

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 Rehabilitation  
11 Act of 1973, as amended, of the Workforce Investment Act of  
12 1998, and of the federal Social Security Act to the extent and  
13 in the manner provided in these Acts.

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

1 (c) (Blank).

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

15 (e) (Blank).

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

22 (1) personal assistant services;

23 (2) homemaker services;

24 (3) home-delivered meals;

25 (4) adult day care services;

26 (5) respite care;

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

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

25 The services shall be provided, as established by the  
26 Department by rule, to eligible persons to prevent unnecessary

1 or premature institutionalization, to the extent that the cost  
2 of the services, together with the other personal maintenance  
3 expenses of the persons, are reasonably related to the  
4 standards established for care in a group facility appropriate  
5 to their condition. These non-institutional services, pilot  
6 projects or experimental facilities may be provided as part of  
7 or in addition to those authorized by federal law or those  
8 funded and administered by the Illinois Department on Aging.  
9 The Department shall set rates and fees for services in a fair  
10 and equitable manner. Services identical to those offered by  
11 the Department on Aging shall be paid at the same rate.

12 Personal assistants shall be paid at a rate negotiated  
13 between the State and an exclusive representative of personal  
14 assistants under a collective bargaining agreement. In no case  
15 shall the Department pay personal assistants an hourly wage  
16 that is less than the federal minimum wage.

17 Solely for the purposes of coverage under the Illinois  
18 Public Labor Relations Act (5 ILCS 315/), personal assistants  
19 providing services under the Department's Home Services  
20 Program shall be considered to be public employees and the  
21 State of Illinois shall be considered to be their employer as  
22 of the effective date of this amendatory Act of the 93rd  
23 General Assembly, but not before. Solely for the purposes of  
24 coverage under the Illinois Public Labor Relations Act, home  
25 care and home health workers who function as personal  
26 assistants and individual maintenance home health workers and

1 who also provide services under the Department's Home Services  
2 Program shall be considered to be public employees, no matter  
3 whether the State provides such services through direct  
4 fee-for-service arrangements, with the assistance of a managed  
5 care organization or other intermediary, or otherwise, and the  
6 State of Illinois shall be considered to be the employer of  
7 those persons as of January 29, 2013 (the effective date of  
8 Public Act 97-1158), but not before except as otherwise  
9 provided under this subsection (f). The State shall engage in  
10 collective bargaining with an exclusive representative of home  
11 care and home health workers who function as personal  
12 assistants and individual maintenance home health workers  
13 working under the Home Services Program concerning their terms  
14 and conditions of employment that are within the State's  
15 control. Nothing in this paragraph shall be understood to limit  
16 the right of the persons receiving services defined in this  
17 Section to hire and fire home care and home health workers who  
18 function as personal assistants and individual maintenance  
19 home health workers working under the Home Services Program or  
20 to supervise them within the limitations set by the Home  
21 Services Program. The State shall not be considered to be the  
22 employer of home care and home health workers who function as  
23 personal assistants and individual maintenance home health  
24 workers working under the Home Services Program for any  
25 purposes not specifically provided in Public Act 93-204 or  
26 Public Act 97-1158, including but not limited to, purposes of

1 vicarious liability in tort and purposes of statutory  
2 retirement or health insurance benefits. Home care and home  
3 health workers who function as personal assistants and  
4 individual maintenance home health workers and who also provide  
5 services under the Department's Home Services Program shall not  
6 be covered by the State Employees Group Insurance Act of 1971  
7 (5 ILCS 375/).

8 A home care consumer, as defined in Section 17.1, in the  
9 Department's Home Services Program has the right and discretion  
10 to select and hire a personal assistant or other individual  
11 provider of his or her choice. A home care consumer in the  
12 Department's Home Services Program also has the right and  
13 discretion to determine the number of hours per week his or her  
14 personal assistant or other individual provider may work.  
15 Subject to the Department's authority to approve the total  
16 monthly hours in a home care consumer's service plan, the State  
17 of Illinois and any of its departments, including the  
18 Department, shall not impose a limit on the number of hours per  
19 week a personal assistant or other individual provider may work  
20 that is less than 55 hours per week. Subject to the  
21 Department's authority to approve the total monthly hours in a  
22 home care consumer's service plan, the State of Illinois and  
23 any of its departments, including the Department, shall not  
24 impose any limit on the number of hours per week a personal  
25 assistant or other individual provider may work unless the  
26 following conditions are satisfied:

1           (1) As an exception to any limit imposed by the  
2           Department, a personal assistant or other individual  
3           provider may work and be paid for all hours worked up to at  
4           least 66 hours per week if, subject to verification by the  
5           Department, the personal assistant or other individual  
6           provider works for: (i) a home care consumer receiving  
7           services under a court-ordered service plan; (ii) a home  
8           care consumer with a Determination of Need score of 70 or  
9           above (or the equivalent under any new assessment tool); or  
10           (iii) a home care consumer with an exceptional care rate.

11           (2) The Department shall establish an exceptions and  
12           appeals process that permits a home care consumer to  
13           request an exception to any limit imposed by the Department  
14           up to a maximum of no less than 66 hours per week.  
15           Exceptions shall be approved as appropriate to maintain  
16           consumer independence and shall be approved, at a minimum,  
17           under the following circumstances which must be verified by  
18           the Department:

19                   (A) Delayed arrival of a provider.

