

AN ACT concerning State government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Reference to Act. This Act may be referred to as the Dignity in Pay Act.

Section 3. Declaration of policy and intent.

(a) Section 14(c) of the federal Fair Labor Standards Act of 1938 provides for the employment of persons with disabilities at wage rates below the statutory federal minimum wage. Among those who have worked for subminimum wages in Illinois are people with intellectual, developmental, physical, and sensory disabilities, including those who are blind or deaf or are diagnosed with cerebral palsy, spina bifida, or Down syndrome. Section 14(c) authorizations result in a national average wage of approximately \$3 per hour for workers with disabilities who have engaged in work activities under a 14(c) wage certificate.

Data released in October 2022 from the United States Department of Labor shows that Illinois ranks second in the nation in the number of 14(c) certificates issued or pending, with several thousand Illinois residents with disabilities engaged in activities compensated below minimum wage. These activities most often occur in congregate work centers (also

known as facility-based employment or sheltered workshops), some of which may have the effect of isolating people with disabilities from the greater community.

The Illinois Employment First Act stipulates that "competitive and integrated employment shall be considered the first option when serving persons with disabilities of working age." Across the United States, 18 states eliminated, phased out, or modified the authority of employers to pay subminimum wages to people with disabilities.

Ensuring that Illinois maximizes opportunities for persons with disabilities to secure gainful employment is a critical element to achieving the requirements of the Illinois Employment First Act. The Workforce Innovation and Opportunity Act (Public Law 113-128) and Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705) define competitive integrated employment as "work that is performed on a full-time or part-time basis for which an individual is: compensated at a rate that shall be not less than the rate specified in the applicable State or local minimum wage law; and is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; or in the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are

not individuals with disabilities, and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and is eligible for the level of benefits provided to other employees".

Paying workers with disabilities subminimum wages perpetuates harmful, unfair, and inaccurate stereotypes about the potential and worth of people with disabilities, affects their capacity to earn wages equivalent to those of their peers without disabilities, and diminishes the expectations about and perceived value of their contributions to the workforce and society.

Eliminating subminimum wage employment for people with disabilities, coupled with the implementation of service enhancements and policy changes, is crucial for advancing economic justice and accelerating dignity and self-sufficiency for all people. It ensures that those currently employed in subminimum wage jobs can transition to competitive integrated employment, supported employment, or integrated community activities aligned with their individual aspirations.

On October 4, 2021, the Governor signed Executive Order 26 (2021), which requires all contracts through the Illinois State Use Program to provide payment to workers at no less than the applicable local, if higher, or Illinois minimum wage for all employees performing work on the contract.

(b) Additional service enhancements, rate adjustments, investments, and policy changes are needed to address systemic

barriers to assist persons with disabilities to access increased employment opportunities and earn at or above the Illinois minimum wage.

(c) Collaborative partnerships between State agencies and key stakeholder organizations, including, but not limited to, those noted in this amendatory Act of the 103rd General Assembly, shall result in a complete phase out of Illinois Section 14(c) certificates on December 31, 2029.

Section 5. The Department of Human Services Act is amended by adding Sections 1-90 and 1-95 as follows:

(20 ILCS 1305/1-90 new)

Sec. 1-90. Program rates. The Department of Healthcare and Family Services, in partnership with the Department of Human Services, shall file an amendment to the Home and Community-Based Services Waiver Program for Adults with Developmental Disabilities authorized under Section 1915(c) of the Social Security Act to increase the rates for the following waiver services: Supported Employment - Small Group Supports. The amendment shall be filed by January 1, 2025. Implementation of any rate increase to the Supported Employment - Small Group Supports service is subject to federal approval of the amendment filed as required in this Section.

(20 ILCS 1305/1-95 new)

Sec. 1-95. Transition Program Grants.

(a) The Department of Human Services shall establish a Section 14(c) transition program to award transition grants to eligible community agencies with active or pending Section 14(c) certificates to aid in the transition away from subminimum wages for workers with disabilities. The goal of Section 14(c) transition program grants is to develop new opportunities and programs and grow capacity to respond to the needs of individuals with disabilities in their geographic area, including, but not limited to, supported employment, customized employment, self-employment, entrepreneurship, and diverse day programs that support meaningful days, choice, and community integration.

(b) Eligibility for Section 14(c) transition program grants shall be contingent upon community agencies submitting a transition plan. The Department shall provide example plans that community agencies may adapt. By January 1, 2025, the transition program grant funds shall be awarded in compliance with the Grant Accountability and Transparency Act.

