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CS/HB 901

2020 Legislature

1
2 An act relating to vocational rehabilitation services;
3 amending s. 413.20, F.S.; providing a definition;
4 amending s. 413.207, F.S.; revising information that
5 the Division of Vocational Rehabilitation must include
6 in its annual performance report to the Governor and
7 the Legislature; amending s. 413.23, F.S.; requiring
8 the division to provide preemployment transition
9 services to certain potentially eligible persons;
10 amending s. 413.30, F.S.; removing provisions relating
11 to trial work evaluation requirements; requiring the
12 division to assess the service needs of eligible
13 individuals within a specified period; providing for
14 an extension of such assessment under certain
15 circumstances; creating s. 413.301, F.S.; requiring
16 preemployment transition services be provided to
17 certain individuals with disabilities under certain
18 conditions; requiring that the division provide such
19 services within a reasonable period of time under
20 certain circumstances; requiring the division to work
21 with qualified providers to provide such services
22 under certain circumstances; amending s. 413.405,
23 F.S.; revising the composition of the Florida
24 Rehabilitation Council; revising the responsibilities
25 of the Florida Rehabilitation Council to conform to

ENROLLED

CS/HB 901

2020 Legislature

26 | changes made by the act; amending s. 413.41, F.S.;

27 | requiring the division to enter into a formal

28 | interagency agreement with the state education agency

29 | for certain purposes; requiring that such agreement

30 | meet specified requirements; requiring the division to

31 | work with local educational agencies to provide

32 | specified services and arrange for referrals; amending

33 | s. 413.615, F.S.; revising definitions and legislative

34 | intent; revising provisions relating to revenue for

35 | the endowment fund of the Florida Endowment for

36 | Vocational Rehabilitation; revising provisions

37 | relating to the board of directors of the Florida

38 | Endowment Foundation; revising provisions relating to

39 | administrative costs for the administration of the

40 | foundation; amending s. 1003.5716, F.S.; requiring

41 | that a student's individual education plan contain a

42 | statement regarding preemployment transition services;

43 | providing an effective date.

44 |

45 | Be It Enacted by the Legislature of the State of Florida:

46 |

47 | Section 1. Subsections (20) through (27) of section

48 | 413.20, Florida Statutes, are renumbered as subsections (21)

49 | through (28), respectively, and a new subsection (20) is added

50 | to that section, to read:

ENROLLED

CS/HB 901

2020 Legislature

51 413.20 Definitions.—As used in this part, the term:
 52 (20) "Preemployment transition services" means the
 53 services of job exploration counseling, work-based learning
 54 experiences, counseling on comprehensive transition or
 55 postsecondary education programs, workplace readiness training,
 56 and instruction in self-advocacy as required by the Workforce
 57 Innovation and Opportunity Act of 2014, which may be provided to
 58 students with disabilities who are eligible or potentially
 59 eligible for vocational rehabilitation services.

60 Section 2. Paragraph (d) of subsection (4) of section
 61 413.207, Florida Statutes, is redesignated as paragraph (e),
 62 paragraph (a) of that subsection is amended, and new paragraphs
 63 (d) and (f) are added to that subsection, to read:

64 413.207 Division of Vocational Rehabilitation; quality
 65 assurance; performance improvement plan.—

66 (4) By December 1 of each year, the division shall submit
 67 a performance report to the Governor, the President of the
 68 Senate, and the Speaker of the House of Representatives which
 69 includes the following information for each of the 5 most recent
 70 fiscal years:

71 (a) Caseload data, by service type and service area,
 72 including the number of individuals who apply for services and
 73 the timeframes in which eligibility is determined, plans are
 74 developed, and services are provided ~~who receive services, by~~
 75 ~~service type, reported statewide and by service area.~~

ENROLLED

CS/HB 901

2020 Legislature

76 (d) Matching fund data, including the sources and amounts
 77 of matching funds received by the division and the extent to
 78 which the state is meeting its cost-sharing requirements.