20                   (B) Sudden loss of a provider.

21                   (C) Unexpected illness of a provider.

22                   (D) Extraordinary circumstances justified by the  
23           health and safety issues of the home care consumer.

24           The exceptions and appeals process shall also permit a  
25           home care consumer to apply to be pre-approved for the use  
26           of a personal assistant or other individual provider for

1 hours worked above the weekly maximum. Such pre-approval  
2 shall last for not less than one year from the date of the  
3 approval. Additionally, the exceptions and appeals process  
4 shall permit a home care consumer to apply after the fact  
5 for the approval of the prior use of a personal assistant  
6 or other individual provider who worked up to a maximum of  
7 no less than 66 hours per week.

8 (3) Notwithstanding any limit imposed by the  
9 Department on the number of hours per week a home care  
10 consumer's personal assistant or other individual provider  
11 may work, if the home care consumer would face a serious  
12 risk of institutionalization, the Department shall work  
13 with the home care consumer to ensure that appropriate care  
14 in the community will be provided, whether through  
15 authorized overtime or another solution.

16 Nothing in this subsection shall limit the Department's  
17 authority under any other statute to disqualify an individual  
18 from providing services in the Department's Home Services  
19 Program for reasons other than the number of weekly hours  
20 worked by the individual.

21 The Department shall execute, relative to nursing home  
22 prescreening, as authorized by Section 4.03 of the Illinois Act  
23 on the Aging, written inter-agency agreements with the  
24 Department on Aging and the Department of Healthcare and Family  
25 Services, to effect the intake procedures and eligibility  
26 criteria for those persons who may need long term care. On and



1 after July 1, 1996, all nursing home prescreenings for  
2 individuals 18 through 59 years of age shall be conducted by  
3 the Department, or a designee of the Department.

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

16 To the extent permitted under the federal Social Security  
17 Act, the Department, or the Department's authorized  
18 representative, may recover the amount of moneys expended for  
19 services provided to or in behalf of a person under this  
20 Section by a claim against the person's estate or against the  
21 estate of the person's surviving spouse, but no recovery may be  
22 had until after the death of the surviving spouse, if any, and  
23 then only at such time when there is no surviving child who is  
24 under age 21 or blind or who has a permanent and total  
25 disability. This paragraph, however, shall not bar recovery, at  
26 the death of the person, of moneys for services provided to the

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

20 The Department shall submit an annual report on programs  
21 and services provided under this Section. The report shall be  
22 filed with the Governor and the General Assembly on or before  
23 March 30 each year.

24 The requirement for reporting to the General Assembly shall  
25 be satisfied by filing copies of the report with the Speaker,  
26 the Minority Leader and the Clerk of the House of

1 Representatives and the President, the Minority Leader and the  
2 Secretary of the Senate and the Legislative Research Unit, as  
3 required by Section 3.1 of the General Assembly Organization  
4 Act, and filing additional copies with the State Government  
5 Report Distribution Center for the General Assembly as required  
6 under paragraph (t) of Section 7 of the State Library Act.

7 (g) To establish such subdivisions of the Department as  
8 shall be desirable and assign to the various subdivisions the  
9 responsibilities and duties placed upon the Department by law.

10 (h) To cooperate and enter into any necessary agreements  
11 with the Department of Employment Security for the provision of  
12 job placement and job referral services to clients of the  
13 Department, including job service registration of such clients  
14 with Illinois Employment Security offices and making job  
15 listings maintained by the Department of Employment Security  
16 available to such clients.

17 (i) To possess all powers reasonable and necessary for the  
18 exercise and administration of the powers, duties and  
19 responsibilities of the Department which are provided for by  
20 law.

21 (j) (Blank).

22 (k) (Blank).

23 (l) To establish, operate and maintain a Statewide Housing  
24 Clearinghouse of information on available, government  
25 subsidized housing accessible to persons with disabilities and  
26 available privately owned housing accessible to persons with

1 disabilities. The information shall include but not be limited  
2 to the location, rental requirements, access features and  
3 proximity to public transportation of available housing. The  
4 Clearinghouse shall consist of at least a computerized database  
5 for the storage and retrieval of information and a separate or  
6 shared toll free telephone number for use by those seeking  
7 information from the Clearinghouse. Department offices and  
8 personnel throughout the State shall also assist in the  
9 operation of the Statewide Housing Clearinghouse. Cooperation  
10 with local, State and federal housing managers shall be sought  
11 and extended in order to frequently and promptly update the  
12 Clearinghouse's information.

13 (m) To assure that the names and case records of persons  
14 who received or are receiving services from the Department,  
15 including persons receiving vocational rehabilitation, home  
16 services, or other services, and those attending one of the  
17 Department's schools or other supervised facility shall be  
18 confidential and not be open to the general public. Those case  
19 records and reports or the information contained in those  
20 records and reports shall be disclosed by the Director only to  
21 proper law enforcement officials, individuals authorized by a  
22 court, the General Assembly or any committee or commission of  
23 the General Assembly, and other persons and for reasons as the  
24 Director designates by rule. Disclosure by the Director may be  
25 only in accordance with other applicable law.

26 (Source: P.A. 98-1004, eff. 8-18-14; 99-143, eff. 7-27-15.)