

SECOND REGULAR SESSION

# HOUSE BILL NO. 1924

## 101ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE WALSH MOORE (93).

4208H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To amend chapters 37 and 209, RSMo, by adding thereto two new sections relating to employment programs for persons disclosing a disability.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapters 37 and 209, RSMo, are amended by adding thereto two new sections, to be known as sections 37.980 and 209.700, to read as follows:

**37.980. 1. The office of administration shall submit a report to the general assembly before December thirty-first of each year, beginning in 2022, describing the progress made by the state with respect to the directives issued as part of the "Missouri as a Model Employer" initiative described in executive order 19-16.**

**2. The report shall include, but not be limited to, the data described in the following subdivisions, which shall be collected through voluntary self-disclosure. To the extent possible, for each subdivision, the report shall include general data for all relevant employees, in addition to data comparing the employees of each agency within the state workforce:**

**(1) The baseline number of employees in the state workforce who disclosed disabilities when the initiative began;**

**(2) The number of employees in the state workforce who disclose disabilities at the time of the compiling of the annual report and statistics providing the size and the percentage of any increase or decrease in such numbers since the initiative began and since the compilation of any previous annual report;**

**(3) The baseline percentage of employees in the state workforce who disclosed disabilities when the initiative began;**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18           **(4) The percentage of employees in the state workforce who disclose disabilities**  
19 **at the time of the compiling of the annual report and statistics providing the size of any**  
20 **increase or decrease in such percentage since the initiative began and since the**  
21 **compilation of any previous annual report;**

22           **(5) A description and analysis of any disparity that may exist from the time the**  
23 **initiative began and the time of the compiling of the annual reports, and of any disparity**  
24 **that may exist from the time of the most recent previous annual report, if any, and the**  
25 **time of the current annual report, between the percentage of individuals in the state of**  
26 **working age who disclose disabilities and the percentage of individuals in the state**  
27 **workforce who disclose or have disabilities; and**

28           **(6) A description and analysis of any pay differential that may exist in the state**  
29 **workforce between individuals who disclose disabilities and individuals who do not**  
30 **disclose disabilities.**

31           **3. The report shall also include descriptions of specific efforts made by state**  
32 **agencies to recruit, hire, advance, and retain individuals with disabilities including, but**  
33 **not limited to, individuals with the most significant disabilities, as defined in 5 CSR 20-**  
34 **500.160. Such descriptions shall include, but not be limited to, best, promising, and**  
35 **emerging practices related to:**

36           **(1) Setting annual goals;**

37           **(2) Analyzing barriers to recruiting, hiring, advancing, and retaining individuals**  
38 **with disabilities;**

39           **(3) Establishing and maintaining contacts with entities and organizations that**  
40 **specialize in providing education, training, or assistance to individuals with disabilities**  
41 **in securing employment;**

42           **(4) Using internships, apprenticeships, and job shadowing;**

43           **(5) Using supported employment, individual placement with support services,**  
44 **customized employment, telework, mentoring and management training, stay-at-work**  
45 **and return-to-work programs, and exit interviews;**

46           **(6) Adopting, posting, and making available to all job applicants and employees**  
47 **reasonable accommodation procedures in written and accessible formats;**

48           **(7) Providing periodic disability awareness training to employees to build and**  
49 **sustain a culture of inclusion in the workplace, including rights to reasonable**  
50 **accommodation in the workplace;**

51           **(8) Providing periodic training to human resources and hiring managers in**  
52 **disability rights, hiring, and workplace policies designed to promote a diverse and**  
53 **inclusive workforce; and**

54           **(9) Making web-based hiring portals accessible to and usable by applicants with**  
55 **disabilities.**

**209.700. 1. This section shall be known and may be cited as the "Missouri**  
2 **Employment First Act".**

3           **2. As used in this section, unless the context clearly requires otherwise, the**  
4 **following terms mean:**

5           **(1) "Competitive integrated employment", work that:**

6           **(a) Is performed on a full-time or part-time basis, including self-employment,**  
7 **and for which a person is compensated at a rate that:**

8           **a. Is no less than the higher of the rate specified in 29 U.S.C. Section 206(a)(1) or**  
9 **the rate required under any applicable state or local minimum wage law for the place of**  
10 **employment;**

11           **b. Is no less than the customary rate paid by the employer for the same or**  
12 **similar work performed by other employees who are not persons with disabilities and**  
13 **who are similarly situated in similar occupations by the same employer and who have**  
14 **similar training, experience, and skills;**

15           **c. In the case of a person who is self-employed, yields an income that is**  
16 **comparable to the income received by other persons who are not persons with**  
17 **disabilities and who are self-employed in similar occupations or on similar tasks and**  
18 **who have similar training, experience, and skills; and**