79 (f) Transition services data, including preemployment
 80 transition services, for students and youth with disabilities by
 81 service type, including expenditure data on a statewide and
 82 service area basis, employment outcomes achieved by youth
 83 served, and postsecondary enrollment rates.

84 Section 3. Section 413.23, Florida Statutes, is amended to
 85 read:

86 413.23 Administration.—The division shall provide
 87 vocational rehabilitation services to persons who have
 88 disabilities determined to be eligible therefor and
 89 preemployment transition services to persons potentially
 90 eligible for such services and, in carrying out the purposes of
 91 this part, is authorized, among other things:

92 (1) To cooperate with other departments, agencies, public
 93 and private ~~and institutions, both public and private, and~~
 94 providers in providing for the vocational rehabilitation and
 95 preemployment transition services of persons who have
 96 disabilities, in studying the problems involved therein, and in
 97 establishing, developing, and providing, in conformity with the
 98 purposes of this part, such programs, facilities, and services
 99 as may be necessary or desirable;

100 (2) To enter into reciprocal agreements with other states

ENROLLED

CS/HB 901

2020 Legislature

101 | to provide for the vocational rehabilitation of residents of the
 102 | states concerned;

103 | (3) To conduct research and compile statistics relating to
 104 | the vocational rehabilitation of persons who have disabilities;

105 | (4) To prepare a federally required state plan for
 106 | vocational rehabilitation, as required by the act. The state
 107 | plan must contain all of the elements required by s. 101 of the
 108 | act, including an assessment of the needs of persons who have
 109 | disabilities and how those needs may be most effectively met.
 110 | The division is authorized to make amendments to the state plan
 111 | considered necessary to maintain compliance with the act and to
 112 | implement such changes in order to qualify for and maintain
 113 | federal funding. After completion of the state plan or making
 114 | amendments to the state plan, the division must distribute
 115 | copies of the state plan to the Governor, the President of the
 116 | Senate, the Speaker of the House of Representatives, and the
 117 | United States Secretary of Education.

118 | Section 4. Subsections (3) and (5) of section 413.30,
 119 | Florida Statutes, are amended to read:

120 | 413.30 Eligibility for vocational rehabilitation
 121 | services.—

122 | (3) An individual is presumed to benefit in terms of an
 123 | employment outcome from vocational rehabilitation services under
 124 | this part unless the division can demonstrate by clear and
 125 | convincing evidence that the individual is incapable of

ENROLLED

CS/HB 901

2020 Legislature

126 | benefiting from vocational rehabilitation services in terms of
 127 | an employment outcome. Before making such a determination, the
 128 | division must consider the individual's abilities, capabilities,
 129 | and capacity to perform in a work situation through the use of
 130 | trial work experiences. Trial work experiences include supported
 131 | employment, on-the-job training, or other work experiences using
 132 | realistic work settings. ~~Under limited circumstances, if an~~
 133 | ~~individual cannot take advantage of trial work experiences or if~~
 134 | ~~options for trial work experiences have been exhausted, the~~
 135 | ~~division shall conduct an extended evaluation, not to exceed 18~~
 136 | ~~months. The evaluation must determine the eligibility of the~~
 137 | ~~individual and the nature and scope of needed vocational~~
 138 | ~~rehabilitation services. The extended evaluation must be~~
 139 | ~~reviewed once every 90 days to determine whether the individual~~
 140 | ~~is eligible for vocational rehabilitation services.~~

141 | (5) When the division determines that an individual is
 142 | eligible for vocational rehabilitation services, the division
 143 | must complete an assessment for determining eligibility and
 144 | vocational rehabilitation needs and ensure that an
 145 | individualized plan for employment is prepared within a
 146 | reasonable period of time, not to exceed 90 days after the date
 147 | of eligibility determination, unless unforeseen circumstances
 148 | beyond the control of the division prevent the division from
 149 | completing the assessment and individualized plan for employment
 150 | within the 90-day timeframe and the division and the individual

ENROLLED

CS/HB 901

2020 Legislature

151 | agree that an extension of time is warranted.