(c) Grants shall be made by the Department to eligible holders of Section 14(c) certificates, consistent with the Grant Accountability and Transparency Act, to assist workers with disabilities who are working for subminimum wages to transition to competitive integrated employment and to support eligible Section 14(c) certificate holders. Grant funding

shall be used to:

(1) provide competitive integrated employment;

(2) assist individuals with disabilities who were employed at subminimum wages to find and retain competitive integrated employment; or

(3) provide integrated community participation and wraparound services for individuals with disabilities who were employed at subminimum wages.

(d) Beginning on January 1, 2026, the Department of Human Services shall provide an annual status report to the Governor and the General Assembly, incorporating data from each grant recipient, to demonstrate progress toward identified benchmarks.

Section 7. The Employment and Economic Opportunity for Persons with Disabilities Task Force Act is amended by adding Section 16 as follows:

(20 ILCS 4095/16 new)

Sec. 16. Multi-year plan toward elimination of Section 14(c) certificates. By no later than July 1, 2025, the Employment and Economic Opportunity for Persons with Disabilities Task Force, with the Illinois Council on Developmental Disabilities and an academic partner with relevant subject matter expertise, shall create a multi-year plan of recommended actions, outcomes, and benchmarks in

accordance with paragraphs (1) through (3) to help the State successfully eliminate on and after December 31, 2029 the use of certificates authorized under Section 14(c) of the federal Fair Labor Standards Act of 1938.

(1) The multi-year plan shall include, but not be limited to, all of the following:

(A) Identification, gathering, and analytics of data to inform the work of the Task Force, including, but not limited to:

(i) the total number of entities utilizing Section 14(c) certificates;

(ii) the total number of persons with disabilities who are paid subminimum wages and the total number of persons with disabilities who are paid at least the applicable minimum wages;

(iii) the total number of persons with disabilities working in facility-based employment paid at or above minimum wage.

(B) Recommended actions, including additional statutory, regulatory, or policy measures, including State-supported activities to assist providers in employing people with disabilities.

(C) Recommended measurable outcomes for each year of the plan.

(D) Recommended benchmarks for each year of the plan.

(2) In developing the multi-year plan, the Task Force shall consider:

(A) The total available approximate number of people with disabilities paid subminimum wages who want to transition to competitive integrated employment with supports.

(B) The total available approximate number of people with disabilities who do not wish to pursue competitive integrated employment and who would benefit from alternative meaningful day opportunities.

(C) Existing State employment programs designed to support workers with disabilities.

(D) An evaluation of capacity limits in providers' contracts with the Department of Human Services' Division of Rehabilitation Services and Division of Developmental Disabilities.

(E) The personal choice of persons with disabilities regarding employment goals and planning in person-centered planning processes.

(F) The use of existing and emerging technologies that could assist persons with disabilities in achieving employment goals.

(G) The impact of access to reliable transportation on achieving employment goals and ongoing employment.

(H) An analysis that shall include data on:

(i) the activities of youth with disabilities within one year of exiting high school;

(ii) the count of schools holding Student Transition Employment Program and Pre-Employment Transition Services contracts with the Division of Rehabilitation Services that includes the count of students with ongoing cases who transition to adult services;

(iii) the number of students 14 1/2 through 22 years of age with individualized education plans indicating a need for home and community-based adult services.

(I) The potential changes to State law, regulations, or policies to protect means-tested benefits for persons with disabilities as they pursue employment-related goals.

(J) Dissemination of information regarding employment supports and benefits to individuals with disabilities, consumers of public services, employers, service providers, and State and local agency staff. Information shall include the Ticket to Work program, Work Incentives Planning and Assistance Programs, Illinois ABLE, and Health Benefits for Workers with Disabilities.

(K) The education and training needs of staff working in community-based provider agencies toward

advancing competitive, integrated work options for persons with disabilities, in areas including, but not limited to:

(i) employment options;

(ii) non-employment options;

(iii) home and community-based services and supports;

(iv) self-advocacy;

(v) benefits planning;

(vi) asset building;

(vii) assistive technology;

(viii) certification programs; and

(ix) mental health services and supports.

(L) Agreements between State agencies and community-based providers that promote flexibility and allow for expansion.

(M) Ongoing review of rates and reimbursements that support various employment programs for persons with disabilities, including competitive, integrated employment, customized employment, and supported employment.

(N) The need to further engage the private business community to hire persons with disabilities through incentives that may include specialized educational opportunities, distribution of literature at points of interaction with government licensing

agencies, and tax incentives to hiring persons with disabilities.

