Director designates by rule. Disclosure by the Director may  
9 be only in accordance with other applicable law.

10 (Source: P.A. 99-143, eff. 7-27-15; 100-23, eff. 7-6-17;  
11 100-477, eff. 9-8-17; 100-587, eff. 6-4-18; 100-863, eff.  
12 8-14-18; 100-1148, eff. 12-10-18.)