



Sen. David Koehler

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1 AMENDMENT TO SENATE BILL 267

2 AMENDMENT NO. _____. Amend Senate Bill 267 by replacing
3 everything after the enacting clause with the following:

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

1 more disabilities, including the administrative activities
2 under subsection (e) of this Section, and to co-operate with
3 State and local school authorities and other recognized
4 agencies engaged in habilitation, rehabilitation and
5 comprehensive rehabilitation services; and to cooperate with
6 the Department of Children and Family Services regarding the
7 care and education of children with one or more disabilities.

8 (c) (Blank).

9 (d) To report in writing, to the Governor, annually on or
10 before the first day of December, and at such other times and
11 in such manner and upon such subjects as the Governor may
12 require. The annual report shall contain (1) a statement of the
13 existing condition of comprehensive rehabilitation services,
14 habilitation and rehabilitation in the State; (2) a statement
15 of suggestions and recommendations with reference to the
16 development of comprehensive rehabilitation services,
17 habilitation and rehabilitation in the State; and (3) an
18 itemized statement of the amounts of money received from
19 federal, State and other sources, and of the objects and
20 purposes to which the respective items of these several amounts
21 have been devoted.

22 (e) (Blank).

23 (f) To establish a program of services to prevent
24 unnecessary institutionalization of persons with Alzheimer's
25 disease and related disorders or persons in need of long term
26 care who are established as blind or disabled as defined by the

1 Social Security Act, thereby enabling them to remain in their
2 own homes or other living arrangements. Such preventive
3 services may include, but are not limited to, any or all of the
4 following:

5 (1) home health services;

6 (2) home nursing services;

7 (3) homemaker services;

8 (4) chore and housekeeping services;

9 (5) day care services;

10 (6) home-delivered meals;

11 (7) education in self-care;

12 (8) personal care services;

13 (9) adult day health services;

14 (10) habilitation services;

15 (11) respite care; or

16 (12) other nonmedical social services that may enable
17 the person to become self-supporting.

18 The Department shall establish eligibility standards for
19 such services taking into consideration the unique economic and
20 social needs of the population for whom they are to be
21 provided. Such eligibility standards may be based on the
22 recipient's ability to pay for services; provided, however,
23 that any portion of a person's income that is equal to or less
24 than the "protected income" level shall not be considered by
25 the Department in determining eligibility. The "protected
26 income" level shall be determined by the Department, shall

1 never be less than the federal poverty standard, and shall be
2 adjusted each year to reflect changes in the Consumer Price
3 Index For All Urban Consumers as determined by the United
4 States Department of Labor. The standards must provide that a
5 person may have not more than \$10,000 in assets to be eligible
6 for the services, and the Department may increase the asset
7 limitation by rule. Additionally, in determining the amount and
8 nature of services for which a person may qualify,
9 consideration shall not be given to the value of cash, property
10 or other assets held in the name of the person's spouse
11 pursuant to a written agreement dividing marital property into
12 equal but separate shares or pursuant to a transfer of the
13 person's interest in a home to his spouse, provided that the
14 spouse's share of the marital property is not made available to
15 the person seeking such services.

16 The services shall be provided to eligible persons to
17 prevent unnecessary or premature institutionalization, to the
18 extent that the cost of the services, together with the other
19 personal maintenance expenses of the persons, are reasonably
20 related to the standards established for care in a group
21 facility appropriate to their condition. These
22 non-institutional services, pilot projects or experimental
23 facilities may be provided as part of or in addition to those
24 authorized by federal law or those funded and administered by
25 the Illinois Department on Aging.

26 The Department shall set rates and fees for such services

1 in a fair and equitable manner. Medicaid services identical to
2 those offered by the Department on Aging or other State
3 agencies shall be paid at the same rate.

4 Personal care attendants shall be paid:

5 (i) A \$5 per hour minimum rate beginning July 1, 1995.

6 (ii) A \$5.30 per hour minimum rate beginning July 1,
7 1997.

8 (iii) A \$5.40 per hour minimum rate beginning July 1,
9 1998.

10 Solely for the purposes of coverage under the Illinois
11 Public Labor Relations Act (5 ILCS 315/), personal care
12 attendants and personal assistants providing services under
13 the Department's Home Services Program shall be considered to
14 be public employees and the State of Illinois shall be
15 considered to be their employer as of the effective date of
16 this amendatory Act of the 93rd General Assembly, but not
17 before. The State shall engage in collective bargaining with an
18 exclusive representative of personal care attendants and
19 personal assistants working under the Home Services Program
20 concerning their terms and conditions of employment that are
21 within the State's control. Nothing in this paragraph shall be
22 understood to limit the right of the persons receiving services
23 defined in this Section to hire and fire personal care
24 attendants and personal assistants or supervise them within the
25 limitations set by the Home Services Program. The State shall
26 not be considered to be the employer of personal care

1 attendants and personal assistants for any purposes not
2 specifically provided in this amendatory Act of the 93rd
3 General Assembly, including but not limited to, purposes of
4 vicarious liability in tort and purposes of statutory
5 retirement or health insurance benefits. Personal care
6 attendants and personal assistants shall not be covered by the
7 State Employees Group Insurance Act of 1971 (5 ILCS 375/).