(O) The availability and need for adequate benefits planning services for workers with disabilities.

(P) The availability and need for meaningful day services for individuals with disabilities who prefer not to work.

(Q) Enhanced service and support needs of aging adults with developmental disabilities who have been engaged in subminimum wage work, including, but not limited to, activities of daily living, behavioral supports, and medical supports, including administration of medications while participating in employment supports and community day services through the Department of Human Services.

(3) In developing the multi-year plan, the Task Force shall consult with employment service providers, people with disabilities, disability trade associations, and disability advocacy organizations.

(4) The Task Force shall submit the multi-year plan to the Governor and the General Assembly by no later than July 1, 2025. Annual reports on implementation shall be required by no later than January 1 of each subsequent year through January 1, 2030.

(5) The Task Force shall provide annual updates to the

Governor and the General Assembly through January 1, 2035
on the employment of persons with disabilities in
Illinois.

(6) The Governor shall appoint at least 2 additional
members to the Task Force who represent organizations that
are current Section 14(c) certificate holders. The
Director of Labor, or the Director's designee, shall serve
on the Task Force in a non-voting, advisory capacity until
July 1, 2025.

Section 20. The Business Enterprise for Minorities, Women,
and Persons with Disabilities Act is amended by changing
Section 2 as follows:

(30 ILCS 575/2)

(Section scheduled to be repealed on June 30, 2029)

Sec. 2. Definitions.

(A) For the purpose of this Act, the following terms shall
have the following definitions:

(1) "Minority person" shall mean a person who is a
citizen or lawful permanent resident of the United States
and who is any of the following:

(a) American Indian or Alaska Native (a person
having origins in any of the original peoples of North
and South America, including Central America, and who
maintains tribal affiliation or community attachment).

(b) Asian (a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, but not limited to, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam).

(c) Black or African American (a person having origins in any of the black racial groups of Africa).

(d) Hispanic or Latino (a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race).

(e) Native Hawaiian or Other Pacific Islander (a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands).

(2) "Woman" shall mean a person who is a citizen or lawful permanent resident of the United States and who is of the female gender.

(2.05) "Person with a disability" means a person who is a citizen or lawful resident of the United States and is a person qualifying as a person with a disability under subdivision (2.1) of this subsection (A).

(2.1) "Person with a disability" means a person with a severe physical or mental disability that:

(a) results from:

amputation,

arthritis,

autism,
blindness,
burn injury,
cancer,
cerebral palsy,
Crohn's disease,
cystic fibrosis,
deafness,
head injury,
heart disease,
hemiplegia,
hemophilia,
respiratory or pulmonary dysfunction,
an intellectual disability,
mental illness,
multiple sclerosis,
muscular dystrophy,
musculoskeletal disorders,
neurological disorders, including stroke and
epilepsy,
paraplegia,
quadriplegia and other spinal cord conditions,
sickle cell anemia,
ulcerative colitis,
specific learning disabilities, or
end stage renal failure disease; and

(b) substantially limits one or more of the person's major life activities.

Another disability or combination of disabilities may also be considered as a severe disability for the purposes of item (a) of this subdivision (2.1) if it is determined by an evaluation of rehabilitation potential to cause a comparable degree of substantial functional limitation similar to the specific list of disabilities listed in item (a) of this subdivision (2.1).

(3) "Minority-owned business" means a business which is at least 51% owned by one or more minority persons, or in the case of a corporation, at least 51% of the stock in which is owned by one or more minority persons; and the management and daily business operations of which are controlled by one or more of the minority individuals who own it.

(4) "Women-owned business" means a business which is at least 51% owned by one or more women, or, in the case of a corporation, at least 51% of the stock in which is owned by one or more women; and the management and daily business operations of which are controlled by one or more of the women who own it.

(4.1) "Business owned by a person with a disability" means a business that is at least 51% owned by one or more persons with a disability and the management and daily business operations of which are controlled by one or more

of the persons with disabilities who own it. ~~A not-for-profit agency for persons with disabilities that is exempt from taxation under Section 501 of the Internal Revenue Code of 1986 is also considered a "business owned by a person with a disability".~~

(4.2) "Council" means the Business Enterprise Council for Minorities, Women, and Persons with Disabilities created under Section 5 of this Act.

(4.3) "Commission" means, unless the context clearly indicates otherwise, the Commission on Equity and Inclusion created under the Commission on Equity and Inclusion Act.