152 | (a) Each individualized plan for employment must be
153 | jointly developed, agreed upon, and signed by the vocational
154 | rehabilitation counselor or coordinator and the eligible
155 | individual or, in an appropriate case, a parent, family member,
156 | guardian, advocate, or authorized representative, of the
157 | individual.

158 | (b) The division must ensure that each individualized plan
159 | for employment is designed to achieve the specific employment
160 | outcome of the individual, consistent with the unique strengths,
161 | resources, priorities, concerns, abilities, and capabilities of
162 | the individual, and otherwise meets the content requirements for
163 | an individualized plan for employment as set out in federal law
164 | or regulation.

165 | (c) Each individualized plan for employment shall be
166 | reviewed annually, at which time the individual, or the
167 | individual's parent, guardian, advocate, or authorized
168 | representative, shall be afforded an opportunity to review the
169 | plan and jointly redevelop and agree to its terms. Each plan
170 | shall be revised as needed.

171 | Section 5. Section 413.301, Florida Statutes, is created
172 | to read:

173 | 413.301 Preemployment transition services.-

174 | (1) Preemployment transition services shall be provided to
175 | an individual with disabilities who is between 14 and 21 years

ENROLLED

CS/HB 901

2020 Legislature

176 of age; who is potentially eligible for vocational
 177 rehabilitation services in a secondary, postsecondary, or other
 178 recognized education program; and who has:

179 (a) A current individual education plan developed by a
 180 local school board in accordance with rules of the State Board
 181 of Education; or

182 (b) Meets the definition of an individual with a
 183 disability for the purposes of s. 504 of the Rehabilitation Act
 184 of 1973.

185 (2) When the division receives documentation that an
 186 individual meets the conditions described in subsection (1), the
 187 division must provide preemployment transition services within a
 188 reasonable period of time, not to exceed 90 days after the date
 189 that it receives an individual's consent or, for a minor, a
 190 parent's or legal guardian's consent, to receive services,
 191 unless unforeseen circumstances beyond the control of the
 192 division prevent the division from providing services within the
 193 90-day timeframe and the division and the individual or, for a
 194 minor, a parent or legal guardian agree that an extension of
 195 time is warranted.

196 (3) If the division is unable to provide preemployment
 197 transition services within the timeframe required in subsection
 198 (2), the division must, upon the request of the individual, or
 199 for a minor, a parent or legal guardian, work with other
 200 qualified providers to provide such services.

ENROLLED

CS/HB 901

2020 Legislature

201 Section 6. Paragraph (h) of subsection (1) and paragraph
 202 (d) of subsection (9) of section 413.405, Florida Statutes, are
 203 amended to read:

204 413.405 Florida Rehabilitation Council.—There is created
 205 the Florida Rehabilitation Council to assist the division in the
 206 planning and development of statewide rehabilitation programs
 207 and services, to recommend improvements to such programs and
 208 services, and to perform the functions listed in this section.

209 (1) The council shall be composed of:

210 (h) Current or former applicants for, or recipients of,
 211 vocational rehabilitation services, including preemployment
 212 transition services.

213 (9) In addition to the other functions specified in this
 214 section, the council shall, after consulting with the board of
 215 directors of CareerSource Florida, Inc.:

216 (d) To the extent feasible, conduct a review and analysis
 217 of the effectiveness of, and consumer satisfaction with:

218 1. The functions performed by state agencies and other
 219 public and private entities responsible for performing functions
 220 for individuals who have disabilities.

221 2. Vocational rehabilitation services:

222 a. Provided or paid for from funds made available under
 223 the act or through other public or private sources.

224 b. Provided by state agencies and other public and private
 225 entities responsible for providing vocational rehabilitation

ENROLLED

CS/HB 901

2020 Legislature

226 | services to individuals who have disabilities.

227 | 3. Preemployment transition services:

228 | a. Provided or paid for from funds made available under
 229 | the act or through other public or private sources.

230 | b. Provided by state agencies and other public and private
 231 | entities responsible for providing preemployment transition
 232 | services to students who have disabilities.

