



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5158

by Rep. Natalie A. Manley

SYNOPSIS AS INTRODUCED:

305 ILCS 5/3-1.2
305 ILCS 5/5-2.1d

from Ch. 23, par. 3-1.2

Amends the Aid to the Aged, Blind or Disabled Article of the Illinois Public Aid Code. In a provision that requires the Department of Human Services to exclude from consideration, when determining a person's eligibility for aid, a prepaid, guaranteed-price funeral or burial contract, funded by an irrevocable assignment of a person's life insurance policy to a trust, provides that the insurance company must acknowledge the irrevocable assignment of benefits under the insurance policy within 30 business days after the insurance company receives the irrevocable assignment form. In a provision concerning retroactive eligibility under the medical assistance program, provides that an applicant with a life insurance policy may still be able to irrevocably assign funeral goods and services or purchase a pre-paid funeral or burial contract after applying for medical assistance until a final determination of eligibility has been made by the Department of Healthcare and Family Services.

LRB101 18219 KTG 67661 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 Sections 3-1.2 and 5-2.1d 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. An
23 insurance company doing business in Illinois must
24 acknowledge the ~~The~~ irrevocable assignment of benefits
25 under ownership of the insurance policy within 30 business
26 days after the date the insurance company receives the

1 irrevocable assignment form ~~must be acknowledged by the~~
2 ~~insurance company.~~

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

1 the trust will maintain or enhance the person's quality of
2 life. If the trust contains proceeds from a personal injury
3 settlement, any Department charge must be satisfied in order
4 for the transfer to the trust to be treated as a transfer for
5 fair market value.

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

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

1 Section 203 of the Illinois Income Tax Act.

2 The Illinois Department may, after appropriate
3 investigation, establish and implement a consolidated standard
4 to determine need and eligibility for and amount of benefits
5 under this Article or a uniform cash supplement to the federal
6 Supplemental Security Income program for all or any part of the
7 then current recipients under this Article; provided, however,
8 that the establishment or implementation of such a standard or
9 supplement shall not result in reductions in benefits under
10 this Article for the then current recipients of such benefits.
11 (Source: P.A. 97-689, eff. 6-14-12; 98-104, eff. 7-22-13.)

12 (305 ILCS 5/5-2.1d)

13 Sec. 5-2.1d. Retroactive eligibility. An applicant for
14 medical assistance may be eligible for up to 3 months prior to
15 the date of application if the person would have been eligible
16 for medical assistance at the time he or she received the
17 services if he or she had applied, regardless of whether the
18 individual is alive when the application for medical assistance
19 is made. In determining financial eligibility for medical
20 assistance for retroactive months, the Department shall
21 consider the amount of income and resources and exemptions
22 available to a person as of the first day of each of the
23 backdated months for which eligibility is sought. An applicant
24 with a life insurance policy may still be able to irrevocably
25 assign funeral goods and services or purchase a pre-paid

1 funeral or burial contract as described in Section 3-1.2 after
2 applying for medical assistance until a final determination of
3 eligibility has been made by the Department.

4 (Source: P.A. 97-689, eff. 6-14-12.)