(4.4) "Certified vendor" means a minority-owned business, women-owned business, or business owned by a person with a disability that is certified by the Business Enterprise Program.

(4.5) "Subcontractor" means a person or entity that enters into a contractual agreement with a prime vendor to provide, on behalf of the prime vendor, goods, services, real property, or remuneration or other monetary consideration that is the subject of the primary State contract. "Subcontractor" includes a sublessee under a State contract.

(4.6) "Prime vendor" means any person or entity having a contract that is subject to this Act with a State agency or public institution of higher education.

(5) "State contracts" means all contracts entered into by the State, any agency or department thereof, or any public institution of higher education, including community college districts, regardless of the source of the funds with which the contracts are paid, which are not subject to federal reimbursement. "State contracts" does not include contracts awarded by a retirement system, pension fund, or investment board subject to Section 1-109.1 of the Illinois Pension Code. This definition shall control over any existing definition under this Act or applicable administrative rule.

"State construction contracts" means all State contracts entered into by a State agency or public institution of higher education for the repair, remodeling, renovation or construction of a building or structure, or for the construction or maintenance of a highway defined in Article 2 of the Illinois Highway Code.

(6) "State agencies" shall mean all departments, officers, boards, commissions, institutions and bodies politic and corporate of the State, but does not include the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of

Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, municipalities or other local governmental units, or other State constitutional officers.

(7) "Public institutions of higher education" means the University of Illinois, Southern Illinois University, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University, the public community colleges of the State, and any other public universities, colleges, and community colleges now or hereafter established or authorized by the General Assembly.

(8) "Certification" means a determination made by the Council or by one delegated authority from the Council to make certifications, or by a State agency with statutory authority to make such a certification, that a business entity is a business owned by a minority, woman, or person with a disability for whatever purpose. A business owned and controlled by women shall be certified as a "woman-owned business". A business owned and controlled by women who are also minorities shall be certified as both a "women-owned business" and a "minority-owned business".

(9) "Control" means the exclusive or ultimate and sole

control of the business including, but not limited to, capital investment and all other financial matters, property, acquisitions, contract negotiations, legal matters, officer-director-employee selection and comprehensive hiring, operating responsibilities, cost-control matters, income and dividend matters, financial transactions and rights of other shareholders or joint partners. Control shall be real, substantial and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular business and control shall not include simple majority or absentee ownership.

(10) "Business" means a business that has annual gross sales of less than \$150,000,000 as evidenced by the federal income tax return of the business. A certified vendor with gross sales in excess of this cap may apply to the Council for certification for a particular contract if the vendor can demonstrate that the contract would have significant impact on businesses owned by minorities, women, or persons with disabilities as suppliers or subcontractors or in employment of minorities, women, or persons with disabilities. Firms with gross sales in

excess of this cap that are granted certification by the Council shall be granted certification for the life of the contract, including available renewals.

(11) "Utilization plan" means an attachment that is made to all bids or proposals and that demonstrates the bidder's or offeror's efforts to meet the contract-specific Business Enterprise Program goal. The utilization plan shall indicate whether the prime vendor intends to meet the Business Enterprise Program goal through its own performance, if it is a certified vendor, or through the use of subcontractors that are certified vendors. The utilization plan shall demonstrate that the Vendor has either: (1) met the entire contract goal or (2) requested a full or partial waiver of the contract goal. If the prime vendor intends to use a subcontractor that is a certified vendor to fulfill the contract goal, a participation agreement executed between the prime vendor and the certified subcontractor must be included with the utilization plan.

(12) "Business Enterprise Program" means the Business Enterprise Program of the Commission on Equity and Inclusion.

(13) "Good faith effort" means actions undertaken by a vendor to achieve a contract specific Business Enterprise Program goal that, by scope, intensity, and appropriateness to the objective, can reasonably be

expected to fulfill the program's requirements.

(B) When a business is owned at least 51% by any combination of minority persons, women, or persons with disabilities, even though none of the 3 classes alone holds at least a 51% interest, the ownership requirement for purposes of this Act is considered to be met. The certification category for the business is that of the class holding the largest ownership interest in the business. If 2 or more classes have equal ownership interests, the certification category shall be determined by the business.

(Source: P.A. 102-29, eff. 6-25-21; 102-1119, eff. 1-23-23; 103-570, eff. 1-1-24.)

Section 23. The Illinois Public Aid Code is amended by changing Section 5-35 as follows:

(305 ILCS 5/5-35)

Sec. 5-35. Personal needs allowance.

