

No. 1988-167

AN ACT

SB 1190

Providing for vocational rehabilitation for disabled individuals; establishing the State Board of Vocational Rehabilitation; authorizing cooperation with other departments and agencies; requiring reciprocal agreements with other states; requiring cooperation with the Federal Government; making the State Treasurer custodian and disbursement agent of Federal vocational rehabilitation funds and of the Hiram G. Andrews Center Fund; prohibiting misuse of vocational rehabilitation lists and records; limiting political activity by persons engaged in the administration of vocational rehabilitation; prescribing penalties; and making repeals.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Vocational Rehabilitation Act.

Section 2. Purpose.

The purpose of this act is to develop and implement comprehensive and coordinated programs of vocational rehabilitation to meet the current and future needs of individuals with disabilities in order to maximize their employability, independence and integration into the workplace and the community.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Board.” The State Board of Vocational Rehabilitation.

“Department.” The Department of Labor and Industry of the Commonwealth.

“Executive director.” The Executive Director of the Office of Vocational Rehabilitation.

“Office.” The Office of Vocational Rehabilitation.

“Regulations.” Federal regulations which have been incorporated by reference by the board and regulations promulgated by the board.

“Secretary.” The Secretary of Labor and Industry of the Commonwealth.

“Vocational rehabilitation” or “vocational rehabilitation services.” Any goods or services, as defined by Federal law, which are provided directly or indirectly through public or private instrumentalities and which are found to be necessary for an individual with a disability to:

(1) overcome employment handicaps and engage in a gainful occupation or profession;

(2) achieve such ability of independent living as to be able to achieve a greater level of independence in functioning within the family and within the community and engage in or continue to engage in employment; or

(3) engage in competitive work in integrated settings through the provision of training and time-limited postemployment services leading to supported employment. However, these services shall not be provided unless Federal grant-in-aid funds are authorized and appropriated by Congress for participation in all or part of the cost of providing such services or unless State funds are authorized and appropriated by the General Assembly for providing such services; and these services must be rendered under such terms and conditions as may be necessary to secure the full benefits of such Federal aid.

Section 4. Establishment of board.

(a) General rule.—There is hereby established under the Department of Labor and Industry the State Board of Vocational Rehabilitation which shall be composed of the secretary, who shall be the chairperson of the board, the executive director, who shall serve as an ex officio nonvoting member, and ten members who shall be appointed by the Governor. The members of the board shall be appointed so as to include individuals with disabilities. A majority of the members appointed, however, shall not dominate any one field of representation. Geographic balance should also be considered but not required in order to maintain the broad and diverse interests of vocational rehabilitation. Members shall be appointed on the basis of respected standing, interest in rehabilitation and interest to serve.

(b) Term of office.—Members of the board shall be appointed for a term of six years. There will be no restriction on the number of terms to which a person may be nominated. Members may serve after the expiration of their

terms until a successor is appointed and qualified. Any member appointed to fill a vacancy occurring before the expiration of the terms for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

(c) Meetings.—The board shall meet at least four times each year and shall publish an annual listing of the tentative meeting dates. These meetings shall be held in diverse locations within this Commonwealth in order to maintain a broader representation of interests. The board shall comply with the provisions of the act of July 3, 1986 (P.L.388, No.84), known as the Sunshine Act, prior to each meeting.

(d) Quorum.—A simple majority of the members of the board shall constitute a quorum.

(e) Special meetings.—Special meetings of the board may be called by the chairperson or upon presentation of a resolution of three members of the board.

(f) Expenses.—Members of the board shall serve without compensation, other than reimbursement, to the extent allowable under Commonwealth regulations, for reasonable and necessary expenses incurred in the performance of their duties.

Section 5. Powers and duties of board.

(a) General rule.—The Office of Vocational Rehabilitation, established by this act within the Department of Labor and Industry, shall be administered, supervised and controlled by the board. Such powers of administration, supervision and control may be delegated by the board to the secretary. When such powers are delegated, the board shall receive, for review and approval, regular reports with respect to program budgeting, personnel actions and affirmative action practices.

(b) Responsibilities.—The board shall:

(1) Establish the philosophy, mission and goals under which the Commonwealth's vocational rehabilitation program shall be conducted.

(2) Establish policies with regard to the development and delivery of vocational rehabilitation services.

(3) Establish policies with respect to cooperation with other departments, agencies and institutions, both public and private, in providing for the vocational rehabilitation of individuals with handicaps, in studying the problems therein, and in establishing, developing and providing, in conformity with the purposes of this act, such programs, facilities and services as may be necessary or desirable.

(4) Establish policies with respect to entering into reciprocal agreements with other states to provide for the vocational rehabilitation of residents of the states concerned.

(5) Establish policies with respect to the expenditure of funds for vocational rehabilitation made available by the Federal Government, by the Commonwealth and by any other source, or by any combination of funds thereof.

(6) Prepare and publish State vocational rehabilitation program plans for a three-year period for:

(i) Vocational rehabilitation services.

(ii) Providing comprehensive services for independent living to individuals with severe handicaps.

(iii) Providing training and traditionally time-limited post-employment services leading to supported employment for individuals with severe handicaps.

(iv) Any other concerns with respect to the vocational rehabilitation program under the office.

The board shall annually review, evaluate and make such revisions as may be necessary with respect to the State vocational rehabilitation program plans.

