

SB3818



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3818

Introduced 1/21/2022, by Sen. Laura Fine

SYNOPSIS AS INTRODUCED:

305 ILCS 5/3-1.2

from Ch. 23, par. 3-1.2

Amends the Aid to the Aged, Blind or Disabled Article of the Illinois Public Aid Code. Provides that at any time after submitting an application for medial assistance and before a final determination of eligibility has been made by the Department of Human Services, an applicant may use available resources to purchase certain prepaid funeral or burial contracts, or make an irrevocable assignment of benefits to purchase such funeral or burial services and products after death.

LRB102 22457 KTG 31597 b

A BILL FOR

1 AN ACT concerning public aid.

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

4 Section 5. The Illinois Public Aid Code is amended by
5 changing Section 3-1.2 as follows:

6 (305 ILCS 5/3-1.2) (from Ch. 23, par. 3-1.2)

7 Sec. 3-1.2. Need.

8 (a) Income available to the person, when added to
9 contributions in money, substance, or services from other
10 sources, including contributions from legally responsible
11 relatives, must be insufficient to equal the grant amount
12 established by Department regulation for such person. In
13 determining earned income to be taken into account,
14 consideration shall be given to any expenses reasonably
15 attributable to the earning of such income. If federal law or
16 regulations permit or require exemption of earned or other
17 income and resources, the Illinois Department shall provide by
18 rule and regulation that the amount of income to be
19 disregarded be increased (1) to the maximum extent so required
20 and (2) to the maximum extent permitted by federal law or
21 regulation in effect as of the date this amendatory Act
22 becomes law. The Illinois Department may also provide by rule
23 and regulation that the amount of resources to be disregarded

1 be increased to the maximum extent so permitted or required.

2 (b) Subject to federal approval, resources (for example,
3 land, buildings, equipment, supplies, or tools), including
4 farmland property and personal property used in the
5 income-producing operations related to the farmland (for
6 example, equipment and supplies, motor vehicles, or tools),
7 necessary for self-support, up to \$6,000 of the person's
8 equity in the income-producing property, provided that the
9 property produces a net annual income of at least 6% of the
10 excluded equity value of the property, are exempt. Equity
11 value in excess of \$6,000 shall not be excluded. If the
12 activity produces income that is less than 6% of the exempt
13 equity due to reasons beyond the person's control (for
14 example, the person's illness or crop failure) and there is a
15 reasonable expectation that the property will again produce
16 income equal to or greater than 6% of the equity value (for
17 example, a medical prognosis that the person is expected to
18 respond to treatment or that drought-resistant corn will be
19 planted), the equity value in the property up to \$6,000 is
20 exempt. If the person owns more than one piece of property and
21 each produces income, each piece of property shall be looked
22 at to determine whether the 6% rule is met, and then the
23 amounts of the person's equity in all of those properties
24 shall be totaled to determine whether the total equity is
25 \$6,000 or less. The total equity value of all properties that
26 is exempt shall be limited to \$6,000.

1 (c) In determining the resources of an individual or any
2 dependents, the Department shall exclude from consideration
3 the value of funeral and burial spaces, funeral and burial
4 insurance the proceeds of which can only be used to pay the
5 funeral and burial expenses of the insured and funds
6 specifically set aside for the funeral and burial arrangements
7 of the individual or his or her dependents, including prepaid
8 funeral and burial plans, to the same extent that such items
9 are excluded from consideration under the federal Supplemental
10 Security Income program (SSI). At any time after submitting an
11 application for medical assistance and before a final
12 determination of eligibility has been made by the Department,
13 an applicant may use available resources to purchase prepaid
14 funeral or burial contracts exempted under this Section, or
15 make an irrevocable assignment of benefits to purchase such
16 funeral or burial services and products after death.

17 Prepaid funeral or burial contracts are exempt to the
18 following extent:

19 (1) Funds in a revocable prepaid funeral or burial
20 contract are exempt up to \$1,500, except that any portion
21 of a contract that clearly represents the purchase of
22 burial space, as that term is defined for purposes of the
23 Supplemental Security Income program, is exempt regardless
24 of value.

25 (2) Funds in an irrevocable prepaid funeral or burial
26 contract are exempt up to \$5,874, except that any portion

1 of a contract that clearly represents the purchase of
2 burial space, as that term is defined for purposes of the
3 Supplemental Security Income program, is exempt regardless
4 of value. This amount shall be adjusted annually for any
5 increase in the Consumer Price Index. The amount exempted
6 shall be limited to the price of the funeral goods and
7 services to be provided upon death. The contract must
8 provide a complete description of the funeral goods and
9 services to be provided and the price thereof. Any amount
10 in the contract not so specified shall be treated as a
11 transfer of assets for less than fair market value.

