

# MAINE STATE LEGISLATURE

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# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 1362

S.P. 470

In Senate, April 6, 2017

**An Act To Update the Operations of the Bureau of Rehabilitation Services and To Conform to the Federal Workforce Innovation and Opportunity Act of 2014**

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Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

A handwritten signature in cursive script, reading 'Heather J.R. Priest'.

HEATHER J.R. PRIEST  
Secretary of the Senate

Presented by Senator VOLK of Cumberland.  
Cosponsored by Representative FECTEAU of Biddeford and  
Senator: LANGLEY of Hancock, Representatives: AUSTIN of Gray, HANDY of Lewiston,  
MASTRACCIO of Sanford, STETKIS of Canaan, SYLVESTER of Portland, VACHON of  
Scarborough.

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

2 **Sec. 1. 26 MRSA §1411-A, sub-§1**, as enacted by PL 1995, c. 560, Pt. F, §13, is  
3 repealed and the following enacted in its place:

4 **1. Community rehabilitation program.** "Community rehabilitation program"  
5 means a program that provides directly or facilitates the provision of one or more of the  
6 following vocational rehabilitation services to individuals with disabilities to enable those  
7 individuals to maximize opportunities for employment, including career advancement:

8 A. Medical, psychiatric, psychological, social and vocational services under one  
9 management;

10 B. Testing, fitting or training in the use of prosthetic or orthotic devices;

11 C. Recreational therapy;

12 D. Physical and occupational therapy;

13 E. Speech, language and hearing therapy;

14 F. Psychiatric, psychological and social services, including positive behavior  
15 management;

16 J. Job development, placement and retention services;

17 K. Supported employment services and extended services;

18 L. Extended employment for people with severe disabilities who cannot readily enter  
19 the competitive labor market;

20 M. Evaluation or control of specific disabilities;

21 N. Rehabilitation technology services;

22 O. Assessment for determining program eligibility and vocational rehabilitation  
23 needs;

24 P. Orientation and mobility services for individuals who are blind or visually  
25 impaired;

26 Q. Psychosocial rehabilitation services;

27 R. Customized employment;

28 S. Services to family members, if necessary, to enable an applicant or eligible  
29 individual to achieve an employment outcome; and

30 T. Personal assistance services.

31 **Sec. 2. 26 MRSA §1411-A, sub-§1-A** is enacted to read:

32 **1-A. Competitive integrated employment.** "Competitive integrated employment"  
33 means work that is compensated at or above the state or local minimum wage; is not  
34 compensated at less than the customary rate and level of benefits paid by the employer  
35 for the same or similar work performed by other employees without disabilities who have  
36 similar training, experience and skills; takes place in such a way that the employee with

1 the disability interacts with other persons without disabilities to the same extent as  
2 employees without disabilities in comparable positions; and presents opportunities for  
3 advancement similar to those opportunities available for other employees without  
4 disabilities in similar positions.

5 **Sec. 3. 26 MRSA §1411-A, sub-§2**, as enacted by PL 1995, c. 560, Pt. F, §13, is  
6 repealed.

7 **Sec. 4. 26 MRSA §1411-A, sub-§3, ¶A**, as enacted by PL 1995, c. 560, Pt. F,  
8 §13, is amended to read:

9 A. A preliminary diagnostic study to determine that the individual ~~is disadvantaged~~  
10 ~~or~~ has a disability-related barrier to employment and that services are needed;

11 **Sec. 5. 26 MRSA §1411-A, sub-§3, ¶D**, as enacted by PL 1995, c. 560, Pt. F,  
12 §13, is amended to read:

13 D. Any other goods or services provided to ~~a disadvantaged~~ an individual with a  
14 disability that are determined in accordance with federal regulations to be necessary  
15 for, and are provided for the purpose of, ascertaining the nature of the barrier to  
16 employment and whether it may reasonably be expected that the individual can  
17 benefit from vocational rehabilitation services or other services available to  
18 ~~disadvantaged~~ individuals with disabilities;

19 **Sec. 6. 26 MRSA §1411-A, sub-§4**, as amended by PL 2015, c. 141, §5, is  
20 repealed.

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

23 **5. Person with a disability.** "Person with a disability" means an individual who has  
24 a physical or mental disability that constitutes a substantial barrier to employment but ~~is~~  
25 ~~of such a nature that~~ who can benefit in terms of an employment outcome from the  
26 provision of vocational rehabilitation services ~~may reasonably be expected to render the~~  
27 ~~individual fit to engage in gainful employment that is consistent with the individual's~~  
28 ~~capacities and abilities.~~ "Person with a disability" also means an individual who has a  
29 physical or mental disability that constitutes a substantial barrier to employment and for  
30 whom vocational rehabilitation services are necessary to determine rehabilitation  
31 potential. An "individual who ~~is under~~ has a physical or mental disability" means an  
32 individual who has a physical or mental condition that materially limits, contributes to  
33 limiting or, if not corrected, results in limiting that individual's activities or functions.

