

By Senator Lynn

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1 A bill to be entitled
2 An act relating to vocational rehabilitation programs;
3 amending s. 413.20, F.S.; redefining and deleting
4 terms; repealing s. 413.206, F.S., relating to a 5-
5 year plan for the Division of Vocational
6 Rehabilitation within the Department of Education;
7 amending s. 413.30, F.S.; revising provisions relating
8 to eligibility for services; requiring the division to
9 conduct trial work experiences before determining that
10 an individual is incapable of benefiting from
11 services; requiring the division to refer an
12 individual to other programs if the division
13 determines that the individual is ineligible for
14 services; requiring the division to serve those having
15 the most significant disabilities first under
16 specified circumstances; amending s. 413.341, F.S.;
17 allowing confidential records to be released for
18 evaluation or audit purposes; repealing ss. 413.70 and
19 413.72, F.S., relating to the limiting disabilities
20 program; repealing s. 413.73, F.S., relating to the
21 disability assistance program; providing effective
22 dates.

23
24 Be It Enacted by the Legislature of the State of Florida:
25

26 Section 1. Effective October 1, 2009, subsections (13)
27 through (33) of section 413.20, Florida Statutes, are amended to
28 read:

29 413.20 Definitions.—As used in this part, the term:

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30 ~~(13) "Limiting disability" means a physical condition that~~
31 ~~constitutes, contributes to, or, if not corrected, will result~~
32 ~~in an impairment of one or more activities of daily living but~~
33 ~~does not result in an individual qualifying as a person who has~~
34 ~~a disability.~~

35 (13)~~(14)~~ "Occupational license" means any license, permit,
36 or other written authority required by any governmental unit to
37 be obtained in order to engage in an occupation.

38 (14)~~(15)~~ "Ongoing support services" means services provided
39 at a twice-monthly minimum to persons who have a most
40 significant disability, to:

41 (a) Make an assessment regarding the employment situation
42 at the worksite of each individual in supported employment or,
43 under special circumstances at the request of the individual,
44 offsite.

45 (b) Based upon the assessment, provide for the coordination
46 or provision of specific intensive services, at or away from the
47 worksite, which ~~that~~ are needed to maintain the individual's
48 employment stability.

49
50 The ongoing support services may consist of, but are not limited
51 to, the provision of skilled job trainers who accompany the
52 individual for intensive job-skill training at the worksite, job
53 development and placement, social skills training, followup
54 services, and facilitation of natural supports at the worksite.

55 (15)~~(16)~~ "Person who has a disability" means an individual
56 who has a physical or mental impairment that, for the
57 individual, constitutes or results in a substantial impediment
58 to employment and who can ~~therefore~~ benefit in terms of an

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59 employment outcome from vocational rehabilitation services. The
60 term encompasses the terms "person who has a significant
61 disability" and "person who has a most significant disability."

62 (16)~~(17)~~ "Person who has a significant disability" means an
63 individual who has a disability that is a severe physical or
64 mental impairment that seriously limits one or more functional
65 capacities, such as mobility, communication, self-care, self-
66 direction, interpersonal skills, work tolerance, or work skills,
67 in terms of an employment outcome; whose vocational
68 rehabilitation may be expected to require multiple vocational
69 rehabilitation services over an extended period of time; and who
70 has one or more physical or mental disabilities resulting from
71 amputation, arthritis, autism, blindness, burn injury, cancer,
72 cerebral palsy, cystic fibrosis, deafness, head injury, heart
73 disease, hemiplegia, hemophilia, respiratory or pulmonary
74 dysfunction, mental retardation, mental illness, multiple
75 sclerosis, muscular dystrophy, musculoskeletal disorder,
76 neurological disorder, including stroke and epilepsy,
77 paraplegia, quadriplegia, or other spinal cord condition,
78 sickle-cell anemia, specific learning disability, end-stage
79 renal disease, or another disability or a combination of
80 disabilities that is determined, after an assessment for
81 determining eligibility and vocational rehabilitation needs, to
82 cause comparable substantial functional limitation.

