

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 276

H. P. 226

House of Representatives, January 22, 1969

Referred to Committee on Health and Institutional Services. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Rideout of Manchester.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT to Revise the Laws Relating to Vocational Rehabilitation.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 20, §§ 3051-3052, amended. Sections 3051 and 3052 of Title 20 of the Revised Statutes are amended to read as follows:

§ 3051. Short title

This chapter may be cited as the "Vocational Rehabilitation Act of 1959 1969."

§ 3052. Purpose

The purpose of this chapter is to provide for and improve the rehabilitation of ~~physically~~ handicapped individuals, other than the blind, so that they may prepare for and engage in ~~remunerative employment~~ a gainful occupation to the extent of their capabilities, thereby increasing not only their social and economic well-being but the productive capacity of the State and nation; and to encourage and develop facilities and other resources needed by the handicapped.

Pursuant to such purposes the state board is designated and established as the sole state agency to provide vocational rehabilitation services ~~to all residents of the State and the state agency to provide evaluation and work adjustment services under Public Law 565, 83rd Congress, 2nd session the Vocational Rehabilitation Act (29 U.S.C. 31 et seq.) to all individuals~~, except the blind, as provided for under Title 22. Subject to the approval of the state board, the executive officer of the state board shall make such rules and regulations as he finds necessary or appropriate to efficient administration of a

program of vocational rehabilitation, shall enter into agreements with local, state and federal agencies providing services relating to vocational rehabilitation, and shall prepare and issue a state plan of vocational rehabilitation and a state evaluation and work adjustment plan which shall be amended from time to time as appears necessary or desirable.

Sec. 2. R. S., T. 20, § 3053, repealed and replaced. Section 3053 of Title 20 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 3053. Definitions

For the purposes of this chapter the following terms are defined:

1. **Construction.** "Construction" means the construction of new buildings, the acquisition of existing buildings, initial equipment of such new buildings or newly acquired buildings, and initial staffing thereof, for a period not to exceed 4 years and 3 months, and the term "cost of construction" includes architects' fees and acquisition of land in connection with construction, but does not include the cost of off-site improvements.

2. **Director.** "Director" means the Director of the Vocational Rehabilitation Division.

3. **Disadvantaged individuals.** "Disadvantaged individuals" mean:

A. Handicapped individuals, and

B. Individuals disadvantaged by reason of their youth or advanced age, low educational attainments, ethnic or cultural factors, prison or delinquency records or other conditions which constitute a barrier to employment, and

C. Other members of their families when the provision of vocational rehabilitation services to family members is necessary for the rehabilitation of an individual described in paragraph A or B.

4. **Division.** "Division" means the Vocational Rehabilitation Division.

5. **Establishment of a rehabilitation facility.** "Establishment of a rehabilitation facility" means the expansion, remodeling or alteration of existing buildings necessary to adapt them to rehabilitation facility purposes or to increase their effectiveness for such purposes, initial equipment of such buildings and the initial staffing thereof for a period not to exceed 4 years and 3 months.

6. **Evaluation and work adjustment services.** "Evaluation and work adjustment services" include, as appropriate in each case, such services as

A. A preliminary diagnostic study to determine that the individual is disadvantaged, has an employment handicap, and that services are needed;

B. A thorough diagnostic study consisting of a comprehensive evaluation of pertinent medical, psychological, vocational, educational, cultural, social and environmental factors which bear on the individual's handicap to employment and rehabilitation potential including, to the degree needed, an evaluation of the individual's personality, intelligence level, educational

achievements, work experience, vocational aptitudes and interests, personal and social adjustments, employment opportunities, and other pertinent data helpful in determining the nature and scope of services needed?

C. Services to appraise the individual's patterns of work behavior and ability to acquire occupational skills, and to develop work attitudes, work habits, work tolerances and social and behavior patterns suitable for successful job performance, including the utilization of work, simulated or real, to assess and develop the individual's capacities to perform adequately in a work environment;

D. Any other goods or services provided to a disadvantaged individual, determined in accordance with regulations of the Secretary of Health, Education and Welfare, to be necessary for, and which are provided for the purpose of, ascertaining the nature of the handicap to employment and whether it may reasonably be expected the individual can benefit from vocational rehabilitation services or other services available to disadvantaged individuals;

E. Outreach, referral and advocacy; and

F. The administration of these evaluation and work adjustment services.

7. Gainful occupation. "Gainful occupation" includes employment in the competitive labor market; practice of a profession; self-employment; home-making; farm or family work, including work for which payment is in kind rather than in cash; sheltered employment; and home industries or other gainful homebound work.

