

1 A bill to be entitled
 2 An act relating to vocational rehabilitation programs;
 3 amending s. 413.20, F.S.; redefining and deleting terms;
 4 replacing an obsolete term; repealing s. 413.206, F.S.,
 5 relating to a 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 to
 8 eligibility for vocational rehabilitation services;
 9 providing for an individualized plan for employment;
 10 requiring the division to conduct trial work experiences
 11 before determining that an individual is incapable of
 12 benefiting from services; requiring the division to refer
 13 an individual to other programs if the division determines
 14 that the individual is ineligible for services; requiring
 15 the division to serve those having the most significant
 16 disabilities first under specified circumstances;
 17 replacing an obsolete term; conforming provisions to
 18 changes made by the act; amending s. 413.341, F.S.;
 19 allowing confidential records to be released for research,
 20 evaluation, or audit purposes; amending ss. 413.371,
 21 413.39, 413.393, and 413.40, F.S.; replacing an obsolete
 22 term; repealing ss. 413.70 and 413.72, F.S., relating to
 23 the limiting disabilities program; repealing s. 413.73,
 24 F.S., relating to the disability assistance program;
 25 providing an effective date.

26
 27 Be It Enacted by the Legislature of the State of Florida:
 28

HB 7135

2009

29 Section 1. Subsections (12) through (33) of section
30 413.20, Florida Statutes, are amended to read:

31 413.20 Definitions.--As used in this part, the term:

32 (12) "Independent living services" means any appropriate
33 rehabilitation service that will enhance the ability of a person
34 who has a significant ~~severe~~ disability to live independently,
35 to function within her or his family and community and, if
36 appropriate, to secure and maintain employment. Services may
37 include, but are not limited to, psychological counseling and
38 psychotherapeutic counseling; independent living care services;
39 community education and related services; housing assistance;
40 physical and mental restoration; personal attendant care;
41 transportation; personal assistance services; interpretive
42 services for persons who are deaf; recreational activities;
43 services to family members of persons who have significant
44 ~~severe~~ disabilities; vocational and other training services;
45 telecommunications services; sensory and other technological
46 aids and devices; appropriate preventive services to decrease
47 the needs of persons assisted under the program; and other
48 rehabilitation services appropriate for the independent living
49 needs of a person who has a significant ~~severe~~ disability.

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

HB 7135

2009

55 (13)~~(14)~~ "Occupational license" means any license, permit,
 56 or other written authority required by any governmental unit to
 57 be obtained in order to engage in an occupation.

58 (14)~~(15)~~ "Ongoing support services" means services
 59 provided at a twice-monthly minimum to persons who have a most
 60 significant disability, to:

61 (a) Make an assessment regarding the employment situation
 62 at the worksite of each individual in supported employment or,
 63 under special circumstances at the request of the individual,
 64 offsite.

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

69
 70 The ongoing support services may consist of, but are not limited
 71 to, the provision of skilled job trainers who accompany the
 72 individual for intensive job-skill training at the worksite, job
 73 development and placement, social skills training, followup
 74 services, and facilitation of natural supports at the worksite.

75 (15)~~(16)~~ "Person who has a disability" means an individual
 76 who has a physical or mental impairment that, for the
 77 individual, constitutes or results in a substantial impediment
 78 to employment and who can ~~therefore~~ benefit in terms of an
 79 employment outcome from vocational rehabilitation services. The
 80 term encompasses the terms "person who has a significant
 81 disability" and "person who has a most significant disability."

HB 7135

2009

82 ~~(16)-(17)~~ "Person who has a significant disability" means
83 an individual who has a disability that is a severe physical or
84 mental impairment that seriously limits one or more functional
85 capacities, such as mobility, communication, self-care, self-
86 direction, interpersonal skills, work tolerance, or work skills,
87 in terms of an employment outcome; whose vocational
88 rehabilitation may be expected to require multiple vocational
89 rehabilitation services over an extended period of time; and who
90 has one or more physical or mental disabilities resulting from
91 amputation, arthritis, autism, blindness, burn injury, cancer,
92 cerebral palsy, cystic fibrosis, deafness, head injury, heart
93 disease, hemiplegia, hemophilia, respiratory or pulmonary
94 dysfunction, mental retardation, mental illness, multiple
95 sclerosis, muscular dystrophy, musculoskeletal disorder,
96 neurological disorder, including stroke and epilepsy,
97 paraplegia, quadriplegia, or other spinal cord condition,
98 sickle-cell anemia, specific learning disability, end-stage
99 renal disease, or another disability or a combination of
100 disabilities that is determined, after an assessment for
101 determining eligibility and vocational rehabilitation needs, to
102 cause comparable substantial functional limitation.

103 ~~(17)-(18)~~ "Person who has a most significant disability"
104 means a person who has a significant disability who meets the
105 designated administrative unit's criteria for a person who has a
106 most significant disability.

