



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1905

Introduced 2/10/2011, by Sen. Martin A. Sandoval

SYNOPSIS AS INTRODUCED:

New Act

735 ILCS 5/12-1001

from Ch. 110, par. 12-1001

Creates the Universal Child Care Benefit Act. Provides that the purpose of the Act is to assist families by supporting their child care choices through direct financial support to a maximum of \$1,200 per year in respect to each child who is at least 2 years of age but has not attained the age of 5 years. Requires the Department of Human Services to pay parents a monthly benefit of \$100 for each child who qualifies under the Act. Contains provisions concerning overpayments; acknowledgment of liability; interest payments; and interagency agreements. Amends the Code of Civil Procedure to make a corresponding change.

LRB097 06239 KTG 46314 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning children.

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

4 Section 1. Short title. This Act may be cited as the
5 Universal Child Care Benefit Act.

6 Section 5. Definitions. As used in this Act:

7 "Director" means the Director of the Department of Human
8 Services.

9 "Department" means the Department of Human Services.

10 "Eligible parent" means the parent or parents or guardian
11 or guardians having legal or physical custody of a qualified
12 child.

13 "Qualified child" means a child who is at least 2 years of
14 age but has not attained the age of 5 years.

15 Section 10. Purpose. The purpose of this Act is to assist
16 families by supporting their child care choices through direct
17 financial support to a maximum of \$1,200 per year in respect to
18 each of their qualified children.

19 Section 15. Benefit.

20 (a) The Department shall pay to the eligible parent, for
21 each month at the beginning of which he or she is an eligible

1 parent, a benefit of \$100 for each child who is a qualified
2 child at the beginning of that month.

3 (b) A benefit provided under this Act:

4 (1) may not be assigned, charged, attached, or given as
5 security;

6 (2) may not be retained by way of deduction, set-off,
7 or compensation under any law of this State except as
8 otherwise provided under this Act; and

9 (3) is not garnishable.

10 Section 20. Overpayments.

11 (a) A person who has received or obtained a benefit to
12 which the person is not entitled, or a benefit in excess of the
13 amount of the benefit to which the person is entitled, shall,
14 as soon as possible, repay the amount of the benefit or the
15 excess amount, as the case may be.

16 (b) The amount of the erroneous payment or overpayment
17 constitutes a debt due to the Department, as of the day on
18 which it was paid, and may be recovered by the Department.

19 Section 25. Acknowledgement of liability; limitation
20 period.

21 (a) No action or proceedings shall be taken to recover an
22 erroneous payment or overpayment owed under this Act after the
23 expiration of the 6-year limitation period that begins to run
24 on the day on which the erroneous payment or overpayment

1 becomes due and payable.

2 (b) Any erroneous payment or overpayment owed to the
3 Department under this Act may be recovered at any time by way
4 of deduction from, set-off against, or compensation against,
5 any sum of money, including a benefit under this Act, that may
6 be due or payable by the Department to the person.

7 (c) If a person's liability for an erroneous payment or
8 overpayment owed under this Act is acknowledged in accordance
9 with subsection (e), the time during which the limitation
10 period has run before the acknowledgment does not count in the
11 calculation of that period.

12 (d) If a person's liability for an erroneous payment or
13 overpayment owed under this Act is acknowledged in accordance
14 with subsection (e) after the expiration of the limitation
15 period, an action or proceedings to recover the erroneous
16 payment or overpayment may, subject to subsections (c) and (f),
17 be brought within 6 years after the date of the acknowledgment.

18 (e) An acknowledgment of liability means:

19 (1) a written promise to pay the erroneous payment or
20 overpayment owed, signed by the person or his or her agent
21 or other representative;

22 (2) a written acknowledgment of the erroneous payment
23 or overpayment owed, signed by the person or his or her
24 agent or other representative, whether or not a promise to
25 pay can be implied from it and whether or not it contains a
26 refusal to pay;

1 (3) a part payment by the person or his or her agent or
2 other representative of any erroneous payment or
3 overpayment owed; or

4 (4) any acknowledgment of the erroneous payment or
5 overpayment owed made by the person, his or her agent or
6 other representative in the course of proceedings under any
7 law dealing with the payment of debts.

8 (f) The running of a limitation period in respect to an
9 erroneous payment or overpayment owed under this Act is
10 suspended during any period in which it is prohibited to
11 commence or continue an action or other proceedings against the
12 person to recover the erroneous payment or overpayment owed
13 under this Act.

14 (g) This Section does not apply to an action relating to
15 the execution, renewal, or enforcement of a judgment.

16 Section 30. Interest payments. No interest is payable on
17 any amount owed to the Department under this Act as a result of
18 an overpayment or an erroneous payment.

19 Section 35. Agreements. The Director may enter into
20 agreements or arrangements with any other State department,
21 board, or agency to assist the Director in carrying out the
22 purposes and provisions of this Act.

23 Section 40. Rules. The Department may adopt appropriate

1 rules to carry out the provisions of this Act.