8. Handicapped individual. "Handicapped individual" means any individual who has a physical or mental disability which constitutes a substantial handicap to employment, but which is of such nature that vocational rehabilitation services may reasonably be expected to render him fit to engage in a gainful occupation, including a gainful occupation which is more consistent with his capacities and abilities. Handicapped individual also means any individual who has a physical or mental disability which constitutes a substantial handicap to employment for whom vocational rehabilitation services are necessary for the purposes of the determination of rehabilitation potential.

9. Individual who is under a physical or mental disability. "Individual who is under a physical or mental disability" means an individual who has a physical or mental condition, exclusive of blindness, which materially limits, contributes to limiting, or, if not corrected, will probably result in limiting his activities or functions. It also includes individuals with behavioral disorders characterized by deviant social behavior or impaired ability to carry out normal relationships with family and community which condition may result from vocational, educational, cultural, social, environmental or other factors.

10. Rehabilitation facility. "Rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to, or gainful employment for, handicapped individuals, or for providing evaluation and work adjustment services for disadvantaged indi-

viduals, and which provides singly or in combination one or more of the following services for handicapped individuals:

- A. Comprehensive rehabilitation services which shall include, under one management, medical, psychological, social and vocational services;
 - B. Testing, fitting or training in the use of prosthetic and orthotic devices;
 - C. Prevocational conditioning or recreational therapy;
 - D. Physical and occupational therapy;
 - E. Speech and hearing pathology;
 - F. Psychological and social services;
 - G. Evaluation;
 - H. Personal and work adjustment;
 - I. Vocational training, in combination with other rehabilitation services;
 - J. Evaluation or control of special disabilities; and
 - K. Extended employment for the severely handicapped who cannot be readily absorbed in the competitive labor market;
- but all medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to practice medicine or surgery in the State.

11. State board "State board" means the State Board of Education.

12. Substantial handicap to employment. "Substantial handicap to employment" means that a physical or mental disability, in the light of attendant medical, psychological, vocational, cultural, social or environmental factors, impedes an individual's occupational performance, by preventing his obtaining, retaining or preparing for a gainful occupation consistent with his capacities and abilities.

13. Vocational rehabilitation services. "Vocational rehabilitation services" means any goods and services necessary to render a handicapped individual fit to engage in a gainful occupation, or to determine his rehabilitation potential, including:

- A. Evaluation, including diagnostic and related services, incidental to the determination of eligibility for and the nature and scope of services to be provided;
- B. Counseling, guidance and placement services for handicapped individuals, including follow-up services to assist such individuals to maintain their employment;
- C. Training services for handicapped individuals, which shall include personal and vocational adjustment, books and other training materials;
- D. Interpreter services for the deaf; and

E. Recruitment and training services for handicapped individuals to provide them with new employment opportunities in the fields of rehabilitation, health, welfare, public safety and law enforcement, and other appropriate service employment.

Such term also includes, after full consideration of eligibility for any similar benefit by way of pension, compensation and insurance, the following services and goods provided to, or for the benefit of a handicapped individual:

A. Physical restoration services, including, but not limited to

- (1) Corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and constitutes a substantial barrier to employment, but is of such nature that such correction or modification may reasonably be expected to eliminate or substantially reduce the handicap within a reasonable length of time,
- (2) Necessary hospitalization in connection with surgery or treatment,
- (3) Prosthetic and orthotic devices,
- (4) Eye glasses and visual services as prescribed by a physician skilled in the diseases of the eye or by an optometrist;

B. Maintenance, not exceeding the estimated cost of subsistence, during rehabilitation;

C. Occupational licenses, tools, equipment and initial stocks and supplies;

D. In the case of any type of small business operated by the severely handicapped the operation of which can be improved by management services and supervision provided by the state agency, the provision of such services and supervision, alone or together with the acquisition by the state agency of vending stands or other equipment and initial stocks and supplies;

E. The construction or establishment of public or other nonprofit rehabilitation facilities and the provision of other facilities and services which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the rehabilitation plan of any one handicapped individual;

F. Transportation in connection with the rendering of any other vocational rehabilitation service;

G. Any other goods and services necessary to render a handicapped individual employable;

H. Services to the families of handicapped individuals when such services will contribute substantially to the rehabilitation of such individuals.