19           **d. Is eligible for the level of benefits provided to other employees;**

20           **(b) Is at a location:**

21           **a. Typically found in the community; and**

22           **b. Where the employee with a disability interacts for the purpose of performing**  
23 **the duties of the position with other employees within the particular work unit and the**  
24 **entire work site and, as appropriate to the work performed, other persons, such as**  
25 **customers and vendors, who are not persons with disabilities, other than supervisory**  
26 **personnel or persons who are providing services to such employee, to the same extent**  
27 **that employees who are not persons with disabilities and who are in comparable**  
28 **positions interact with these persons; and**

29           **(c) Presents, as appropriate, opportunities for advancement that are similar to**  
30 **those for other employees who are not persons with disabilities and who have similar**  
31 **positions;**

32           **(2) "Customized employment", competitive integrated employment for a person**  
33 **with a significant disability that is:**

34           **(a) Based on an individualized determination of the unique strengths, needs, and**  
35 **interests of the person with a significant disability;**

36 (b) Designed to meet the specific abilities of the person with a significant  
37 disability and the business needs of the employer; and

38 (c) Carried out through flexible strategies, such as:

39 a. Job exploration by the person; and

40 b. Working with an employer to facilitate placement, including:

41 (i) Customizing a job description based on current employer needs or on  
42 previously unidentified and unmet employer needs;

43 (ii) Developing a set of job duties, a work schedule and job arrangement, and  
44 specifics of supervision, including performance evaluation and review, and determining  
45 a job location;

46 (iii) Using a professional representative chosen by the person or self-  
47 representation, if elected, to work with an employer to facilitate placement; and

48 (iv) Providing services and supports at the job location;

49 (3) "Disability", a physical or mental impairment that substantially limits one or  
50 more major life activities of a person, as defined in the Americans with Disabilities Act  
51 of 1990, as amended. The term "disability" does not include brief periods of  
52 intoxication caused by alcohol or drugs or dependence upon or addiction to any alcohol  
53 or drug;

54 (4) "Employment first", a concept to facilitate the full inclusion of persons with  
55 disabilities in the workplace and community in which community-based, competitive  
56 integrated employment is the first and preferred outcome for employment services for  
57 persons with disabilities;

58 (5) "Employment-related services", services provided to persons, including  
59 persons with disabilities, to assist them in finding employment. The term "employment-  
60 related services" includes, but is not limited to, resume development, job fairs, and  
61 interview training;

62 (6) "Integrated setting", a setting:

63 (a) Typically found in the community; and

64 (b) Where the employee with a disability interacts for the purpose of performing  
65 the duties of the position with other employees within the particular work unit and the  
66 entire work site and, as appropriate to the work performed, other persons, such as  
67 customers and vendors, who are not persons with disabilities, other than supervisory  
68 personnel or persons who are providing services to such employee, to the same extent  
69 that employees who are not persons with disabilities and who are in comparable  
70 positions interact with these persons;

71 (7) "Outcome", with respect to a person entering, advancing in, or retaining full-  
72 time or, if appropriate, part-time competitive integrated employment, including

73 **customized employment, self-employment, telecommuting, or business ownership, or**  
74 **supported employment that is consistent with a person's unique strengths, resources,**  
75 **priorities, concerns, abilities, capabilities, interests, and informed choice;**

76 **(8) "Sheltered workshop", the same meaning given to the term in section**  
77 **178.900;**

78 **(9) "State agency", an authority, board, branch, commission, committee,**  
79 **department, division, or other instrumentality of the executive branch of state**  
80 **government;**

81 **(10) "Supported employment", competitive integrated employment, including**  
82 **customized employment, or employment in an integrated setting in which persons are**  
83 **working toward a competitive integrated employment, that is individualized and**  
84 **customized consistent with the strengths, abilities, interests, and informed choice of the**  
85 **persons involved who, because of the nature and severity of their disabilities, need**  
86 **intensive supported employment services and extended services in order to perform the**  
87 **work involved;**

88 **(11) "Supported employment services", ongoing support services, including**  
89 **customized employment, needed to support and maintain a person with a most**  
90 **significant disability in supported employment, that:**

91 **(a) Are provided singly or in combination and are organized and made available**  
92 **in such a way as to assist an eligible person to achieve competitive integrated**  
93 **employment; and**

94 **(b) Are based on a determination of the needs of an eligible person, as specified**  
95 **in an individualized plan for employment;**

96 **(12) "Working age", sixteen years of age or older;**

97 **(13) "Youth with a disability", any person fourteen years of age or older and**  
98 **under eighteen years of age who has a disability.**

