

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)



127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 1199

S.P. 426

In Senate, April 2, 2015

An Act To Clarify the Laws Governing the Bureau of Rehabilitation Services

Submitted by the Department of Labor pursuant to Joint Rule 204.
Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

A handwritten signature in black ink, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator VOLK of Cumberland.
Cosponsored by Representative HERBIG of Belfast and
Senators: CUSHING of Penobscot, PATRICK of Oxford, Representatives: AUSTIN of Gray,
FECTEAU of Biddeford, GILBERT of Jay, LOCKMAN of Amherst, MASTRACCIO of
Sanford, WARD of Dedham.

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

2 **Sec. 1. 5 MRSA §1821**, as enacted by PL 1973, c. 198, is repealed.

3 **Sec. 2. 5 MRSA §1822**, as amended by PL 1995, c. 560, Pt. F, §4, is repealed.

4 **Sec. 3. 5 MRSA §1823**, as enacted by PL 1973, c. 198, is repealed.

5 **Sec. 4. 5 MRSA §1824**, as amended by PL 1993, c. 708, Pt. J, §4, is repealed.

6 **Sec. 5. 26 MRSA §1411-A, sub-§4**, as enacted by PL 1995, c. 560, Pt. F, §13, is
7 amended to read:

8 **4. Gainful employment.** "Gainful employment" for a person who receives services
9 from the Division for the Blind and Visually Impaired includes employment in the
10 competitive labor market; practice of a profession; self-employment; homemaking; farm
11 or family work, including work for which payment is in kind rather than in cash;
12 supported employment; ~~sheltered employment~~; and ~~home industries or other gainful~~
13 ~~homebound work~~ home-based employment. "Gainful employment" for a person who
14 receives services from the Division of Vocational Rehabilitation includes employment in
15 the competitive labor market; practice of a profession; self-employment; supported
16 employment; and home-based employment.

17 **Sec. 6. 26 MRSA §1411-A, sub-§6, ¶C**, as enacted by PL 1995, c. 560, Pt. F,
18 §13, is amended to read:

19 C. Training services for people with disabilities, which ~~must~~ may include personal
20 and vocational adjustment, on-the-job training and books and other training materials;

21 **Sec. 7. 26 MRSA §1411-C**, as enacted by PL 1995, c. 560, Pt. F, §13, is amended
22 to read:

23 **§1411-C. Authority**

24 The department is the designated and state agency established as the sole state agency
25 to provide rehabilitation services, including but not limited to vocational rehabilitation
26 services, and to provide evaluation and vocational services for purposes of the ~~Federal~~
27 federal Rehabilitation Act of 1973 and acts amendatory and additional to the ~~Federal~~
28 federal Rehabilitation Act of 1973. The commissioner shall make those rules that the
29 commissioner finds necessary and appropriate for the administration of a program of
30 rehabilitation services and shall organize such a program within the department in a
31 manner that is consistent with existing federal and state laws, rules and regulations.

32 **Sec. 8. 26 MRSA §1411-D, sub-§8**, as enacted by PL 1995, c. 560, Pt. F, §13, is
33 amended to read:

34 **8. Eligibility and priority.** ~~Shall~~ Through the Bureau of Rehabilitation Services,
35 Division of Vocational Rehabilitation and Division for the Blind and Visually Impaired,
36 which are the designated state units under the federal Rehabilitation Act of 1973, shall

1 determine the eligibility of individuals for rehabilitation services or evaluation and
2 vocational services and the priority for those services in accordance with rules established
3 by the department; and

4 **Sec. 9. 26 MRSA §1411-D, sub-§9**, as amended by PL 2011, c. 348, §8, is
5 further amended to read:

6 **9. Transitional services coordination.** ~~Shall~~ Through the Bureau of Rehabilitation
7 Services, Division of Vocational Rehabilitation and Division for the Blind and Visually
8 Impaired, which are the designated state units under the federal Rehabilitation Act of
9 1973, shall participate with school administrative units in transition planning for each
10 student receiving special education services who is 16 years of age or older, or 14 years
11 of age if determined appropriate by the student's individualized education program team,
12 and shall assign appropriate staff as a transition contact person and as a member of the
13 transition planning team for each student.

14 **Sec. 10. 26 MRSA §1411-E, sub-§1**, as enacted by PL 1995, c. 560, Pt. F, §13,
15 is amended to read:

16 **1. Apply for assistance.** Apply for federal assistance under the ~~Federal~~ federal
17 Rehabilitation Act of 1973 and acts amendatory and additional to the ~~Federal~~ federal
18 Rehabilitation Act of 1973, and to comply with conditions, not inconsistent with this
19 article, that are required for such assistance; and

20 **Sec. 11. 26 MRSA §1411-F**, as enacted by PL 1995, c. 560, Pt. F, §13, is
21 amended to read:

22 **§1411-F. Receipt and disbursement of funds**

23 The Treasurer of State is the appropriate officer of the State to receive and administer
24 federal grants for rehabilitation programs, as contemplated by the ~~Federal~~ federal
25 Rehabilitation Act of 1973 and acts amendatory and additional to the ~~Federal~~ federal
26 Rehabilitation Act of 1973, and the State Controller shall authorize expenditures as
27 approved by the department.

28 **Sec. 12. 26 MRSA §1411-H**, as enacted by PL 1995, c. 560, Pt. F, §13, is
29 amended to read:

30 **§1411-H. Maintenance not assignable**

31 The right of a ~~handicapped or disadvantaged individual~~ person with a disability
32 to maintenance under this article is not transferable or assignable at law or in equity and
33 none of the money paid or payable or rights existing under this article are subject to
34 execution, levy, attachment, garnishment or other legal process or to the operation of
35 bankruptcy or insolvency law.

36 **Sec. 13. 26 MRSA §1412-C**, as enacted by PL 1995, c. 560, Pt. F, §13, is
37 amended to read:

- 1 1. Repealing the laws governing the blind-made products program, a program that no
2 longer exists;
- 3 2. Changing references to the Federal Rehabilitation Act to the federal Rehabilitation
4 Act of 1973;
- 5 3. Specifying the Department of Labor as the designated state agency to provide
6 rehabilitation services under the federal Rehabilitation Act of 1973 and naming the
7 Division of Vocational Rehabilitation and the Division for the Blind and Visually
8 Impaired as the designated state units;
- 9 4. Defining "gainful employment" as it pertains to the different standards within the
10 Division of Vocational Rehabilitation and the Division for the Blind and Visually
11 Impaired;
- 12 5. Changing the phrase "handicapped or disadvantaged individual" to "person with a
13 disability"; and
- 14 6. Reducing the number of members on the Commission for the Deaf, Hard of
15 Hearing and Late Deafened from 24 members and 3 at large members to up to 23
16 members to reflect the bylaws voted on by the commission. It also provides that members
17 serve 3-year terms and may serve multiple terms without limit.