Sec. 3. R. S., T. 20, § 3055, amended. Section 3055 of Title 20 of the Revised Statutes is amended to read as follows:

§ 3055. Provision of services

Vocational rehabilitation services shall be provided directly or through public or private ~~instrumentalities~~ resources to any handicapped individual ~~who is a resident of the State at any time of filing his application therefor, and whose vocational rehabilitation the director determines after full investigation can be satisfactorily achieved, or, including any handicapped individual~~ who is eligible therefor under the terms of an agreement with another state or with the Federal Government.

Evaluation and work adjustment services shall be provided directly or through private resources to any disadvantaged individual who is acceptable therefor under the terms of an agreement with another agency, state or with the Federal Government.

~~Vocational rehabilitation services enumerated in section 3053, subsection 6, paragraph D to L, shall be provided at public cost only to those handicapped individuals who are found by the director to require financial assistance with respect thereto.~~

In case vocational rehabilitation services or evaluation and work adjustment services cannot be provided to all eligible handicapped individuals who apply for such services, the director shall provide regulations, with approval of the state board, for determining the order to be followed in selecting those to whom such services will be provided.

Sec. 4. R. S., T. 20, § 3056, amended. Section 3056 of Title 20 of the Revised Statutes is amended to read as follows:

§ 3056. Powers and duties of division

In carrying out this chapter, the director, with the approval of the state board:

1. **Regulations.** Shall prescribe regulations governing the protection of records and confidential information, the manner and form of filing applications, eligibility, investigation and determination thereof, for vocational rehabilitation services and evaluation and work adjustment services, procedures for fair hearings, the establishment and operation and construction of rehabilitation facilities and workshops and such other regulations as he finds necessary;

2. **Units within division.** Shall establish appropriate administrative units within the division and in a manner that the functions of the units shall be conducted in offices accessible to or usable by handicapped persons;

3. **Reports.** Shall prepare and submit to the state board annual reports of activities and expenditures and, prior to each regular session of the Legislature, estimates of sums required for carrying out this chapter and estimates of the amounts to be made available for this purpose from all sources;

4. **Cooperate with other departments.** Shall cooperate with other departments, agencies and institutions, both public and private, in providing for the vocational rehabilitation of handicapped individuals and the vocational evaluation and work adjustment of disadvantaged individuals, in studying the problems involved therein, and in establishing, developing and providing, in

conformity with the purposes of this chapter such programs, facilities and services as may be necessary or desirable;

5. Delegation of powers and duties. May delegate to any officer or employee of the division such of his powers and duties, not inconsistent with the law, as he finds necessary to carry out the purposes of this chapter;

6. Reciprocal agreements with other states. May enter into reciprocal agreements with other states to provide for the vocational rehabilitation of handicapped individuals who are residents of the states concerned;

7. Rehabilitation facilities. May establish, **construct** and operate rehabilitation facilities ~~and workshops~~ and make grants to public and other nonprofit organizations for such purposes;

8. Vending stands and other businesses. May supervise the operation of vending stands and other small businesses established pursuant to this chapter to be conducted by severely handicapped individuals;

9. Research fellowships and traineeships. May make studies, investigations, demonstrations and reports, and provide training and instruction, including the establishment and maintenance of research fellowships and traineeships with such stipends and allowances as may be deemed necessary, in matters relating to vocational rehabilitation;

10. Other action. Shall take such other action as he deems necessary or appropriate to carry out the purposes of this chapter;

11. Contracts for training, treatment and other services. May contract with schools, hospitals and other agencies and with doctors, nurses, technicians and other persons **of public, private or business status**, for training, physical restoration **or other treatment**, transportation and other services required to carry on a program of vocational rehabilitation.

12. Personal. Shall appoint such personnel and prescribe their duties as he deems necessary for the proper and efficient performance of the functions of the agency, provided that such personnel shall be selected without regard to sex, race, creed, color, national origin or age, and no handicapped person shall be disqualified by reason of the existence of a disability where the disability would not interfere with the efficient performance of his duties;

13. Joint project. May share funding and administrative responsibility with another state agency in order to carry out a joint project to provide services to handicapped individuals.

14. Joint undertakings. May enter into joint undertakings with public and private agencies to further the effectiveness of evaluation and work adjustment services for disadvantaged individuals.