233 | ~~4.3.~~ The employment outcomes achieved by eligible
 234 | individuals receiving services under this part, including the
 235 | availability of health or other employment benefits in
 236 | connection with those employment outcomes; alignment with labor
 237 | market demands in the state; and for youth with disabilities,
 238 | the availability of career pathways, including work-based
 239 | learning experiences and customized employment.

240 | Section 7. Section 413.41, Florida Statutes, is amended to
 241 | read:

242 | 413.41 Cooperation by division with state agencies.—

243 | (1) The division is hereby authorized to cooperate with
 244 | other agencies of state government or with any nonprofit,
 245 | charitable corporations or foundations concerned with the
 246 | problems of persons who have disabilities. The division may
 247 | provide disability evaluation, work capacity appraisal, and
 248 | appraisal of vocational rehabilitation potential of persons who
 249 | have disabilities for other public agencies pursuant to
 250 | agreements made with such agencies. The division may charge the

ENROLLED

CS/HB 901

2020 Legislature

251 agencies contracting for these services the actual cost thereof.

252 (2)(a) The division shall enter into a formal interagency
253 agreement with the state education agency that provides for the
254 transition of students with disabilities, including
255 preemployment transition services and other vocational
256 rehabilitation services as required by s. 101(a)(11)(D) of the
257 Rehabilitation Act of 1973, as amended. The formal interagency
258 agreement shall comply with the requirements of 34 C.F.R. s.
259 361.22(b).

260 (b) The division shall work with all local educational
261 agencies to provide vocational rehabilitation services,
262 including preemployment transition services, to students with
263 disabilities. Such services may also include any preemployment
264 transition coordination activities, such as attending individual
265 education plan meetings for students with disabilities or
266 attending person-centered planning meetings for students with
267 disabilities who are receiving services under title XIX of the
268 Social Security Act. The division and local educational agencies
269 must arrange for the timely referral of students for services,
270 including electronic referral as prescribed by the division.

271 Section 8. Subsections (2), (3), (4), (5), (6), and (8)
272 and paragraphs (h) and (j) of subsection (9) of section 413.615,
273 Florida Statutes, are amended to read:

274 413.615 Florida Endowment for Vocational Rehabilitation.—

275 (2) DEFINITIONS.—For the purposes of this section:

ENROLLED

CS/HB 901

2020 Legislature

276 (a) "Board" means the board of directors of the Florida
 277 Endowment Foundation for the Division of Vocational
 278 Rehabilitation within the Department of Education.

279 (b) "Endowment fund" means an account established within
 280 the Florida Endowment Foundation for the Division of Vocational
 281 Rehabilitation within the Department of Education to provide a
 282 continuing and growing source of revenue for vocational
 283 rehabilitation efforts.

284 (c) "Foundation" means the Florida Endowment Foundation
 285 for the Division of Vocational Rehabilitation within the
 286 Department of Education.

287 (d) "Operating account" means an account established under
 288 paragraph (4)(c) ~~(4)(d)~~ to carry out the purposes provided in
 289 subsection (10).

290 (3) LEGISLATIVE INTENT.—The Legislature recognizes that it
 291 is in the best interest of the citizens of this state that
 292 citizens with disabilities be afforded a fair opportunity to
 293 become self-supporting, productive members of society. However,
 294 there is a critical need for significant additional funding to
 295 achieve this goal. Accordingly, the Legislature further finds
 296 and declares that:

297 (a) With skilled evaluation procedures and proper
 298 rehabilitative treatment, plus employment, training, and
 299 supportive services consistent with the needs of the individual,
 300 persons who are disabled can assume the activities of daily

ENROLLED

CS/HB 901

2020 Legislature

301 living and join their communities with dignity and independence.

302 (b) The purpose of this section is to broaden the
 303 participation and funding potential for further significant
 304 support for the vocational rehabilitation of Florida citizens
 305 who are disabled.

306 (c) It is appropriate to encourage individual and
 307 corporate support and involvement, as well as state support and
 308 involvement, to promote employment opportunities for disabled
 309 citizens.