83 (17)~~(18)~~ "Person who has a most significant disability"
84 means a person who has a significant disability who meets the
85 designated administrative unit's criteria for a person who has a
86 most significant disability.

87 (18)~~(19)~~ "Personal assistance services" means a range of

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88 services, provided by one or more persons, designed to assist an
89 individual ~~a person~~ who has a disability to perform daily living
90 activities, on or off the job, which ~~that~~ the individual would
91 typically perform if the individual did not have a disability.
92 Such services shall be designed to increase the individual's
93 control in life and ability to perform everyday activities on or
94 off the job. The services must be necessary for achieving an
95 employment outcome and may be provided only if the individual is
96 receiving other vocational rehabilitation services. The services
97 may include training in managing, supervising, and directing
98 personal assistance services.

99 ~~(19)-(20)~~ "Physical and mental restoration" means any
100 medical, surgical, or therapeutic treatment necessary to correct
101 or substantially modify a physical or mental condition that is
102 stable or slowly progressive and constitutes an impediment to
103 employment, but is of such nature that the treatment can
104 reasonably be expected to correct or modify such impediment to
105 employment within a reasonable length of time, including, but
106 not limited to, medical, psychiatric, dental, and surgical
107 treatment, nursing services, hospital care in connection with
108 surgery or treatment, convalescent home care, drugs, medical and
109 surgical supplies, and prosthetic and orthotic devices.

110 ~~(21)~~ "Program" means ~~an agency, organization, or~~
111 ~~institution, or a unit of an agency, organization, or~~
112 ~~institution, that provides directly or facilitates the provision~~
113 ~~of vocational rehabilitation services as one of its major~~
114 ~~functions.~~

115 ~~(22)~~ "Rehabilitation" means ~~those events and processes~~
116 ~~occurring after injury and progressing to ultimate stabilization~~

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117 and ~~maximum possible recovery.~~

118 ~~(23) "Rehabilitation service" means any service, provided~~
119 ~~directly or indirectly through public or private agencies, found~~
120 ~~by the division to be necessary to enable a person who has a~~
121 ~~limiting disability to engage in competitive employment.~~

122 ~~(24) "Rules" means rules adopted by the department in the~~
123 ~~manner prescribed by law.~~

124 (20) ~~(25)~~ "State plan" means the state plan approved by the
125 Federal Government as qualifying for federal funds under the
126 Rehabilitation Act of 1973, as amended. However, the term "state
127 plan," as used in ss. 413.39-413.401, means the State Plan for
128 Independent Living Rehabilitative Services under Title VII(A) of
129 the Rehabilitation Act of 1973, as amended.

130 (21) ~~(26)~~ "Supported employment" means competitive work in
131 integrated working settings for persons who have severe
132 disabilities and for whom competitive employment has not
133 traditionally occurred or for whom competitive employment has
134 been interrupted or is intermittent as a result of a severe
135 disability. Persons who have severe disabilities requiring
136 supported employment need intensive supported employment
137 services or extended services in order to perform such work.

138 (22) ~~(27)~~ "Supported employment services" means ongoing
139 support services and other appropriate services needed to
140 support and maintain a person who has a severe disability in
141 supported employment. Supported employment services are based
142 upon a determination of the needs of the eligible individual as
143 specified in the person's individualized plan for employment
144 ~~written rehabilitation program~~. The services are provided singly
145 or in combination and are organized and made available in such a

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146 way as to assist eligible individuals in entering or maintaining
147 integrated, competitive employment. The services are provided
148 for up to 19 ~~a period of time not to extend beyond 18~~ months,
149 but can be extended under special circumstances with the consent
150 of the individual in order to achieve the objectives of the
151 rehabilitation plan.

