

## CHAPTER 2020-85

### Committee Substitute for House Bill No. 901

An act relating to vocational rehabilitation services; amending s. 413.20, F.S.; providing a definition; amending s. 413.207, F.S.; revising information that the Division of Vocational Rehabilitation must include in its annual performance report to the Governor and the Legislature; amending s. 413.23, F.S.; requiring the division to provide preemployment transition services to certain potentially eligible persons; amending s. 413.30, F.S.; removing provisions relating to trial work evaluation requirements; requiring the division to assess the service needs of eligible individuals within a specified period; providing for an extension of such assessment under certain circumstances; creating s. 413.301, F.S.; requiring preemployment transition services be provided to certain individuals with disabilities under certain conditions; requiring that the division provide such services within a reasonable period of time under certain circumstances; requiring the division to work with qualified providers to provide such services under certain circumstances; amending s. 413.405, F.S.; revising the composition of the Florida Rehabilitation Council; revising the responsibilities of the Florida Rehabilitation Council to conform to changes made by the act; amending s. 413.41, F.S.; requiring the division to enter into a formal interagency agreement with the state education agency for certain purposes; requiring that such agreement meet specified requirements; requiring the division to work with local educational agencies to provide specified services and arrange for referrals; amending s. 413.615, F.S.; revising definitions and legislative intent; revising provisions relating to revenue for the endowment fund of the Florida Endowment for Vocational Rehabilitation; revising provisions relating to the board of directors of the Florida Endowment Foundation; revising provisions relating to administrative costs for the administration of the foundation; amending s. 1003.5716, F.S.; requiring that a student's individual education plan contain a statement regarding preemployment transition services; providing an effective date.

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

Section 1. Subsections (20) through (27) of section 413.20, Florida Statutes, are renumbered as subsections (21) through (28), respectively, and a new subsection (20) is added to that section, to read:

413.20 Definitions.—As used in this part, the term:

(20) “Preemployment transition services” means the services of job exploration counseling, work-based learning experiences, counseling on comprehensive transition or postsecondary education programs, workplace readiness training, and instruction in self-advocacy as required by the Workforce Innovation and Opportunity Act of 2014, which may be provided

to students with disabilities who are eligible or potentially eligible for vocational rehabilitation services.

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

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

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

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

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

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

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

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

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

(2) To enter into reciprocal agreements with other states to provide for the vocational rehabilitation of residents of the states concerned;

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

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

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

413.30 Eligibility for vocational rehabilitation services.—

(3) An individual is presumed to benefit in terms of an employment outcome from vocational rehabilitation services under this part unless the division can demonstrate by clear and convincing evidence that the individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome. Before making such a determination, the division must consider the individual's abilities, capabilities, and capacity to perform in a work situation through the use of trial work experiences. Trial work experiences include supported employment, on-the-job training, or other work experiences using realistic work settings. ~~Under limited circumstances, if an individual cannot take advantage of trial work experiences or if options for trial work experiences have been exhausted, the division shall conduct an extended evaluation, not to exceed 18 months. The evaluation must determine the eligibility of the individual and the nature and scope of needed vocational rehabilitation services. The extended evaluation must be reviewed once every 90 days to determine whether the individual is eligible for vocational rehabilitation services.~~

(5) When the division determines that an individual is eligible for vocational rehabilitation services, the division must complete an assessment for determining eligibility and vocational rehabilitation needs and ensure that an individualized plan for employment is prepared within a reasonable period of time, not to exceed 90 days after the date of eligibility determination, unless unforeseen circumstances beyond the control of the division prevent the division from completing the assessment and individualized plan for employment within the 90-day timeframe and the division and the individual agree that an extension of time is warranted.

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

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

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

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

413.301 Preemployment transition services.—

(1) Preemployment transition services shall be provided to an individual with disabilities who is between 14 and 21 years of age; who is potentially eligible for vocational rehabilitation services in a secondary, postsecondary, or other recognized education program; and who has:

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

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

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

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

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

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

(1) The council shall be composed of:

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

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

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

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

2. Vocational rehabilitation services:

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

b. Provided by state agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals who have disabilities.

3. Preemployment transition services:

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

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

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

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

413.41 Cooperation by division with state agencies.—

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

such agencies. The division may charge the agencies contracting for these services the actual cost thereof.

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

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

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

413.615 Florida Endowment for Vocational Rehabilitation.—

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

(a) “Board” means the board of directors of the Florida Endowment Foundation for the Division of Vocational Rehabilitation within the Department of Education.

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

(c) “Foundation” means the Florida Endowment Foundation for the Division of Vocational Rehabilitation within the Department of Education.

(d) “Operating account” means an account established under paragraph ~~(4)(c)~~ ~~(4)(d)~~ to carry out the purposes provided in subsection (10).

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

(a) With skilled evaluation procedures and proper rehabilitative treatment, plus employment, training, and supportive services consistent with

the needs of the individual, persons who are disabled can assume the activities of daily living and join their communities with dignity and independence.

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

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

(4) REVENUE FOR THE ENDOWMENT FUND.—

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

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

~~(c) All remaining liquid balances of funds held for investment and reinvestment by the State Board of Administration for the endowment fund on the effective date of this act shall be transmitted to the foundation within 60 days for use as provided in subsection (10).~~

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

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

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

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

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

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

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

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

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

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

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

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

(f) The orderly cessation of operations and reversion to the state of funds held in trust by the foundation if the contract is terminated, the foundation is dissolved, or this section is repealed.

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

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

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

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



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

Disabled individuals who meet the above criteria shall be given special consideration for appointment.

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

(c) Terms.—Board members shall serve for two 3-year terms or until resignation or removal for cause. A board member may continue to serve until a successor is appointed.

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

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

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

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

(j) Administrative costs shall be kept to the minimum amount necessary for the efficient and effective administration of the foundation and are limited to 15 percent of total actual estimated expenditures in any fiscal calendar year. Administrative costs include payment of travel and per diem expenses of board members, officer salaries, chief executive officer program management, audits, salaries or other costs for nonofficers and contractors providing services that are not directly related to the mission of the foundation as described in subsection (5), costs of promoting the purposes of the foundation, all travel and per diem expenses of board members, officers' salaries, and chief executive officer program management, and other allowable costs. Administrative costs may be paid from the following sources:

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

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

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

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

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

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

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

(2) Beginning not later than the first IEP to be in effect when the student attains the age of 16, or younger if determined appropriate by the parent and the IEP team, the IEP must include the following statements that must be updated annually:

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

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

Approved by the Governor June 23, 2020.

Filed in Office Secretary of State June 23, 2020.