310 (4) REVENUE FOR THE ENDOWMENT FUND.—

311 (a) The endowment fund of the Florida Endowment for the
 312 Division of Vocational Rehabilitation within the Department of
 313 Education is created as a long-term, stable, and growing source
 314 of revenue to be administered, in accordance with rules
 315 promulgated by the division, by the foundation as a direct-
 316 support organization of the Division of Vocational
 317 Rehabilitation within the Department of Education.

318 (b) The principal of the endowment fund shall derive from
 319 any legislative appropriations which may be made to the
 320 endowment, and such bequests, gifts, grants, and donations as
 321 may be solicited for such purpose by the foundation from public
 322 or private sources.

323 ~~(c) All remaining liquid balances of funds held for~~
 324 ~~investment and reinvestment by the State Board of Administration~~
 325 ~~for the endowment fund on the effective date of this act shall~~

ENROLLED

CS/HB 901

2020 Legislature

326 | ~~be transmitted to the foundation within 60 days for use as~~
327 | ~~provided in subsection (10).~~

328 | ~~(c)-(d)~~ The board of directors of the foundation shall
329 | establish the operating account and shall deposit therein the
330 | moneys transmitted ~~pursuant to paragraph (c)~~. Moneys in the
331 | operating account shall be available to carry out the purposes
332 | of subsection (10).

333 | (e) Funds received from state sources shall be accounted
334 | for separately from bequests, gifts, grants, and donations which
335 | may be solicited for such purposes by the foundation from public
336 | or private sources. Earnings on funds received from state
337 | sources and funds received from public or private sources shall
338 | be accounted for separately.

339 | (5) THE FLORIDA ENDOWMENT FOUNDATION FOR VOCATIONAL
340 | REHABILITATION.—The Florida Endowment Foundation for Vocational
341 | Rehabilitation is hereby created as a direct-support
342 | organization of the Division of Vocational Rehabilitation within
343 | the Department of Education, to encourage public and private
344 | support to enhance vocational rehabilitation and employment of
345 | citizens who are disabled. As a direct-support organization, the
346 | foundation shall operate under contract with the division and
347 | shall:

348 | (a) Be a Florida corporation not for profit incorporated
349 | under the provisions of chapter 617 and approved by the
350 | Department of State.

ENROLLED

CS/HB 901

2020 Legislature

351 (b) Be organized and operated exclusively to raise funds;
 352 to submit requests and receive grants from the Federal
 353 Government, the state, private foundations, and individuals; to
 354 receive, hold, and administer property; and to make expenditures
 355 to or for the benefit of the rehabilitation programs approved by
 356 the board of directors of the foundation.

357 (c) Be approved by the division to be operating for the
 358 benefit and best interest of the state.

359 (6) DIRECT-SUPPORT ORGANIZATION CONTRACT.—The contract
 360 between the foundation and the division shall provide for:

361 (a) Approval of the articles of incorporation of the
 362 foundation by the division.

363 (b) Governance of the foundation by a board of directors
 364 appointed by the Governor.

365 (c) Submission of an annual budget of the foundation for
 366 approval by the division. The division may not approve an annual
 367 budget that does not comply with paragraph (9)(j).

368 (d) Approval ~~Certification~~ by the division, after an
 369 annual financial and performance review, that the foundation is
 370 operating in compliance with the terms of the contract and the
 371 rules of the division, and in a manner consistent with the goals
 372 of the Legislature in providing assistance to disabled citizens.

373 (e) The release and conditions of the expenditure of any
 374 state revenues.

375 (f) The orderly cessation of operations and reversion to

ENROLLED

CS/HB 901

2020 Legislature

376 | the state of funds held in trust by the foundation if the
 377 | contract is terminated, the foundation is dissolved, or this
 378 | section is repealed.

379 | (g) The fiscal year of the foundation, to begin on July 1
 380 | and end on June 30 of each year.