2 Section 90. The Code of Civil Procedure is amended by
3 changing Section 12-1001 as follows:

4 (735 ILCS 5/12-1001) (from Ch. 110, par. 12-1001)

5 Sec. 12-1001. Personal property exempt. The following
6 personal property, owned by the debtor, is exempt from
7 judgment, attachment, or distress for rent:

8 (a) The necessary wearing apparel, bible, school
9 books, and family pictures of the debtor and the debtor's
10 dependents;

11 (b) The debtor's equity interest, not to exceed \$4,000
12 in value, in any other property;

13 (c) The debtor's interest, not to exceed \$2,400 in
14 value, in any one motor vehicle;

15 (d) The debtor's equity interest, not to exceed \$1,500
16 in value, in any implements, professional books, or tools
17 of the trade of the debtor;

18 (e) Professionally prescribed health aids for the
19 debtor or a dependent of the debtor;

20 (f) All proceeds payable because of the death of the
21 insured and the aggregate net cash value of any or all life
22 insurance and endowment policies and annuity contracts
23 payable to a wife or husband of the insured, or to a child,
24 parent, or other person dependent upon the insured, whether

1 the power to change the beneficiary is reserved to the
2 insured or not and whether the insured or the insured's
3 estate is a contingent beneficiary or not;

4 (g) The debtor's right to receive:

5 (1) a social security benefit, unemployment
6 compensation, or public assistance benefit;

7 (2) a veteran's benefit;

8 (3) a disability, illness, or unemployment
9 benefit; ~~and~~

10 (4) alimony, support, or separate maintenance, to
11 the extent reasonably necessary for the support of the
12 debtor and any dependent of the debtor; and -

13 (5) a benefit under the Universal Child Care
14 Benefit Act.

15 (h) The debtor's right to receive, or property that is
16 traceable to:

17 (1) an award under a crime victim's reparation law;

18 (2) a payment on account of the wrongful death of
19 an individual of whom the debtor was a dependent, to
20 the extent reasonably necessary for the support of the
21 debtor;

22 (3) a payment under a life insurance contract that
23 insured the life of an individual of whom the debtor
24 was a dependent, to the extent reasonably necessary for
25 the support of the debtor or a dependent of the debtor;

26 (4) a payment, not to exceed \$15,000 in value, on

1 account of personal bodily injury of the debtor or an
2 individual of whom the debtor was a dependent; and

3 (5) any restitution payments made to persons
4 pursuant to the federal Civil Liberties Act of 1988 and
5 the Aleutian and Pribilof Island Restitution Act, P.L.
6 100-383.

7 For purposes of this subsection (h), a debtor's right
8 to receive an award or payment shall be exempt for a
9 maximum of 2 years after the debtor's right to receive the
10 award or payment accrues; property traceable to an award or
11 payment shall be exempt for a maximum of 5 years after the
12 award or payment accrues; and an award or payment and
13 property traceable to an award or payment shall be exempt
14 only to the extent of the amount of the award or payment,
15 without interest or appreciation from the date of the award
16 or payment.

17 (i) The debtor's right to receive an award under Part
18 20 of Article II of this Code relating to crime victims'
19 awards.

20 (j) Moneys held in an account invested in the Illinois
21 College Savings Pool of which the debtor is a participant
22 or donor, except the following non-exempt contributions:

23 (1) any contribution to such account by the debtor
24 as participant or donor that is made with the actual
25 intent to hinder, delay, or defraud any creditor of the
26 debtor;

1 (2) any contributions to such account by the debtor
2 as participant during the 365 day period prior to the
3 date of filing of the debtor's petition for bankruptcy
4 that, in the aggregate during such period, exceed the
5 amount of the annual gift tax exclusion under Section
6 2503(b) of the Internal Revenue Code of 1986, as
7 amended, in effect at the time of contribution; or

8 (3) any contributions to such account by the debtor
9 as participant during the period commencing 730 days
10 prior to and ending 366 days prior to the date of
11 filing of the debtor's petition for bankruptcy that, in
12 the aggregate during such period, exceed the amount of
13 the annual gift tax exclusion under Section 2503(b) of
14 the Internal Revenue Code of 1986, as amended, in
15 effect at the time of contribution.

16 For purposes of this subsection (j), "account"
17 includes all accounts for a particular designated
18 beneficiary, of which the debtor is a participant or donor.

19 Money due the debtor from the sale of any personal property
20 that was exempt from judgment, attachment, or distress for rent
21 at the time of the sale is exempt from attachment and
22 garnishment to the same extent that the property would be
23 exempt had the same not been sold by the debtor.

24 If a debtor owns property exempt under this Section and he
25 or she purchased that property with the intent of converting
26 nonexempt property into exempt property or in fraud of his or

1 her creditors, that property shall not be exempt from judgment,
2 attachment, or distress for rent. Property acquired within 6
3 months of the filing of the petition for bankruptcy shall be
4 presumed to have been acquired in contemplation of bankruptcy.

5 The personal property exemptions set forth in this Section
6 shall apply only to individuals and only to personal property
7 that is used for personal rather than business purposes. The
8 personal property exemptions set forth in this Section shall
9 not apply to or be allowed against any money, salary, or wages
10 due or to become due to the debtor that are required to be
11 withheld in a wage deduction proceeding under Part 8 of this
12 Article XII.

13 (Source: P.A. 94-293, eff. 1-1-06; 95-306, eff. 1-1-08.)