8 The Department shall execute, relative to the nursing home
9 prescreening project, as authorized by Section 4.03 of the
10 Illinois Act on the Aging, written inter-agency agreements with
11 the Department on Aging and the Department of Public Aid (now
12 Department of Healthcare and Family Services), to effect the
13 following: (i) intake procedures and common eligibility
14 criteria for those persons who are receiving non-institutional
15 services; and (ii) the establishment and development of
16 non-institutional services in areas of the State where they are
17 not currently available or are undeveloped. On and after July
18 1, 1996, all nursing home prescreenings for individuals 18
19 through 59 years of age shall be conducted by the Department.

20 The Department is authorized to establish a system of
21 recipient cost-sharing for services provided under this
22 Section. The cost-sharing shall be based upon the recipient's
23 ability to pay for services, but in no case shall the
24 recipient's share exceed the actual cost of the services
25 provided. Protected income shall not be considered by the
26 Department in its determination of the recipient's ability to

1 pay a share of the cost of services. The level of cost-sharing
2 shall be adjusted each year to reflect changes in the
3 "protected income" level. The Department shall deduct from the
4 recipient's share of the cost of services any money expended by
5 the recipient for disability-related expenses.

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

1 services under this Section in death. All moneys for services
2 paid to or in behalf of the person under this Section shall be
3 claimed for recovery from the deceased spouse's estate.
4 "Homestead", as used in this paragraph, means the dwelling
5 house and contiguous real estate occupied by a surviving spouse
6 or relative, as defined by the rules and regulations of the
7 Department of Healthcare and Family Services, regardless of the
8 value of the property.

9 The Department and the Department on Aging shall cooperate
10 in the development and submission of an annual report on
11 programs and services provided under this Section. Such joint
12 report shall be filed with the Governor and the General
13 Assembly on or before March 30 each year.

14 The requirement for reporting to the General Assembly shall
15 be satisfied by filing copies of the report with the Speaker,
16 the Minority Leader and the Clerk of the House of
17 Representatives and the President, the Minority Leader and the
18 Secretary of the Senate and the Legislative Research Unit, as
19 required by Section 3.1 of the General Assembly Organization
20 Act, and filing additional copies with the State Government
21 Report Distribution Center for the General Assembly as required
22 under paragraph (t) of Section 7 of the State Library Act.

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

26 (h) To cooperate and enter into any necessary agreements

1 with the Department of Employment Security for the provision of
2 job placement and job referral services to clients of the
3 Department, including job service registration of such clients
4 with Illinois Employment Security offices and making job
5 listings maintained by the Department of Employment Security
6 available to such clients.

7 (i) To possess all powers reasonable and necessary for the
8 exercise and administration of the powers, duties and
9 responsibilities of the Department which are provided for by
10 law.

11 (j) To establish a procedure whereby new providers of
12 personal care attendant services shall submit vouchers to the
13 State for payment two times during their first month of
14 employment and one time per month thereafter. In no case shall
15 the Department pay personal care attendants an hourly wage that
16 is less than the federal minimum wage.

17 (k) To provide adequate notice to providers of chore and
18 housekeeping services informing them that they are entitled to
19 an interest payment on bills which are not promptly paid
20 pursuant to Section 3 of the State Prompt Payment Act.

21 (l) To establish, operate and maintain a Statewide Housing
22 Clearinghouse of information on available, government
23 subsidized housing accessible to disabled persons and
24 available privately owned housing accessible to disabled
25 persons. The information shall include but not be limited to
26 the location, rental requirements, access features and

1 proximity to public transportation of available housing. The
2 Clearinghouse shall consist of at least a computerized database
3 for the storage and retrieval of information and a separate or
4 shared toll free telephone number for use by those seeking
5 information from the Clearinghouse. Department offices and
6 personnel throughout the State shall also assist in the
7 operation of the Statewide Housing Clearinghouse. Cooperation
8 with local, State and federal housing managers shall be sought
9 and extended in order to frequently and promptly update the
10 Clearinghouse's information.

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

24 (Source: P.A. 94-252, eff. 1-1-06; 95-331, eff. 8-21-07.)

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.".