

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 Mental Health and Developmental
5 Disabilities Administrative Act is amended by adding Section
6 32 as follows:

7 (20 ILCS 1705/32 new)

8 Sec. 32. Senator Scott Bennett ABLE Program; informational
9 materials. The Department shall provide informational
10 materials about the Senator Scott Bennett ABLE Program
11 established under Section 16.6 of the State Treasurer Act to
12 all persons who are placed in a facility licensed under the
13 ID/DD Community Care Act or the MC/DD Act and to all persons
14 who receive services for persons with disabilities that are
15 funded by or administered in conjunction with the Department,
16 including, but not limited to, persons who receive home and
17 community based services under Section 15f, persons who
18 receive home-based support services under the Developmental
19 Disability and Mental Disability Services Act, and persons who
20 apply for inclusion on the Prioritization of Urgency of Need
21 for Services list under Section 10-26 of the Department of
22 Human Services Act. The informational materials required under
23 this Section shall be provided when the person first enrolls

1 for such services and as part of any annual process required
2 for the person to maintain eligibility for such services. The
3 Office of the State Treasurer shall prepare and deliver the
4 informational materials in an electronic format to the
5 Department, and the Department shall distribute the materials
6 to the persons identified in this Section.

7 Section 10. The Rehabilitation of Persons with
8 Disabilities Act is amended by changing Section 3 as follows:

9 (20 ILCS 2405/3) (from Ch. 23, par. 3434)

10 Sec. 3. Powers and duties. The Department shall have the
11 powers and duties enumerated herein:

12 (a) To cooperate with the federal government in the
13 administration of the provisions of the federal
14 Rehabilitation Act of 1973, as amended by the Workforce
15 Innovation and Opportunity Act, and of the federal Social
16 Security Act to the extent and in the manner provided in
17 these Acts.

18 (b) To prescribe and supervise such courses of
19 vocational training and provide such other services as may
20 be necessary for the vocational rehabilitation of persons
21 with one or more disabilities, including the
22 administrative activities under subsection (e) of this
23 Section; to cooperate with State and local school
24 authorities and other recognized agencies engaged in

1 vocational rehabilitation services; and to cooperate with
2 the Department of Children and Family Services, the
3 Illinois State Board of Education, and others regarding
4 the education of children with one or more disabilities.

5 (c) (Blank).

6 (d) To report in writing, to the Governor, annually on
7 or before the first day of December, and at such other
8 times and in such manner and upon such subjects as the
9 Governor may require. The annual report shall contain (1)
10 information on the programs and activities dedicated to
11 vocational rehabilitation, independent living, and other
12 community services and supports administered by the
13 Director; (2) information on the development of vocational
14 rehabilitation services, independent living services, and
15 supporting services administered by the Director in the
16 State; and (3) information detailing the amounts of money
17 received from federal, State, and other sources, and of
18 the objects and purposes to which the respective items of
19 these several amounts have been devoted.

20 (e) (Blank).

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

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

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

1 person may not have more than \$10,000 in assets to be
2 eligible for the services, and the Department may increase
3 or decrease the asset limitation by rule. The Department
4 may not decrease the asset level below \$10,000. Subject to
5 federal approval, the Department shall allow a recipient's
6 spouse, guardian, kin, or siblings to serve as his or her
7 provider of personal care or similar services.

8 The services shall be provided, as established by the
9 Department by rule, to eligible persons to prevent
10 unnecessary or premature institutionalization, to the
11 extent that the cost of the services, together with the
12 other personal maintenance expenses of the persons, are
13 reasonably related to the standards established for care
14 in a group facility appropriate to their condition. These
15 non-institutional services, pilot projects or experimental
16 facilities may be provided as part of or in addition to
17 those authorized by federal law or those funded and
18 administered by the Illinois Department on Aging. The
19 Department shall set rates and fees for services in a fair
20 and equitable manner. Services identical to those offered
21 by the Department on Aging shall be paid at the same rate.

22 Except as otherwise provided in this paragraph,
23 personal assistants shall be paid at a rate negotiated
24 between the State and an exclusive representative of
25 personal assistants under a collective bargaining
26 agreement. In no case shall the Department pay personal

1 assistants an hourly wage that is less than the federal
2 minimum wage. Within 30 days after July 6, 2017 (the
3 effective date of Public Act 100-23), the hourly wage paid
4 to personal assistants and individual maintenance home
5 health workers shall be increased by \$0.48 per hour. Wages
6 and other benefits for personal assistants shall not count
7 against benefits that guardians receive as outlined in
8 Article XIa of the Probate Act of 1975.

