

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 Sections 11-22 and 12-4.18 as follows:

6 (305 ILCS 5/11-22) (from Ch. 23, par. 11-22)

7 Sec. 11-22. Charge upon claims and causes of action for
8 injuries. The Illinois Department shall have a charge upon all
9 claims, demands and causes of action for injuries to an
10 applicant for or recipient of (i) financial aid under Articles
11 III, IV, and V, (ii) health care benefits provided under the
12 Covering ALL KIDS Health Insurance Act, or (iii) health care
13 benefits provided under the Veterans' Health Insurance Program
14 Act or the Veterans' Health Insurance Program Act of 2008 for
15 the total amount of medical assistance provided the recipient
16 from the time of injury to the date of recovery upon such
17 claim, demand or cause of action. In addition, if the applicant
18 or recipient was employable, as defined by the Department, at
19 the time of the injury, the Department shall also have a charge
20 upon any such claims, demands and causes of action for the
21 total amount of aid provided to the recipient and his
22 dependents, including all cash assistance and medical
23 assistance only to the extent includable in the claimant's

1 action, from the time of injury to the date of recovery upon
2 such claim, demand or cause of action. Any definition of
3 "employable" adopted by the Department shall apply only to
4 persons above the age of compulsory school attendance.

5 If the injured person was employable at the time of the
6 injury and is provided aid under Articles III, IV, or V and any
7 dependent or member of his family is provided aid under Article
8 VI, or vice versa, both the Illinois Department and the local
9 governmental unit shall have a charge upon such claims, demands
10 and causes of action for the aid provided to the injured person
11 and any dependent member of his family, including all cash
12 assistance, medical assistance and food stamps, from the time
13 of the injury to the date of recovery.

14 "Recipient", as used herein, means (i) in the case of
15 financial aid provided under this Code, the grantee of record
16 and any persons whose needs are included in the financial aid
17 provided to the grantee of record or otherwise met by grants
18 under the appropriate Article of this Code for which such
19 person is eligible, (ii) in the case of health care benefits
20 provided under the Covering ALL KIDS Health Insurance Act, the
21 child to whom those benefits are provided, and (iii) in the
22 case of health care benefits provided under the Veterans'
23 Health Insurance Program Act or the Veterans' Health Insurance
24 Program Act of 2008, the veteran to whom benefits are provided.

25 In each case, the notice shall be served by certified mail
26 or registered mail, upon the party or parties against whom the

1 applicant or recipient has a claim, demand or cause of action.
2 The notice shall claim the charge and describe the interest the
3 Illinois Department, the local governmental unit, or the
4 county, has in the claim, demand, or cause of action. The
5 charge shall attach to any verdict or judgment entered and to
6 any money or property which may be recovered on account of such
7 claim, demand, cause of action or suit from and after the time
8 of the service of the notice.

9 On petition filed by the Illinois Department, or by the
10 local governmental unit or county if either is claiming a
11 charge, or by the recipient, or by the defendant, the court, on
12 written notice to all interested parties, may adjudicate the
13 rights of the parties and enforce the charge. The court may
14 approve the settlement of any claim, demand or cause of action
15 either before or after a verdict, and nothing in this Section
16 shall be construed as requiring the actual trial or final
17 adjudication of any claim, demand or cause of action upon which
18 the Illinois Department, the local governmental unit or county
19 has charge. The court may determine what portion of the
20 recovery shall be paid to the injured person and what portion
21 shall be paid to the Illinois Department, the local
22 governmental unit or county having a charge against the
23 recovery. In making this determination, the court shall conduct
24 an evidentiary hearing and shall consider competent evidence
25 pertaining to the following matters:

26 (1) the amount of the charge sought to be enforced

1 against the recovery when expressed as a percentage of the
2 gross amount of the recovery; the amount of the charge
3 sought to be enforced against the recovery when expressed
4 as a percentage of the amount obtained by subtracting from
5 the gross amount of the recovery the total attorney's fees
6 and other costs incurred by the recipient incident to the
7 recovery; and whether the Department, unit of local
8 government or county seeking to enforce the charge against
9 the recovery should as a matter of fairness and equity bear
10 its proportionate share of the fees and costs incurred to
11 generate the recovery from which the charge is sought to be
12 satisfied;

13 (2) the amount, if any, of the attorney's fees and
14 other costs incurred by the recipient incident to the
15 recovery and paid by the recipient up to the time of
16 recovery, and the amount of such fees and costs remaining
17 unpaid at the time of recovery;

18 (3) the total hospital, doctor and other medical
19 expenses incurred for care and treatment of the injury to
20 the date of recovery therefor, the portion of such expenses
21 theretofore paid by the recipient, by insurance provided by
22 the recipient, and by the Department, unit of local
23 government and county seeking to enforce a charge against
24 the recovery, and the amount of such previously incurred
25 expenses which remain unpaid at the time of recovery and by
26 whom such incurred, unpaid expenses are to be paid;

