



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB2602

Introduced 10/9/2013, by Sen. Heather A. Steans

SYNOPSIS AS INTRODUCED:

305 ILCS 5/3-1.2

from Ch. 23, par. 3-1.2

Amends the Illinois Public Aid Code. In a provision concerning irrevocable trusts and financial exemptions under the Aid to the Aged, Blind, or Disabled program, provides that after a person reaches age 65, any funding by or on behalf of the person to the trust shall be treated as a transfer of assets for less than fair market value unless the person is a ward of the court, a county public guardian, or the State Guardian (rather than a ward of a county public guardian or the State Guardian) and lives in the community, or the person is a ward of the court, a county public guardian, or the State Guardian (rather than a ward of a county public guardian or the State Guardian) and a court has found that any expenditures from the trust will maintain or enhance the person's quality of life.

LRB098 14097 KTG 48666 b

FISCAL NOTE ACT
MAY APPLY

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. Income available to the person, when
8 added to contributions in money, substance, or services from
9 other sources, including contributions from legally
10 responsible relatives, must be insufficient to equal the grant
11 amount established by Department regulation for such person.

12 In determining earned income to be taken into account,
13 consideration shall be given to any expenses reasonably
14 attributable to the earning of such income. If federal law or
15 regulations permit or require exemption of earned or other
16 income and resources, the Illinois Department shall provide by
17 rule and regulation that the amount of income to be disregarded
18 be increased (1) to the maximum extent so required and (2) to
19 the maximum extent permitted by federal law or regulation in
20 effect as of the date this amendatory Act becomes law. The
21 Illinois Department may also provide by rule and regulation
22 that the amount of resources to be disregarded be increased to
23 the maximum extent so permitted or required. Subject to federal

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

25 In determining the resources of an individual or any
26 dependents, the Department shall exclude from consideration

1 the value of funeral and burial spaces, funeral and burial
2 insurance the proceeds of which can only be used to pay the
3 funeral and burial expenses of the insured and funds
4 specifically set aside for the funeral and burial arrangements
5 of the individual or his or her dependents, including prepaid
6 funeral and burial plans, to the same extent that such items
7 are excluded from consideration under the federal Supplemental
8 Security Income program (SSI).

9 Prepaid funeral or burial contracts are exempt to the
10 following extent:

11 (1) Funds in a revocable prepaid funeral or burial
12 contract are exempt up to \$1,500, except that any portion
13 of a contract that clearly represents the purchase of
14 burial space, as that term is defined for purposes of the
15 Supplemental Security Income program, is exempt regardless
16 of value.

17 (2) Funds in an irrevocable prepaid funeral or burial
18 contract are exempt up to \$5,874, except that any portion
19 of a contract that clearly represents the purchase of
20 burial space, as that term is defined for purposes of the
21 Supplemental Security Income program, is exempt regardless
22 of value. This amount shall be adjusted annually for any
23 increase in the Consumer Price Index. The amount exempted
24 shall be limited to the price of the funeral goods and
25 services to be provided upon death. The contract must
26 provide a complete description of the funeral goods and

1 services to be provided and the price thereof. Any amount
2 in the contract not so specified shall be treated as a
3 transfer of assets for less than fair market value.

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

25 Notwithstanding any other provision of this Code to the
26 contrary, an irrevocable trust containing the resources of a

1 person who is determined to have a disability shall be
2 considered exempt from consideration. A pooled trust must be
3 established and managed by a non-profit association that pools
4 funds but maintains a separate account for each beneficiary.
5 The trust may be established by the person, a parent,
6 grandparent, legal guardian, or court. It must be established
7 for the sole benefit of the person and language contained in
8 the trust shall stipulate that any amount remaining in the
9 trust (up to the amount expended by the Department on medical
10 assistance) that is not retained by the trust for reasonable
11 administrative costs related to wrapping up the affairs of the
12 subaccount shall be paid to the Department upon the death of
13 the person. After a person reaches age 65, any funding by or on
14 behalf of the person to the trust shall be treated as a
15 transfer of assets for less than fair market value unless the
16 person is a ward of the court, ~~of~~ a county public guardian, or
17 the State Guardian pursuant to Section 13-5 of the Probate Act
18 of 1975 or Section 30 of the Guardianship and Advocacy Act and
19 lives in the community, or the person is a ward of the court,
20 ~~of~~ a county public guardian, or the State Guardian pursuant to
21 Section 13-5 of the Probate Act of 1975 or Section 30 of the
22 Guardianship and Advocacy Act and a court has found that any
23 expenditures from the trust will maintain or enhance the
24 person's quality of life. If the trust contains proceeds from a
25 personal injury settlement, any Department charge must be
26 satisfied in order for the transfer to the trust to be treated

1 as a transfer for fair market value.

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

14 Occasional or irregular gifts in cash, goods or services
15 from persons who are not legally responsible relatives which
16 are of nominal value or which do not have significant effect in
17 meeting essential requirements shall be disregarded. The
18 eligibility of any applicant for or recipient of public aid
19 under this Article is not affected by the payment of any grant
20 under the "Senior Citizens and Disabled Persons Property Tax
21 Relief Act" or any distributions or items of income described
22 under subparagraph (X) of paragraph (2) of subsection (a) of
23 Section 203 of the Illinois Income Tax Act.

24 The Illinois Department may, after appropriate
25 investigation, establish and implement a consolidated standard
26 to determine need and eligibility for and amount of benefits

1 under this Article or a uniform cash supplement to the federal
2 Supplemental Security Income program for all or any part of the
3 then current recipients under this Article; provided, however,
4 that the establishment or implementation of such a standard or
5 supplement shall not result in reductions in benefits under
6 this Article for the then current recipients of such benefits.
7 (Source: P.A. 97-689, eff. 6-14-12; 98-104, eff. 7-22-13.)