Sec. 5. R. S., T. 20, § 3058, amended. Section 3058 of Title 20 of the Revised Statutes is amended to read as follows:

§ 3058. Appropriation

The Legislature shall appropriate for vocational rehabilitation services **and evaluation and work adjustment services** such sums as it finds necessary.

The division is authorized to comply with such requirements as may be necessary to obtain federal funds in the maximum amount and most advantageous proportion possible. In the event that federal funds are not available to the State for vocational rehabilitation purposes, the agency shall include as a part of the budget a request for adequate state funds for vocational rehabilitation purposes.

Sec. 6. R. S., T. 20, § 3059, amended. Section 3059 of Title 20 of the Revised Statutes is amended to read as follows:

§ 3059. Cooperation with other agencies

In accordance with this chapter, the state board shall cooperate with and utilize the services of state agencies interested in problems related to vocational rehabilitation; ~~shall make use of the services and facilities of the Maine Employment Security Commission especially as they relate to job placement and employment counseling services;~~ including but not limited to such agencies as the Maine Employment Security Commission, the Divisions of Child Welfare, Family Services, General Relief, Maternal and Child Health, Public Health Nursing and Eye Care and Special Services of the Department of Health and Welfare; the Bureau of Corrections, Baxter School for the Deaf, state hospitals and the Pineland Hospital and Training Center in the Department of Mental Health and Corrections; the Division of Special Education, Department of Education; and the Industrial Accident Commission; and shall, subject to such standards and regulations as may be established by the state board, cooperate with other public and nonprofit organizations and agencies as far as possible in providing vocational rehabilitation services and evaluation and work adjustment services.

Sec. 7. R. S., T. 20, § 3061, amended. Section 3061 of Title 20 of the Revised Statutes is amended to read as follows:

§ 3061. State agency designated; federal-state agreement

The state board is designated as the state agency to make determination of disability required under Section 221 of Title II of the Federal Social Security Act ~~as set forth in Section 106, Public Law 761, 83rd Congress, (42, U.S.C. 421),~~ and the executive officer of the state board, subject to approval of the Governor, is authorized and empowered to enter into an agreement on behalf of the State with the Secretary of Health, Education and Welfare to carry out Title II of the Federal Social Security Act relating to the making of determinations of disability.

Sec. 8. R. S., T. 20, § 3062, amended. Section 3062 of Title 20 of the Revised Statutes is amended to read as follows:

§ 3062. Receipt and disbursement of funds

The Treasurer of State is designated as the custodian of all funds received from the Federal Government for the purpose of carrying out any federal statutes pertaining to vocational rehabilitation of handicapped individuals ~~and evaluation and work adjustment of disadvantaged individuals~~ or any agreements authorized by this chapter. The Treasurer of State shall make

disbursements from such funds and from all state funds available for the vocational rehabilitation purposes set forth in this chapter upon the order of the state board or its designated representatives.

Sec. 9. R. S., T. 20, § 3063, amended. Section 3063 of Title 20 of the Revised Statutes is amended to read as follows :

§ 3063. Maintenance not assignable

The right of a handicapped individual or disadvantaged individual to maintenance under this chapter shall not be transferable or assignable at law or in equity; and none of the moneys paid or payable or rights existing under this chapter shall be subject to execution, levy, attachment, garnishment or other legal process, or to the operation of any bankruptcy or insolvency law.

Sec. 10. R. S., T. 20, §§ 3068-3069, additional. Title 20 of the Revised Statutes is amended by adding 2 new sections 3068 and 3069, to read as follows :

§ 3068. Limitation on political activity

No officer or employee engaged in the administration of the vocational rehabilitation program shall use his official authority to influence or permit the use of the vocational rehabilitation program for the purpose of interfering with an election or affecting the results thereof or for any partisan political purpose. No such officer or employee shall solicit or receive, nor shall any officer or employee be obligated to contribute or render, any service, assistance, subscription, assessment or contribution for any political purpose. Any officer or employee violating this provision shall be discharged.

§ 3069. Continuing study of rehabilitation needs

The division shall make continuing study of the needs of handicapped individuals in the State and how these needs may be met most effectively. Such study and planning shall include appraisal of workshops and other rehabilitation facilities in the State, their effectiveness and adequacy in meeting the overall needs of the handicapped. Such continuing study and recommendations are to be reflected in the annual reports to the state board.