1 (4) whether the recovery represents less than
2 substantially full recompense for the injury and the
3 hospital, doctor and other medical expenses incurred to the
4 date of recovery for the care and treatment of the injury,
5 so that reduction of the charge sought to be enforced
6 against the recovery would not likely result in a double
7 recovery or unjust enrichment to the recipient;

8 (5) the age of the recipient and of persons dependent
9 for support upon the recipient, the nature and permanency
10 of the recipient's injuries as they affect not only the
11 future employability and education of the recipient but
12 also the reasonably necessary and foreseeable future
13 material, maintenance, medical, rehabilitative and
14 training needs of the recipient, the cost of such
15 reasonably necessary and foreseeable future needs, and the
16 resources available to meet such needs and pay such costs;

17 (6) the realistic ability of the recipient to repay in
18 whole or in part the charge sought to be enforced against
19 the recovery when judged in light of the factors enumerated
20 above.

21 The burden of producing evidence sufficient to support the
22 exercise by the court of its discretion to reduce the amount of
23 a proven charge sought to be enforced against the recovery
24 shall rest with the party seeking such reduction.

25 The court may reduce and apportion the Illinois
26 Department's lien proportionate to the recovery of the

1 claimant. The court may consider the nature and extent of the
2 injury, economic and noneconomic loss, settlement offers,
3 comparative negligence as it applies to the case at hand,
4 hospital costs, physician costs, and all other appropriate
5 costs. The Illinois Department shall pay its pro rata share of
6 the attorney fees based on the Illinois Department's lien as it
7 compares to the total settlement agreed upon. This Section
8 shall not affect the priority of an attorney's lien under the
9 Attorneys Lien Act. The charges of the Illinois Department
10 described in this Section, however, shall take priority over
11 all other liens and charges existing under the laws of the
12 State of Illinois with the exception of the attorney's lien
13 under said statute.

14 Whenever the Department or any unit of local government has
15 a statutory charge under this Section against a recovery for
16 damages incurred by a recipient because of its advancement of
17 any assistance, such charge shall not be satisfied out of any
18 recovery until the attorney's claim for fees is satisfied,
19 irrespective of whether or not an action based on recipient's
20 claim has been filed in court.

21 Within 180 days after the effective date of this amendatory
22 Act of the 97th General Assembly, the Illinois Department shall
23 issue a Request for Proposals to contract with a vendor or
24 vendors to enforce, collect, and effectuate the recovery of the
25 Department's liens as provided by this Section 11-22 on behalf
26 of the Illinois Department. The scope of work shall include, at

1 a minimum and to the extent permitted by federal and State law,
2 assuming the right and the authority to assume responsibility
3 for the enforcement and collection of liens; notifying
4 appropriate parties; negotiating settlement of the liens
5 subject to pre-approval by the Illinois Department;
6 coordinating payment of the liens and the terms of payment; and
7 recovering the value of the liens and releasing the liens on
8 behalf of the Illinois Department. The vendor or vendors may be
9 paid a percentage of actual cash recovered when practical and
10 subject to federal law.

11 This Section shall be inapplicable to any claim, demand or
12 cause of action arising under (a) the Workers' Compensation Act
13 or the predecessor Workers' Compensation Act of June 28, 1913,
14 (b) the Workers' Occupational Diseases Act or the predecessor
15 Workers' Occupational Diseases Act of March 16, 1936; and (c)
16 the Wrongful Death Act.

17 (Source: P.A. 94-693, eff. 7-1-06; 94-816, eff. 5-30-06;
18 95-755, eff. 7-25-08.)

19 (305 ILCS 5/12-4.18) (from Ch. 23, par. 12-4.18)

20 Sec. 12-4.18. Grants, loans, and gifts for public aid and
21 related welfare purposes. Accept, hold and administer in behalf
22 of the State any grant, gift or legacy of money, securities,
23 loans, or property to the Illinois Department or to the State
24 of Illinois for public aid or any related welfare purpose.

25 From appropriations from the Assistance to the Homeless

1 Fund, a special fund in the State treasury, which is hereby
2 created, provide grants to not-for-profit organizations for
3 the purpose of providing assistance to homeless persons.

4 Grants, gifts, and legacies for employment and training
5 programs for public assistance clients shall be deposited into
6 the Employment and Training Fund.

7 Grants, gifts, donations, and legacies for functions
8 connected with the administration of any medical program
9 administered by the Illinois Department shall be deposited into
10 the Medical Special Purposes Trust Fund created under Section
11 12-10.5.

12 (Source: P.A. 92-37, eff. 7-1-01.)

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