99 **3. All state agencies that provide employment-related services or that provide**  
100 **services or support to persons with disabilities shall:**

101 **(1) Develop collaborative relationships with each other, confirmed by a written**  
102 **memorandum of understanding signed by each such state agency; and**

103 **(2) Implement coordinated strategies to promote competitive integrated**  
104 **employment including, but not limited to, coordinated service planning, job**  
105 **exploration, increased job training, and internship opportunities.**

106 **4. All state agencies that provide employment-related services or that provide**  
107 **services or support to persons with disabilities shall:**

108           **(1) Implement an employment first policy by considering competitive integrated**  
109 **employment as the first and preferred outcome when planning or providing services or**  
110 **supports to persons with disabilities who are of working age;**

111           **(2) Offer information on competitive integrated employment to all working-age**  
112 **persons with disabilities. The information offered shall include an explanation of the**  
113 **relationship between a person's earned income and his or her public benefits,**  
114 **information on Achieving a Better Life Experience (ABLE) accounts, and**  
115 **information on accessing assistive technology;**

116           **(3) Ensure that persons with disabilities receive the opportunity to understand**  
117 **and explore education and training as pathways to employment, including**  
118 **postsecondary, graduate, and postgraduate education; vocational and technical**  
119 **training; and other training. State agencies shall not be required to fund any**  
120 **education or training unless otherwise required by law;**

121           **(4) Promote the availability and accessibility of individualized training designed**  
122 **to prepare a person with a disability for the person's preferred employment;**

123           **(5) Promote partnerships with private agencies that offer supported employment**  
124 **services, if appropriate;**

125           **(6) Promote partnerships with employers to overcome barriers to meeting**  
126 **workforce needs with the creative use of technology and innovation;**

127           **(7) Ensure that staff members of public schools, vocational service programs,**  
128 **and community providers receive the support, guidance, and training that they need to**  
129 **contribute to attainment of the goal of competitive integrated employment for all**  
130 **persons with disabilities;**

131           **(8) Ensure that competitive integrated employment, while the first and preferred**  
132 **outcome when planning or providing services or supports to persons with disabilities**  
133 **who are of working age, is not required of a person with a disability to secure or**  
134 **maintain public benefits for which the person is otherwise eligible; and**

135           **(9) At least once each year, discuss basic information about competitive**  
136 **integrated employment with the parents or guardians of a youth with a disability. If the**  
137 **youth with a disability has been emancipated, state agencies shall discuss this**  
138 **information with the youth with a disability. The information offered shall include**  
139 **an explanation of the relationship between a person's earned income and his or her**  
140 **public benefits, information about ABLE accounts, and information about accessing**  
141 **assistive technology.**

142           **5. Nothing in this section shall require a state agency to perform any action that**  
143 **would interfere with the state agency's ability to fulfill duties and requirements**  
144 **mandated by federal law.**

145           **6. Nothing in this section shall be construed to limit or disallow any disability**  
146 **benefits to which a person with a disability who is unable to engage in competitive**  
147 **integrated employment would otherwise be entitled.**

148           **7. Nothing in this section shall be construed to eliminate any supported**  
149 **employment services or sheltered workshop settings as options.**

150           **8. (1) Nothing in this section shall be construed to require any state agency or**  
151 **other employer to give a preference in hiring to persons with disabilities or to prohibit**  
152 **any employment relationship or program that is otherwise permitted under applicable**  
153 **law.**

154           **(2) Any person who is employed by a state agency shall meet the minimum**  
155 **qualifications and requirements for the position in which the person is employed.**

156           **9. All state agencies that provide employment-related services or that provide**  
157 **services or support to persons with disabilities shall coordinate efforts and collaborate**  
158 **within and among each other to ensure that state programs, policies, and procedures**  
159 **support competitive integrated employment for persons with disabilities who are of**  
160 **working age. All such state agencies, when feasible, shall share data and information**  
161 **across systems in order to track progress toward full implementation of this section. All**  
162 **such state agencies are encouraged to adopt measurable goals and objectives to promote**  
163 **assessment of progress in implementing this section.**

164           **10. State agencies may promulgate rules to implement the provisions of this**  
165 **section. Any rule or portion of a rule, as that term is defined in section 536.010, that is**  
166 **created under the authority delegated in this section shall become effective only if it**  
167 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**  
168 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**  
169 **vested with the general assembly pursuant to chapter 536 to review, to delay the**  
170 **effective date, or to disapprove and annul a rule are subsequently held unconstitutional,**  
171 **then the grant of rulemaking authority and any rule proposed or adopted after August**  
172 **28, 2022, shall be invalid and void.**

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