34 **Sec. 8. 26 MRSA §1411-A, sub-§6**, as amended by PL 2015, c. 141, §6, is  
35 further amended to read:

36 **6. Rehabilitation services.** "Rehabilitation services," which may be provided  
37 directly or through public or private resources, means goods and services necessary to  
38 assist a person with a disability to engage in ~~a gainful occupation~~ competitive integrated  
39 employment or to determine the individual's rehabilitation potential, including but not

- 1 limited to vocational rehabilitation services. Vocational rehabilitation services available  
2 to people with disabilities include:
- 3 A. Evaluation, including diagnostic and related services, incidental to the  
4 determination of eligibility for and the nature and scope of services to be provided;
  - 5 B. Counseling, guidance and placement services for people with disabilities,  
6 including follow-up services to assist those individuals to maintain employment;
  - 7 C. Training services for people with disabilities, which may include personal and  
8 vocational adjustment, on-the-job training ~~and~~ books, tools and other training  
9 materials;
  - 10 D. Interpreting and other specific services necessary to meet the unique needs of  
11 those persons who are deaf or who have impaired hearing. These services must  
12 include the aid of qualified personnel and interpreters who can relate to and  
13 communicate on an effective and meaningful basis with persons who are deaf or have  
14 impaired hearing;
  - 15 E. Recruitment and training services for people with disabilities to provide them with  
16 suitable employment opportunities;
  - 17 F. Physical restoration services, including but not limited to:
    - 18 (1) Corrective surgery or therapeutic treatment necessary to correct or  
19 substantially modify a physical or mental condition that is stable or slowly  
20 progressive and constitutes a substantial barrier to employment but is of such a  
21 nature that correction or modification may reasonably be expected to eliminate or  
22 substantially reduce the barrier within a reasonable length of time;
    - 23 (2) Necessary hospitalization in connection with surgery or treatment;
    - 24 (3) Prosthetic and orthotic devices; and
    - 25 (4) ~~Eye glasses~~ Eyeglasses and visual services as prescribed by a physician  
26 skilled in the diseases of the eye or by an optometrist;
  - 27 G. Maintenance as necessary during rehabilitation, as established by the rules of the  
28 department;
  - 29 H. Occupational licenses, tools, equipment and initial stocks and supplies;
  - 30 I. In the case of a small business operated by people with ~~severe~~ significant  
31 disabilities, the operation of which can be improved by management services and  
32 supervision provided by the department, the provision of those services and that  
33 supervision, alone or together with the acquisition by the department of vending  
34 stands or other equipment and initial stocks and supplies;
  - 35 J. The construction or establishment, in accordance with federal regulations, of  
36 public or other nonprofit community rehabilitation programs and the provision of  
37 other facilities and services that may contribute substantially to the rehabilitation of a  
38 group of individuals but are not related directly to the rehabilitation plan of any one  
39 person with a disability;

1 K. Transportation in connection with the rendering of any other rehabilitation  
2 service;

3 L. Any other goods and services necessary to render a person with a disability  
4 employable; ~~and~~

5 M. Services to the families of people with disabilities when the services will  
6 contribute substantially to the rehabilitation of the individuals;

7 N. Services for students and youth with disabilities to facilitate transition from  
8 school to postsecondary life, such as achievement of a competitive integrated  
9 employment outcome;

10 O. Preemployment transition services to students with disabilities in a secondary,  
11 postsecondary or other recognized education program, including job exploration  
12 counseling; work-based learning experiences; counseling on opportunities for  
13 enrollment in comprehensive transition or postsecondary educational programs;  
14 workplace readiness training; and self-advocacy instruction;

15 P. Reader services, rehabilitation teaching services, and orientation and mobility  
16 services for individuals who are blind or visually impaired; and

17 Q. Rehabilitation technology services to systematically apply technologies,  
18 engineering methodologies or scientific principles to address barriers confronted by  
19 individuals with disabilities.