9 Solely for the purposes of coverage under the Illinois
10 Public Labor Relations Act, personal assistants providing
11 services under the Department's Home Services Program
12 shall be considered to be public employees and the State
13 of Illinois shall be considered to be their employer as of
14 July 16, 2003 (the effective date of Public Act 93-204),
15 but not before. Solely for the purposes of coverage under
16 the Illinois Public Labor Relations Act, home care and
17 home health workers who function as personal assistants
18 and individual maintenance home health workers and who
19 also provide services under the Department's Home Services
20 Program shall be considered to be public employees, no
21 matter whether the State provides such services through
22 direct fee-for-service arrangements, with the assistance
23 of a managed care organization or other intermediary, or
24 otherwise, and the State of Illinois shall be considered
25 to be the employer of those persons as of January 29, 2013
26 (the effective date of Public Act 97-1158), but not before

1 except as otherwise provided under this subsection (f).
2 The State shall engage in collective bargaining with an
3 exclusive representative of home care and home health
4 workers who function as personal assistants and individual
5 maintenance home health workers working under the Home
6 Services Program concerning their terms and conditions of
7 employment that are within the State's control. Nothing in
8 this paragraph shall be understood to limit the right of
9 the persons receiving services defined in this Section to
10 hire and fire home care and home health workers who
11 function as personal assistants and individual maintenance
12 home health workers working under the Home Services
13 Program or to supervise them within the limitations set by
14 the Home Services Program. The State shall not be
15 considered to be the employer of home care and home health
16 workers who function as personal assistants and individual
17 maintenance home health workers working under the Home
18 Services Program for any purposes not specifically
19 provided in Public Act 93-204 or Public Act 97-1158,
20 including but not limited to, purposes of vicarious
21 liability in tort and purposes of statutory retirement or
22 health insurance benefits. Home care and home health
23 workers who function as personal assistants and individual
24 maintenance home health workers and who also provide
25 services under the Department's Home Services Program
26 shall not be covered by the State Employees Group

1 Insurance Act of 1971.

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

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

25 To the extent permitted under the federal Social
26 Security Act, the Department, or the Department's

1 authorized representative, may recover the amount of
2 moneys expended for services provided to or in behalf of a
3 person under this Section by a claim against the person's
4 estate or against the estate of the person's surviving
5 spouse, but no recovery may be had until after the death of
6 the surviving spouse, if any, and then only at such time
7 when there is no surviving child who is under age 21 or
8 blind or who has a permanent and total disability. This
9 paragraph, however, shall not bar recovery, at the death
10 of the person, of moneys for services provided to the
11 person or in behalf of the person under this Section to
12 which the person was not entitled; provided that such
13 recovery shall not be enforced against any real estate
14 while it is occupied as a homestead by the surviving
15 spouse or other dependent, if no claims by other creditors
16 have been filed against the estate, or, if such claims
17 have been filed, they remain dormant for failure of
18 prosecution or failure of the claimant to compel
19 administration of the estate for the purpose of payment.
20 This paragraph shall not bar recovery from the estate of a
21 spouse, under Sections 1915 and 1924 of the Social
22 Security Act and Section 5-4 of the Illinois Public Aid
23 Code, who precedes a person receiving services under this
24 Section in death. All moneys for services paid to or in
25 behalf of the person under this Section shall be claimed
26 for recovery from the deceased spouse's estate.

1 "Homestead", as used in this paragraph, means the dwelling
2 house and contiguous real estate occupied by a surviving
3 spouse or relative, as defined by the rules and
4 regulations of the Department of Healthcare and Family
5 Services, regardless of the value of the property.

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

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

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

22 (j) (Blank).

23 (k) (Blank).

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

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

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

1 General Assembly, and other persons and for reasons as the
2 Director designates by rule. Disclosure by the Director
3 may be only in accordance with other applicable law.

4 (n) To provide informational materials about the
5 Senator Scott Bennett ABLE Program established under
6 Section 16.6 of the State Treasurer Act to all persons who
7 are placed in a facility licensed under the Specialized
8 Mental Health Rehabilitation Act of 2013, and to all
9 persons who receive services for persons with disabilities
10 that are funded by or administered in conjunction with the
11 Department, including, but not limited to, persons who
12 receive home care services under Section 17.1 and persons
13 who receive services at a Center for Independent Living
14 under Section 12a. The informational materials required
15 under this Section shall be provided when the person first
16 enrolls for such services and as part of any annual
17 process required for the person to maintain eligibility
18 for such services. The Office of the State Treasurer shall
19 prepare and deliver the informational materials in an
20 electronic format to the Department and the Department
21 shall distribute the materials to the persons identified
22 in this Section.

23 (Source: P.A. 102-264, eff. 8-6-21; 102-826, eff. 5-13-22;
24 103-479, eff. 1-1-24.)