12 (3) A prepaid, guaranteed-price funeral or burial
13 contract, funded by an irrevocable assignment of a
14 person's life insurance policy to a trust, is exempt. The
15 amount exempted shall be limited to the amount of the
16 insurance benefit designated for the cost of the funeral
17 goods and services to be provided upon the person's death.
18 The contract must provide a complete description of the
19 funeral goods and services to be provided and the price
20 thereof. Any amount in the contract not so specified shall
21 be treated as a transfer of assets for less than fair
22 market value. The trust must include a statement that,
23 upon the death of the person, the State will receive all
24 amounts remaining in the trust, including any remaining
25 payable proceeds under the insurance policy up to an
26 amount equal to the total medical assistance paid on

1 behalf of the person. The trust is responsible for
2 ensuring that the provider of funeral services under the
3 contract receives the proceeds of the policy when it
4 provides the funeral goods and services specified under
5 the contract. The irrevocable assignment of ownership of
6 the insurance policy must be acknowledged by the insurance
7 company.

8 Notwithstanding any other provision of this Code to the
9 contrary, an irrevocable trust containing the resources of a
10 person who is determined to have a disability shall be
11 considered exempt from consideration. A pooled trust must be
12 established and managed by a non-profit association that pools
13 funds but maintains a separate account for each beneficiary.
14 The trust may be established by the person, a parent,
15 grandparent, legal guardian, or court. It must be established
16 for the sole benefit of the person and language contained in
17 the trust shall stipulate that any amount remaining in the
18 trust (up to the amount expended by the Department on medical
19 assistance) that is not retained by the trust for reasonable
20 administrative costs related to wrapping up the affairs of the
21 subaccount shall be paid to the Department upon the death of
22 the person. After a person reaches age 65, any funding by or on
23 behalf of the person to the trust shall be treated as a
24 transfer of assets for less than fair market value unless the
25 person is a ward of a county public guardian or the State
26 Guardian pursuant to Section 13-5 of the Probate Act of 1975 or

1 Section 30 of the Guardianship and Advocacy Act and lives in
2 the community, or the person is a ward of a county public
3 guardian or the State Guardian pursuant to Section 13-5 of the
4 Probate Act of 1975 or Section 30 of the Guardianship and
5 Advocacy Act and a court has found that any expenditures from
6 the trust will maintain or enhance the person's quality of
7 life. If the trust contains proceeds from a personal injury
8 settlement, any Department charge must be satisfied in order
9 for the transfer to the trust to be treated as a transfer for
10 fair market value.

11 The homestead shall be exempt from consideration except to
12 the extent that it meets the income and shelter needs of the
13 person. "Homestead" means the dwelling house and contiguous
14 real estate owned and occupied by the person, regardless of
15 its value. Subject to federal approval, a person shall not be
16 eligible for long-term care services, however, if the person's
17 equity interest in his or her homestead exceeds the minimum
18 home equity as allowed and increased annually under federal
19 law. Subject to federal approval, on and after the effective
20 date of this amendatory Act of the 97th General Assembly,
21 homestead property transferred to a trust shall no longer be
22 considered homestead property.

23 Occasional or irregular gifts in cash, goods or services
24 from persons who are not legally responsible relatives which
25 are of nominal value or which do not have significant effect in
26 meeting essential requirements shall be disregarded. The

1 eligibility of any applicant for or recipient of public aid
2 under this Article is not affected by the payment of any grant
3 under the "Senior Citizens and Disabled Persons Property Tax
4 Relief Act" or any distributions or items of income described
5 under subparagraph (X) of paragraph (2) of subsection (a) of
6 Section 203 of the Illinois Income Tax Act.

7 The Illinois Department may, after appropriate
8 investigation, establish and implement a consolidated standard
9 to determine need and eligibility for and amount of benefits
10 under this Article or a uniform cash supplement to the federal
11 Supplemental Security Income program for all or any part of
12 the then current recipients under this Article; provided,
13 however, that the establishment or implementation of such a
14 standard or supplement shall not result in reductions in
15 benefits under this Article for the then current recipients of
16 such benefits.

17 (Source: P.A. 97-689, eff. 6-14-12; 98-104, eff. 7-22-13.)