(a) For a person who is a resident in a facility licensed under the ID/DD Community Care Act, the Community-Integrated Living Arrangements Licensure and Certification Act, the Specialized Mental Health Rehabilitation Act of 2013, or the MC/DD Act for whom payments are made under this Article throughout a month and who is determined to be eligible for medical assistance under this Article, the State shall pay an amount in addition to the minimum monthly personal needs

allowance authorized under Section 1902(q) of Title XIX of the Social Security Act (42 U.S.C. 1396a(q) ~~1396(q)~~) so that the person's total monthly personal needs allowance from both State and federal sources equals \$60.

(b) Beginning January 1, 2025, for a person who is a resident in a facility licensed under the Community-Integrated Living Arrangements Licensure and Certification Act for whom payments are made under this Article throughout a month and who is determined to be eligible for medical assistance under this Article, the State shall pay an amount in addition to the minimum monthly personal needs allowance authorized under Section 1902(q) of Title XIX of the Social Security Act so that the person's total monthly personal needs allowance from both State and federal sources equals \$100.

(c) Beginning January 1, 2026, the personal needs allowance described in subsection (b) shall increase annually at the same rate as the Social Security cost-of-living adjustment to take effect on January 1 of each year.

(Source: P.A. 100-23, eff. 7-6-17.)

Section 25. The Minimum Wage Law is amended by changing Section 10 as follows:

(820 ILCS 105/10) (from Ch. 48, par. 1010)

Sec. 10. (a) The Director shall make and revise administrative regulations, including definitions of terms, as

the Director ~~he~~ deems appropriate to carry out the purposes of this Act, to prevent the circumvention or evasion thereof, and to safeguard the minimum wage established by the Act. ~~Regulations governing employment of learners may be issued only after notice and opportunity for public hearing, as provided in subsection (c) of this Section.~~

(b) In order to prevent curtailment of opportunities for employment, avoid undue hardship, and safeguard the minimum wage rate under this Act, the Director may also issue regulations providing for the employment of workers with disabilities and learners at wages lower than the wage rate applicable under this Act, under permits and for such periods of time as specified therein; and providing for the employment of learners at wages lower than the wage rate applicable under this Act as follows:

(1) The Director may issue regulations for the employment of workers with disabilities at wages lower than the wage rate applicable under this Act, under permits and for such periods of time as specified therein. Such ~~However, such~~ regulation shall not permit lower wages for persons with disabilities on any basis that is unrelated to such person's ability resulting from his disability, and such regulation may be issued only after notice and opportunity for public hearing as provided in subsection (c) of this Section. All certificates issued for the employment of workers with disabilities in

accordance with this Section in effect on December 31, 2029, shall expire on that date, and the Director may not issue any such certificates after that date.

(2) The Director may issue regulations for the employment of learners at wages lower than the wage rate applicable under this Act. Regulations governing employment of learners may be issued only after notice and opportunity for public hearing, as provided in subsection (c) of this Section.

(c) Prior to the adoption, amendment or repeal of any rule or regulation by the Director under this Act, except regulations which concern only the internal management of the Department of Labor and do not affect any public right provided by this Act, the Director shall give proper notice to persons in any industry or occupation that may be affected by the proposed rule or regulation, and hold a public hearing on the ~~his~~ proposed action at which any such affected person, or the person's ~~his~~ duly authorized representative, may attend and testify or present other evidence for or against such proposed rule or regulation. Rules and regulations adopted under this Section shall be filed with the Secretary of State in compliance with the Illinois Administrative Procedure Act ~~"An Act concerning administrative rules", as now or hereafter amended.~~

(d) The commencement of proceedings by any person aggrieved by an administrative regulation issued under this

Act does not, unless specifically ordered by the Court, operate as a stay of that administrative regulation against other persons. The Court shall not grant any stay of an administrative regulation unless the person complaining of such regulation files in the Court an undertaking with a surety or sureties satisfactory to the Court for the payment to the employees affected by the regulation, in the event such regulation is affirmed, of the amount by which the compensation such employees are entitled to receive under the regulation exceeds the compensation they actually receive while such stay is in effect.

(e) The Department may adopt emergency rules in accordance with Section 5-45 of the Illinois Administrative Procedure Act to implement the changes made by this amendatory Act of the 101st General Assembly.

(Source: P.A. 103-363, eff. 7-28-23.)

(820 ILCS 105/5 rep.)

Section 30. The Minimum Wage Law is amended by repealing Section 5.

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