152 ~~(23)-(28)~~ "Third-party coverage" means any claim for, right
153 to receive payment for or any coverage for, the payment of any
154 vocational rehabilitation and related services.

155 ~~(24)-(29)~~ "Third-party payment" means any and all payments
156 received or due as a result of any third-party coverage.

157 ~~(25)-(30)~~ "Transition services" means a coordinated set of
158 activities for a student, designed within an outcome-oriented
159 process, which ~~that~~ promote movement from school to postschool
160 activities, including postsecondary education; vocational
161 training; integrated employment; ~~including~~ supported employment;
162 continuing and adult education; adult services; independent
163 living; or community participation. The coordinated set of
164 activities must be based upon the individual student's needs,
165 taking into account the student's preferences and interests, and
166 must include instruction, community experiences, the development
167 of employment and other postschool adult living objectives, and,
168 if ~~when~~ appropriate, acquisition of daily living skills and
169 functional vocational evaluation.

170 ~~(31)~~ ~~"Transitional living facility" means a state-approved~~
171 ~~facility as defined and licensed pursuant to chapter 400 and~~
172 ~~division-approved in accord with this part.~~

173 ~~(26)-(32)~~ "Vocational rehabilitation" and "vocational
174 rehabilitation services" mean any service, provided directly or

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175 through public or private entities ~~instrumentalities~~, to enable
 176 an individual or group of individuals to achieve an employment
 177 outcome, including, but not limited to, medical and vocational
 178 diagnosis, an assessment for determining eligibility and
 179 vocational rehabilitation needs by qualified personnel;
 180 counseling, guidance, and work-related placement services;
 181 vocational and other training services; physical and mental
 182 restoration services; maintenance for additional costs incurred
 183 while participating in rehabilitation; interpreter services for
 184 individuals who are deaf; recruitment and training services to
 185 provide new employment opportunities in the fields of
 186 rehabilitation, health, welfare, public safety, law enforcement,
 187 and other appropriate service employment; occupational licenses;
 188 tools, equipment, and initial stocks and supplies;
 189 transportation; telecommunications, sensory, and other
 190 technological aids and devices; rehabilitation technology
 191 services; referral services designed to secure needed services
 192 from other agencies; transition services; on-the-job or other
 193 related personal assistance services; and supported employment
 194 services.

195 (27) ~~(33)~~ "Vocational rehabilitation and related services"
 196 means any services that are provided or paid for by the
 197 division.

198 Section 2. Section 413.206, Florida Statutes, is repealed.

199 Section 3. Subsections (3) through (7) of section 413.30,
 200 Florida Statutes, are amended to read:

201 413.30 Eligibility for vocational rehabilitation services.—

202 (3) An individual is ~~shall be~~ presumed to benefit in terms
 203 of an employment outcome from vocational rehabilitation services

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204 under this part unless the division can demonstrate by clear and
205 convincing evidence that the individual is incapable of
206 benefiting from vocational rehabilitation services in terms of
207 an employment outcome. Before making such a determination, the
208 division must consider the individual's abilities, capabilities,
209 and capacity to perform in a work situation through the use of
210 trial work experiences. Trial work experiences include supported
211 employment, on-the-job training, or other work experiences using
212 realistic work settings. Under limited circumstances, if an
213 individual cannot take advantage of trial work experiences or if
214 options for trial work experiences have been exhausted ~~To~~
215 ~~demonstrate that an individual cannot benefit from vocational~~
216 ~~rehabilitation services due to the severity of the individual's~~
217 ~~disability,~~ the division shall conduct an extended evaluation
218 for up to 19, not to exceed 18 months. The evaluation must
219 determine the eligibility of the individual and the nature and
220 scope of needed vocational rehabilitation services. The extended
221 evaluation must be reviewed once every 90 days to determine
222 whether the individual is eligible for vocational rehabilitation
223 services.

