



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB3729

by Rep. Charles E. Meier

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2405/3

from Ch. 23, par. 3434

Amends the Disabled Persons Rehabilitation Act. Provides that any home care and home health worker who functions as a personal assistant or as an individual maintenance home health worker and provides services under the Department of Human Services' Home Services Program shall complete standardized training as determined by the Department before enrollment under the Program. Provides that the training must be available in languages other than English and must be available to those who need accommodations due to disabilities. Provides that home care and home health worker training must include successful completion of the following training components: basic first aid, working with vulnerable adults, child maltreatment, OSHA universal precautions, and basic roles and responsibilities of home care and home health workers, including information about assistance with lifting and transfers for Program recipients, emergency preparedness, orientation to positive behavioral practices, fraud issues, and completion of time sheets. Provides that upon completion of the training components, the home care and home health worker must demonstrate the competency to provide assistance to Program recipients. Effective immediately.

LRB099 07268 KTG 27372 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 Disabled Persons Rehabilitation Act is  
5 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 Any home care and home health worker who functions as a  
9 personal assistant or as an individual maintenance home health  
10 worker and provides services under the Department's Home  
11 Services Program shall complete standardized training as  
12 determined by the Department before enrollment under the  
13 Program. The training must be available in languages other than  
14 English and must be available to those who need accommodations  
15 due to disabilities. Home care and home health worker training  
16 must include successful completion of the following training  
17 components: basic first aid, working with vulnerable adults,  
18 child maltreatment, OSHA universal precautions, and basic  
19 roles and responsibilities of home care and home health  
20 workers, including information about assistance with lifting  
21 and transfers for Program recipients, emergency preparedness,  
22 orientation to positive behavioral practices, fraud issues,  
23 and completion of time sheets. Upon completion of the training  
24 components, the home care and home health worker must  
25 demonstrate the competency to provide assistance to Program  
26 recipients.

1           The Department shall execute, relative to nursing home  
2 prescreening, as authorized by Section 4.03 of the Illinois Act  
3 on the Aging, written inter-agency agreements with the  
4 Department on Aging and the Department of Healthcare and Family  
5 Services, to effect the intake procedures and eligibility  
6 criteria for those persons who may need long term care. On and  
7 after July 1, 1996, all nursing home prescreenings for  
8 individuals 18 through 59 years of age shall be conducted by  
9 the Department, or a designee of the Department.

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

22           To the extent permitted under the federal Social Security  
23 Act, the Department, or the Department's authorized  
24 representative, may recover the amount of moneys expended for  
25 services provided to or in behalf of a person under this  
26 Section by a claim against the person's estate or against the



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

26 The Department shall submit an annual report on programs

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

4 The requirement for reporting to the General Assembly shall  
5 be satisfied by filing copies of the report with the Speaker,  
6 the Minority Leader and the Clerk of the House of  
7 Representatives and the President, the Minority Leader and the  
8 Secretary of the Senate and the Legislative Research Unit, as  
9 required by Section 3.1 of the General Assembly Organization  
10 Act, and filing additional copies with the State Government  
11 Report Distribution Center for the General Assembly as required  
12 under paragraph (t) of Section 7 of the State Library Act.

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

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

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

1 (j) (Blank).

2 (k) (Blank).

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

19 (m) To assure that the names and case records of persons  
20 who received or are receiving services from the Department,  
21 including persons receiving vocational rehabilitation, home  
22 services, or other services, and those attending one of the  
23 Department's schools or other supervised facility shall be  
24 confidential and not be open to the general public. Those case  
25 records and reports or the information contained in those  
26 records and reports shall be disclosed by the Director only to

1 proper law enforcement officials, individuals authorized by a  
2 court, the General Assembly or any committee or commission of  
3 the General Assembly, and other persons and for reasons as the  
4 Director designates by rule. Disclosure by the Director may be  
5 only in accordance with other applicable law.

6 (Source: P.A. 97-732, eff. 6-30-12; 97-1019, eff. 8-17-12;  
7 97-1158, eff. 1-29-13; 98-1004, eff. 8-18-14.)

8 Section 99. Effective date. This Act takes effect upon  
9 becoming law.