20 **Sec. 9. 26 MRSA §1411-D**, as amended by PL 2015, c. 141, §§8 and 9, is further  
21 amended to read:

22 **§1411-D. Powers and duties of department**

23 In carrying out this article, the commissioner:

24 **1. Cooperates with other departments.** Shall cooperate with other departments,  
25 agencies and institutions, both public and private, in providing for the rehabilitation of  
26 people with disabilities ~~and the evaluation and vocational services of disadvantaged~~  
27 ~~individuals~~, in studying the problems involved and in establishing, developing and  
28 providing, in conformity with the purposes of this article, programs, facilities and  
29 services necessary or desirable;

30 **2. Reciprocal agreements with other states.** May enter into reciprocal agreements  
31 with other states to provide for the rehabilitation of people with disabilities ~~and~~  
32 ~~disadvantaged individuals~~ who are residents of the states concerned;

33 **3. Community rehabilitation programs.** May establish, construct and operate  
34 community rehabilitation programs and make grants to public or other nonprofit  
35 organizations for those purposes;

36 **4. Vending stands and other businesses.** May supervise the operation of vending  
37 stands and other small businesses established pursuant to this article to be conducted by  
38 people with ~~severe~~ significant disabilities;

1           **5. Research fellowships and traineeships.** May make studies, investigations,  
2 demonstrations and reports and provide training and instruction, including the  
3 establishment and maintenance of research fellowships and traineeships, with stipends  
4 and allowances as determined necessary, in matters relating to rehabilitation;

5           **6. Joint project.** May share funding and administrative responsibility with another  
6 state agency in order to carry out a joint project to provide services to people with  
7 disabilities;

8           **7. Joint undertakings.** May enter into joint undertakings with public and private  
9 agencies to further the effectiveness of services for ~~disadvantaged individuals~~ people with  
10 disabilities;

11           **8. Eligibility and priority.** Through the Bureau of Rehabilitation Services, Division  
12 of Vocational Rehabilitation and Division for the Blind and Visually Impaired, which are  
13 the designated state units under the federal Rehabilitation Act of 1973 and the federal  
14 Workforce Innovation and Opportunity Act of 2014, Public Law 113-128, shall  
15 determine the eligibility of individuals for rehabilitation services or evaluation and  
16 vocational services and the priority for those services in accordance with rules established  
17 by the department; and

18           **9. Transitional services coordination.** Through the Bureau of Rehabilitation  
19 Services, Division of Vocational Rehabilitation and Division for the Blind and Visually  
20 Impaired, which are the designated state units under the federal Rehabilitation Act of  
21 1973 and the federal Workforce Innovation and Opportunity Act of 2014, Public Law  
22 113-128, shall participate with school administrative units in transition planning for each  
23 student receiving special education services who is 16 years of age or older, or 14 years  
24 of age if determined appropriate by the student's individualized education program team,  
25 and shall assign appropriate staff as a transition contact person and as a member of the  
26 transition planning team for each student.

27           **Sec. 10. 26 MRSA §1412-B**, as enacted by PL 1995, c. 560, Pt. F, §13, is  
28 amended to read:

29           **§1412-B. Reporting and evaluation of rehabilitation needs**

30           The department shall ~~make continuing study of~~ evaluate the needs of people with  
31 disabilities ~~and disadvantaged individuals~~ in the State and how these needs may be met  
32 most effectively. ~~The study and planning must include appraisal~~ As required by the  
33 federal Rehabilitation Act of 1973 and the federal Workforce Innovation and Opportunity  
34 Act of 2014, Public Law 113-128, the department shall conduct a comprehensive  
35 statewide assessment every 3 years to describe the rehabilitation needs of individuals with  
36 disabilities residing in the State, including a review of community rehabilitation programs  
37 in the State and their effectiveness and adequacy in meeting the overall needs of people  
38 with disabilities ~~and disadvantaged~~. ~~The continuing study and recommendations must be~~  
39 ~~reflected in the biennial reports of the commissioner.~~ The commissioner shall use the  
40 results of these reviews to advise the Governor and the Legislature of any need to change  
41 the State's rehabilitation programs. The commissioner shall report annually to the joint  
42 standing committee of the Legislature having jurisdiction over labor matters the program

1 outcomes as part of the reports authorized under section 2004-A, subsection 3 and  
2 required under section 3101.

3 **Sec. 11. 26 MRSA §1414, sub-§1**, as enacted by PL 1995, c. 560, Pt. F, §13, is  
4 amended to read:

5 **1. Independent living services.** "Independent living services" means services that  
6 promote or train people with ~~severe~~ significant disabilities in managing their personal  
7 affairs, participating in day-to-day life in the community, fulfilling a range of social roles  
8 and making decisions that lead to self-determination and the minimization of physical or  
9 psychological dependence on others.

10 **Sec. 12. 26 MRSA c. 19, sub-c. 2, art. 4**, as amended, is repealed.

11 **SUMMARY**

12 The purpose of this bill is to amend the definitions and service descriptions of the  
13 Department of Labor, Bureau of Rehabilitation Services in order to conform with the  
14 reauthorization of the federal Rehabilitation Services Administration through the  
15 Workforce Innovation and Opportunity Act of 2014. It eliminates the use of the term  
16 "disadvantaged individuals" and repeals provisions of law regarding personal care  
17 services because such services are not provided by the bureau.