224 (4) The division shall determine the eligibility of an
225 individual for vocational rehabilitation services within a
226 reasonable period of time, not to exceed 60 days after the
227 individual has submitted an application to receive vocational
228 rehabilitation services, ~~unless the division notifies the~~
229 ~~individual that exceptional and~~ unforeseen circumstances beyond
230 the control of the division prevent the division from completing
231 the determination within the prescribed time and the division
232 and the individual agree ~~agrees~~ that an extension of time is

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233 warranted ~~or that an extended evaluation is required.~~

234 (5) As soon as a determination has been made that an
235 individual is eligible for vocational rehabilitation services,
236 the division must complete an assessment for determining
237 eligibility and vocational rehabilitation needs and ensure that
238 an individualized plan for employment ~~written rehabilitation~~
239 ~~program~~ is prepared.

240 (a) Each plan for employment ~~The individualized written~~
241 ~~rehabilitation program~~ must be jointly developed, agreed upon,
242 and signed by the vocational rehabilitation counselor or
243 coordinator and the eligible individual or, in an appropriate
244 case, a parent, family member, guardian, advocate, or authorized
245 representative, of the ~~such~~ individual.

246 (b) The division must ensure that each plan for employment
247 ~~individualized written rehabilitation program~~ is designed to
248 achieve the specific employment outcome ~~objective~~ of the
249 individual, consistent with the unique strengths, resources,
250 priorities, concerns, abilities, and capabilities of the
251 individual, and otherwise meets the content requirements for an
252 individualized plan for employment ~~written rehabilitation~~
253 ~~programs~~ as set out in federal law or regulation.

254 (c) Each plan for employment ~~individualized written~~
255 ~~rehabilitation program~~ shall be reviewed annually, at which time
256 the individual, or the individual's parent, guardian, advocate,
257 or authorized representative, shall be afforded an opportunity
258 to review the plan ~~program~~ and jointly redevelop and agree to
259 its terms. Each plan ~~individualized written rehabilitation~~
260 ~~program~~ shall be revised as needed.

261 (6) The division must ensure that a determination of

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262 ineligibility made with respect to an individual before ~~prior to~~
263 the initiation of an individualized plan for employment ~~written~~
264 ~~rehabilitation program~~, based upon the review, and, to the
265 extent necessary, upon the preliminary assessment, includes
266 specification of the reasons for such a determination; the
267 rights and remedies available to the individual, including, if
268 appropriate, recourse to administrative remedies; and the
269 availability of services provided by the client assistance
270 program to the individual. If there is a determination of
271 ineligibility, the division must refer the individual to other
272 programs that are part of the one-stop delivery system under the
273 Workforce Investment Act that address the individual's training
274 or employment-related needs, or to local extended employment
275 providers if the determination is based on a finding that the
276 individual is incapable of achieving an employment outcome.

277 (7) ~~If In the event~~ the division is unable to provide
278 services to all eligible individuals, the division shall
279 establish an order of selection and serve ~~first~~ those persons
280 who have the most significant ~~severe~~ disabilities first.

281 Section 4. Paragraph (b) of subsection (1) of section
282 413.341, Florida Statutes, is amended to read:

283 413.341 Applicant and client records; confidential and
284 privileged.—

285 (1) All oral and written records, information, letters, and
286 reports received, made, or maintained by the division relative
287 to any client or applicant are privileged, confidential, and
288 exempt from the provisions of s. 119.07(1). Any person who
289 discloses or releases such records, information, or
290 communications in violation of this section commits a

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291 misdemeanor of the second degree, punishable as provided in s.
292 775.082 or s. 775.083. Such records may not be released except
293 that:

294 (b) Records that do not identify clients or applicants may
295 be released for the purpose of research, evaluation, or audit if
296 ~~when the research is~~ approved by the division director.

297 Section 5. Sections 413.70, 413.72, and 413.73, Florida
298 Statutes, are repealed.

299 Section 6. Except as otherwise expressly provided in this
300 act, this act shall take effect upon becoming a law.