381 | (8) BOARD OF DIRECTORS.—The foundation shall be
 382 | administered by a board of directors, as follows:

383 | (a) Membership.—The board of directors shall consist of
 384 | the director of the Division of Vocational Rehabilitation within
 385 | the Department of Education, or his or her designee, who shall
 386 | serve as an ex officio member and nine other members who have an
 387 | interest in service to persons with disabilities and who:

388 | 1. Have skills in foundation work or other fundraising
 389 | activities, financial consulting, or investment banking or other
 390 | related experience; or

391 | 2. Have experience in policymaking or management-level
 392 | positions or have otherwise distinguished themselves in the
 393 | field of business, industry, or rehabilitation.

394 |
 395 | Disabled individuals who meet the above criteria shall be given
 396 | special consideration for appointment.

397 | (b) Appointment.—The board members shall be appointed by
 398 | the Governor.

399 | (c) Terms.—Board members shall serve for two 3-year terms
 400 | or until resignation or removal for cause. A board member may

ENROLLED

CS/HB 901

2020 Legislature

401 continue to serve until a successor is appointed.

402 (d) Filling of vacancies.—In the event of a vacancy on the
 403 board caused by other than the expiration of a term, a new
 404 member shall be appointed.

405 (e) Removal for cause.—Each member is accountable to the
 406 Governor for the proper performance of the duties of office. The
 407 Governor may remove any member from office for malfeasance,
 408 misfeasance, neglect of duty, incompetence, or permanent
 409 inability to perform official duties or for pleading nolo
 410 contendere to, or being found guilty of, a crime.

411 (9) ORGANIZATION, POWERS, AND DUTIES.—Within the limits
 412 prescribed in this section or by rule of the division:

413 (h) The board shall establish an operating account as
 414 provided in paragraph (4) (c) ~~(4) (d)~~.

415 (j) Administrative costs shall be kept to the minimum
 416 amount necessary for the efficient and effective administration
 417 of the foundation and are limited to 15 percent of total actual
 418 ~~estimated~~ expenditures in any fiscal ~~calendar~~ year.

419 Administrative costs include ~~payment of travel and per diem~~
 420 ~~expenses of board members, officer salaries, chief executive~~
 421 ~~officer program management,~~ audits, salaries or other costs for
 422 nonofficers and contractors providing services that are not
 423 directly related to the mission of the foundation as described
 424 in subsection (5), costs of promoting the purposes of the
 425 foundation, all travel and per diem expenses of board members,

ENROLLED

CS/HB 901

2020 Legislature

426 officers' salaries, and chief executive officer program
 427 management, and other allowable costs. Administrative costs may
 428 be paid from the following sources:

429 ~~1. Interest and earnings on the endowment principal for~~
 430 ~~the 2017-2018 fiscal year.~~

431 ~~2. Private sources and up to 75 percent of interest and~~
 432 ~~earnings on the endowment principal for the 2018-2019 fiscal~~
 433 ~~year.~~

434 ~~3. Private sources and up to 50 percent of interest and~~
 435 ~~earnings on the endowment principal for the 2019-2020 fiscal~~
 436 ~~year.~~

437 1.4. Private sources and up to 25 percent of interest and
 438 earnings on the endowment principal for the 2020-2021 fiscal
 439 year.

440 2.5. Solely private sources for the 2021-2022 fiscal year
 441 and thereafter.

442 Section 9. Paragraph (c) of subsection (2) of section
 443 1003.5716, Florida Statutes, is amended to read:

444 1003.5716 Transition to postsecondary education and career
 445 opportunities.—All students with disabilities who are 3 years of
 446 age to 21 years of age have the right to a free, appropriate
 447 public education. As used in this section, the term "IEP" means
 448 individual education plan.

449 (2) Beginning not later than the first IEP to be in effect
 450 when the student attains the age of 16, or younger if determined

ENROLLED

CS/HB 901

2020 Legislature

451 appropriate by the parent and the IEP team, the IEP must include
452 the following statements that must be updated annually:

453 (c) A statement of appropriate measurable long-term
454 postsecondary education and career goals based upon age-
455 appropriate transition assessments related to training,
456 education, employment, and, if appropriate, independent living
457 skills and the transition services, including preemployment
458 transition services and courses of study needed to assist the
459 student in reaching those goals.

460 Section 10. This act shall take effect July 1, 2020.