107 ~~(18)-(19)~~ "Personal assistance services" means a range of
108 services, provided by one or more persons, designed to assist an
109 individual ~~a person~~ who has a disability to perform daily living

HB 7135

2009

110 activities, on or off the job, which ~~that~~ the individual would
111 typically perform if the individual did not have a disability.
112 Such services shall be designed to increase the individual's
113 control in life and ability to perform everyday activities on or
114 off the job. The services must be necessary for achieving an
115 employment outcome and may be provided only if the individual is
116 receiving other vocational rehabilitation services. The services
117 may include training in managing, supervising, and directing
118 personal assistance services.

119 ~~(19)-(20)~~ "Physical and mental restoration" means any
120 medical, surgical, or therapeutic treatment necessary to correct
121 or substantially modify a physical or mental condition that is
122 stable or slowly progressive and constitutes an impediment to
123 employment, but is of such nature that the treatment can
124 reasonably be expected to correct or modify such impediment to
125 employment within a reasonable length of time, including, but
126 not limited to, medical, psychiatric, dental, and surgical
127 treatment, nursing services, hospital care in connection with
128 surgery or treatment, convalescent home care, drugs, medical and
129 surgical supplies, and prosthetic and orthotic devices.

130 ~~(21)~~ "Program" ~~means an agency, organization, or~~
131 ~~institution, or a unit of an agency, organization, or~~
132 ~~institution, that provides directly or facilitates the provision~~
133 ~~of vocational rehabilitation services as one of its major~~
134 ~~functions.~~

135 ~~(22)~~ "Rehabilitation" ~~means those events and processes~~
136 ~~occurring after injury and progressing to ultimate stabilization~~
137 ~~and maximum possible recovery.~~

HB 7135

2009

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

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

144 (20)~~(25)~~ "State plan" means the state plan approved by the
145 Federal Government as qualifying for federal funds under the
146 Rehabilitation Act of 1973, as amended. However, the term "state
147 plan," as used in ss. 413.39-413.401, means the State Plan for
148 Independent Living Rehabilitative Services under Title VII(A) of
149 the Rehabilitation Act of 1973, as amended.

150 (21)~~(26)~~ "Supported employment" means competitive work in
151 integrated working settings for persons who have most
152 significant ~~severe~~ disabilities and for whom competitive
153 employment has not traditionally occurred or for whom
154 competitive employment has been interrupted or is intermittent
155 as a result of such a ~~severe~~ disability. Persons who have most
156 significant ~~severe~~ disabilities requiring supported employment
157 need intensive supported employment services or extended
158 services in order to perform such work.

159 (22)~~(27)~~ "Supported employment services" means ongoing
160 support services and other appropriate services needed to
161 support and maintain a person who has a most significant ~~severe~~
162 disability in supported employment. Supported employment
163 services are based upon a determination of the needs of the
164 eligible individual as specified in the person's individualized
165 plan for employment ~~written rehabilitation program~~. The services

166 are provided singly or in combination and are organized and made
 167 available in such a way as to assist eligible individuals in
 168 entering or maintaining integrated, competitive employment. The
 169 services are provided for a period of time not to extend beyond
 170 18 months, but can be extended under special circumstances with
 171 the consent of the individual in order to achieve the objectives
 172 of the rehabilitation plan.

173 (23)~~(28)~~ "Third-party coverage" means any claim for, right
 174 to receive payment for or any coverage for, the payment of any
 175 vocational rehabilitation and related services.

176 (24)~~(29)~~ "Third-party payment" means any and all payments
 177 received or due as a result of any third-party coverage.

178 (25)~~(30)~~ "Transition services" means a coordinated set of
 179 activities for a student, designed within an outcome-oriented
 180 process, which ~~that~~ promote movement from school to postschool
 181 activities, including postsecondary education; vocational
 182 training; integrated employment; ~~including~~ supported employment;
 183 continuing and adult education; adult services; independent
 184 living; or community participation. The coordinated set of
 185 activities must be based upon the individual student's needs,
 186 taking into account the student's preferences and interests, and
 187 must include instruction, community experiences, the development
 188 of employment and other postschool adult living objectives, and,
 189 if ~~when~~ appropriate, acquisition of daily living skills and
 190 functional vocational evaluation.

