



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 cursive script that reads "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2 **Sec. 1. 5 MRSA §1821**, as enacted by PL 1973, c. 198, is repealed.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 F, §4, is repealed.

4 **Sec. 3. 5 MRSA §1823**, as enacted by PL 1973, c. 198, is repealed.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 J, §4, is repealed.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 **§1412-C. Bureau of Rehabilitation Services; Division of Vocational Rehabilitation**

2 The commissioner shall establish within the department the Bureau of Rehabilitation
3 Services, ~~which~~. Within the bureau, the Division of Vocational Rehabilitation, as the
4 designated state unit under the federal Rehabilitation Act of 1973, shall administer that
5 group of rehabilitation services to nonblind and nonvisually impaired individuals
6 specifically related to the federal vocational rehabilitation programs.

7 **Sec. 14. 26 MRSA §1412-E,** as enacted by PL 1995, c. 560, Pt. F, §13, is
8 amended to read:

9 **§1412-E. Rules**

10 The department is authorized to establish rules required for the proper administration
11 of a vocational rehabilitation program under the ~~Federal~~ federal Rehabilitation Act of
12 1973 and acts amendatory and additional to the ~~Federal~~ federal Rehabilitation Act of
13 1973. These rules must include procedures for ensuring access to records by the
14 protection and advocacy agencies designated under Title 5, Part 24 pursuant to an
15 investigation of alleged rights violations.

16 **Sec. 15. 26 MRSA §1413-C, first ¶,** as amended by PL 2009, c. 652, Pt. A, §40,
17 is further amended to read:

18 Within the ~~Department of Labor, Bureau of Rehabilitation Services, Division for the~~
19 ~~Deaf, Hard of Hearing and Late Deafened~~ department, the Commission for the Deaf,
20 Hard of Hearing and Late Deafened, as established under Title 5, section 12004-J,
21 subsection 17, consists of 24 up to 23 members ~~and 3 members at large~~ appointed by the
22 Governor and representing equally consumers, professionals and the public. Members
23 serve 3-year terms and may serve multiple terms without limit. Members are entitled to
24 compensation in accordance with Title 5, chapter 379.

25 **Sec. 16. 26 MRSA §1418-C,** as enacted by PL 1995, c. 560, Pt. F, §13, is
26 amended to read:

27 **§1418-C. Program established; Division for the Blind and Visually Impaired**

28 The division, as the designated state unit under the federal Rehabilitation Act of
29 1973, shall administer services related to blind and visually impaired individuals. The
30 division shall provide a program of services for ~~the~~ blind persons, including prevention of
31 blindness, locating of blind persons, vocational guidance and training of ~~the~~ blind
32 persons, placement of blind persons in employment, assistance to local schools in
33 meeting the special needs of blind students, instruction of adult blind persons in their
34 homes and other social services to ~~the~~ blind persons.

35 **SUMMARY**

36 This bill changes the laws governing the Department of Labor, Bureau of
37 Rehabilitation Services by:

- 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.