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

194 (26)~~(32)~~ "Vocational rehabilitation" and "vocational
 195 rehabilitation services" mean any service, provided directly or
 196 through public or private entities ~~instrumentalities~~, to enable
 197 an individual or group of individuals to achieve an employment
 198 outcome, including, but not limited to, medical and vocational
 199 diagnosis, an assessment for determining eligibility and
 200 vocational rehabilitation needs by qualified personnel;
 201 counseling, guidance, and work-related placement services;
 202 vocational and other training services; physical and mental
 203 restoration services; maintenance for additional costs incurred
 204 while participating in rehabilitation; interpreter services for
 205 individuals who are deaf; recruitment and training services to
 206 provide new employment opportunities in the fields of
 207 rehabilitation, health, welfare, public safety, law enforcement,
 208 and other appropriate service employment; occupational licenses;
 209 tools, equipment, and initial stocks and supplies;
 210 transportation; telecommunications, sensory, and other
 211 technological aids and devices; rehabilitation technology
 212 services; referral services designed to secure needed services
 213 from other agencies; transition services; on-the-job or other
 214 related personal assistance services; and supported employment
 215 services.

216 ~~(33) "Vocational rehabilitation and related services"~~
 217 ~~means any services that are provided or paid for by the~~
 218 ~~division.~~

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

220 Section 3. Subsections (2) through (7) of section 413.30,
 221 Florida Statutes, are amended to read:

222 413.30 Eligibility for vocational rehabilitation
 223 services.--

224 (2) Determinations by other state or federal agencies
 225 regarding whether an individual satisfies one or more factors
 226 relating to the determination that an individual has a
 227 disability may be used. Individuals determined to have a
 228 disability pursuant to Title II or Title XVI of the Social
 229 Security Act shall be considered to have a physical or mental
 230 impairment that constitutes or results in a substantial
 231 impediment to employment and a significant disability ~~severe~~
 232 ~~physical or mental impairment that seriously limits one or more~~
 233 ~~functional capacities in terms of an employment outcome.~~

234 (3) An individual is ~~shall be~~ presumed to benefit in terms
 235 of an employment outcome from vocational rehabilitation services
 236 under this part unless the division can demonstrate by clear and
 237 convincing evidence that the individual is incapable of
 238 benefiting from vocational rehabilitation services in terms of
 239 an employment outcome. Before making such a determination, the
 240 division must consider the individual's abilities, capabilities,
 241 and capacity to perform in a work situation through the use of
 242 trial work experiences. Trial work experiences include supported
 243 employment, on-the-job training, or other work experiences using
 244 realistic work settings. Under limited circumstances, if an
 245 individual cannot take advantage of trial work experiences or if
 246 options for trial work experiences have been exhausted ~~To~~
 247 ~~demonstrate that an individual cannot benefit from vocational~~
 248 ~~rehabilitation services due to the severity of the individual's~~
 249 ~~disability~~, the division shall conduct an extended evaluation,

250 not to exceed 18 months. The evaluation must determine the
 251 eligibility of the individual and the nature and scope of needed
 252 vocational rehabilitation services. The extended evaluation must
 253 be reviewed once every 90 days to determine whether the
 254 individual is eligible for vocational rehabilitation services.

255 (4) The division shall determine the eligibility of an
 256 individual for vocational rehabilitation services within a
 257 reasonable period of time, not to exceed 60 days after the
 258 individual has submitted an application to receive vocational
 259 rehabilitation services, unless ~~the division notifies the~~
 260 ~~individual that exceptional and~~ unforeseen circumstances beyond
 261 the control of the division prevent the division from completing
 262 the determination within the prescribed time and the division
 263 and the individual agree ~~agrees~~ that an extension of time is
 264 warranted ~~or that an extended evaluation is required~~.

265 (5) As soon as a determination has been made that an
 266 individual is eligible for vocational rehabilitation services,
 267 the division must complete an assessment for determining
 268 eligibility and vocational rehabilitation needs and ensure that
 269 an individualized plan for employment ~~written rehabilitation~~
 270 ~~program~~ is prepared.

271 (a) Each ~~The~~ individualized plan for employment ~~written~~
 272 ~~rehabilitation program~~ must be jointly developed, agreed upon,
 273 and signed by the vocational rehabilitation counselor or
 274 coordinator and the eligible individual or, in an appropriate
 275 case, a parent, family member, guardian, advocate, or authorized
 276 representative, of the ~~such~~ individual.

HB 7135

2009

277 (b) The division must ensure that each individualized plan
278 for employment ~~written rehabilitation program~~ is designed to
279 achieve the specific employment outcome ~~objective~~ of the
280 individual, consistent with the unique strengths, resources,
281 priorities, concerns, abilities, and capabilities of the
282 individual, and otherwise meets the content requirements for an
283 individualized plan for employment ~~written rehabilitation~~
284 ~~programs~~ as set out in federal law or regulation.

285 (c) Each individualized plan for employment ~~written~~
286 ~~rehabilitation program~~ shall be reviewed annually, at which time
287 the individual, or the individual's parent, guardian, advocate,
288 or authorized representative, shall be afforded an opportunity
289 to review the plan ~~program~~ and jointly redevelop and agree to
290 its terms. Each plan ~~individualized written rehabilitation~~
291 ~~program~~ shall be revised as needed.

292 (6) The division must ensure that a determination of
293 ineligibility made with respect to an individual before ~~prior to~~
294 the initiation of an individualized plan for employment ~~written~~
295 ~~rehabilitation program~~, based upon the review, and, to the
296 extent necessary, upon the preliminary assessment, includes
297 specification of the reasons for such a determination; the
298 rights and remedies available to the individual, including, if
299 appropriate, recourse to administrative remedies; and the
300 availability of services provided by the client assistance
301 program to the individual. If there is a determination of
302 ineligibility, the division must refer the individual to other
303 programs that are part of the one-stop delivery system under the
304 Workforce Investment Act that address the individual's training

305 or employment-related needs or to local extended employment
 306 providers if the determination is based on a finding that the
 307 individual is incapable of achieving an employment outcome.

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

312 Section 4. Paragraph (b) of subsection (1) of section
 313 413.341, Florida Statutes, is amended to read:

314 413.341 Applicant and client records; confidential and
 315 privileged.--

316 (1) All oral and written records, information, letters,
 317 and reports received, made, or maintained by the division
 318 relative to any client or applicant are privileged,
 319 confidential, and exempt from the provisions of s. 119.07(1).
 320 Any person who discloses or releases such records, information,
 321 or communications in violation of this section commits a
 322 misdemeanor of the second degree, punishable as provided in s.
 323 775.082 or s. 775.083. Such records may not be released except
 324 that:

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

328 Personally identifying information released under this paragraph
 329 to persons officially connected with the audit, evaluation, or
 330 research remains privileged, confidential, and exempt under this
 331 section and may not be disclosed to third parties.

332 Section 5. Section 413.371, Florida Statutes, is amended
 333 to read:

334 413.371 Independent living program; establishment and
 335 maintenance.--The division shall establish and maintain an
 336 independent living program that will provide any appropriate
 337 rehabilitation services or other services to enhance the ability
 338 of persons who have significant ~~severe~~ disabilities to live
 339 independently and function within their communities and, if
 340 appropriate, to secure and maintain employment. The division, at
 341 its sole discretion and within the constraints of its funding,
 342 may contract with centers for independent living to provide such
 343 services.

344 Section 6. Section 413.39, Florida Statutes, is amended to
 345 read:

346 413.39 Administration; independent living program.--The
 347 division is hereby authorized, in addition to its other duties
 348 and responsibilities, to administer a program of independent
 349 living services for individuals with significant ~~severe~~
 350 disabilities who can benefit from such services.

351 Section 7. Paragraph (c) of subsection (1) of section
 352 413.393, Florida Statutes, is amended to read:

353 413.393 State plan for independent living.--

354 (1) The state plan for independent living shall be jointly
 355 developed and submitted by the Independent Living Council and
 356 the division, and the plan must:

357 (c) Specify that the state will provide independent living
 358 services under this part to persons who have significant ~~severe~~
 359 disabilities and will provide the services in accordance with an

360 independent living plan mutually agreed upon by an appropriate
 361 staff member of the service provider and the individual, unless
 362 the individual signs a waiver stating that such a plan is
 363 unnecessary.

364 Section 8. Section 413.40, Florida Statutes, is amended to
 365 read:

366 413.40 Powers of division; independent living program.--
 367 The division, in carrying out a program of providing independent
 368 living rehabilitation services to persons who have significant
 369 ~~severe~~ disabilities, shall be authorized to:

- 370 (1) Employ necessary personnel.
- 371 (2) Employ consultants.
- 372 (3) Provide diagnostic, medical, and psychological and
 373 other evaluation services.
- 374 (4) Provide training necessary for rehabilitation.
- 375 (5) Provide for persons found to require financial
 376 assistance with respect thereto and provide maintenance,
 377 including:
 - 378 (a) Personal care attendant services while undergoing
 379 rehabilitation.
 - 380 (b) Transportation incident to necessary rehabilitation
 381 services.
 - 382 (c) Physical and mental restoration services, prosthetic
 383 appliances, and other equipment determined to be necessary for
 384 rehabilitation.
 - 385 (6) Provide rehabilitation facilities necessary for the
 386 rehabilitation of persons who have significant ~~severe~~
 387 disabilities or contract with facilities such as centers for

HB 7135

2009

388 independent living for necessary services. The division shall
389 not, however, assume responsibility for permanent custodial care
390 of any individual and shall provide rehabilitation services only
391 for a period long enough to accomplish the rehabilitation
392 objective or to determine that rehabilitation is not feasible
393 through the services available under this section.

394 (7) Contract with any entity, public or private, to
395 provide independent living services.

396 Section 9. Sections 413.70, 413.72, and 413.73, Florida
397 Statutes, are repealed.

398 Section 10. This act shall take effect upon becoming a
399 law.