(7) Review and evaluate on a continuing basis:

(i) All policies, programs and activities which concern the vocational rehabilitation of handicapped individuals and persons with disabilities and which are established or assisted under this act, or as pertain to the Commonwealth under the Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C. § 701 et seq.).

(ii) All policies, programs and activities established by the board in order to assess the effectiveness of such policies, programs, activities and statutes in meeting the rehabilitation needs of handicapped individuals and persons with disabilities.

(8) Assess the extent to which the policies, programs and activities provide incentives or disincentives to the establishment of community-based services for handicapped individuals, promote the full integration of such individuals in the community, in schools and in the workplace, and contribute to the independence and dignity of such individuals.

(9) Provide to the General Assembly and the Governor, on a continuing basis, advice, recommendations, legislative proposals and any additional information which the board or the General Assembly deems appropriate.

(10) Submit not later than March 31 of each year, beginning in 1989, an annual report to the General Assembly and the Governor. This report shall be published and made available to the board's advisory committees, to organizations and such other entities representing consumers and constituents of vocational rehabilitation, to providers of rehabilitation services and to the public at large, and shall contain:

(i) A statement of the current status and trends in the status of vocational rehabilitation programs concerning handicapped individuals in this Commonwealth, including an evaluation of the status of individuals with severe handicaps participating in or affected by vocational rehabilitation programs.

(ii) A review of the vocational rehabilitation activities, accomplishments and achievements of the office on the basis of the policies of the board.

(iii) A review of the effectiveness of the policies, programs and activities of the board in meeting the vocational rehabilitation needs of handicapped individuals and persons with disabilities.

(iv) Recommendations respecting the items described in subparagraphs (i), (ii) and (iii) as the board considers appropriate.

(11) Prescribe such bylaws and rules as may be necessary to carry out its duties under this act.

(12) Hold such hearings, sit and act at such times and places, take such testimony and receive such evidence as it deems advisable with respect to the vocational rehabilitation program.

(13) Appoint advisory committees, task forces and study groups to assist the board in carrying out its duties. The members thereof shall serve without compensation, other than reimbursement, to the extent allowable under Commonwealth regulations, for reasonable and necessary expenses incurred in the performance of their duties.

(14) Use operational support services of the office, such as mailing, duplication, etc., to carry out its duties.

Section 6. Staff of board.

An administrator for the board and a secretary to assist the board in carrying out its duties shall be assigned by the executive director. The administrator for the board shall be directly responsible to the executive director and shall be of similar rank, classification and standing as other administrators with major Statewide responsibilities in the organization.

Section 7. Establishment and administration of office.

(a) General rule.—There is established within the Department of Labor and Industry the Office of Vocational Rehabilitation. Except as otherwise provided by State or Federal law, the office, acting under the policies of the board, shall provide vocational rehabilitation services to individuals with disabilities determined to be eligible therefor. In carrying out the purposes of this act, the office shall, among other things:

(1) Cooperate with other departments, agencies and institutions, both public and private, in providing for the vocational rehabilitation of individuals with disabilities, in studying the problems involved therein and in establishing, developing and providing, in conformity with the purposes of this act, such programs, facilities and services as may be necessary or desirable.

(2) Enter into reciprocal agreements with other states to provide for the vocational rehabilitation of residents of the states concerned.

(3) Conduct research and compile statistics relating to the vocational rehabilitation of individuals with disabilities.

(4) Administer the expenditure of funds made available by the Federal Government, by the Commonwealth and by other sources, or by any combination of funds thereof, for vocational rehabilitation.

(5) Regularly assess, on a comprehensive Statewide basis, the number, condition, location, rehabilitation needs and such other factors deemed appropriate, of persons with disabilities, including those with severe disabilities, within the Commonwealth.

(6) Administer the laws of this Commonwealth providing for vocational rehabilitation.

(7) Administer the Hiram G. Andrews Center at Johnstown.

(8) Monitor and conduct evaluations of the programs carried out under this act.

(9) Appoint such advisory committees, task forces and study groups as may be necessary to expand and improve services to individuals with disabilities, including those with the most severe disabilities.

(10) Annually publish summaries of the results of the evaluation of program impact and effectiveness, including standards that are employed, the full content of which shall be available to the General Assembly and the public.

(b) *Executive director.*—The office shall be headed by an executive director appointed by the secretary with the advice and concurrence of the board. In the performance of the functions of this office and the administration of the office, the executive director shall be directly responsible to the secretary and to the board. The functions of the executive director shall not be delegated to any officer not directly responsible, both with respect to program operation and administration, to the executive director. Any reference in this act to duties to be carried out by the executive director shall be considered to be a reference to duties to be carried out by the secretary acting through the executive director.

(c) *Vocational Rehabilitation Fund.*—Moneys for vocational rehabilitation received from the Federal Government, the Commonwealth and other sources shall be paid into a special fund in the State Treasury to be known as the Vocational Rehabilitation Fund and shall be subject to requisition by the executive director through the secretary. The secretary shall take whatever action is necessary to insure that such moneys are expended only for programs, personnel and administration of programs carried out under this act.

(d) *Hiram G. Andrews Center Fund.*—Moneys received arising from fees for services rendered by the Hiram G. Andrews Center at Johnstown, or from other income received by the center, shall be paid into a special nonlapsing fund in the State Treasury to be called the Hiram G. Andrews Center Fund and shall be subject to requisition by the executive director through the secretary. The secretary shall take whatever action is necessary to insure that such moneys are expended only for programs, personnel and administration of programs carried out under this act by the Hiram G. Andrews Center at Johnstown.

(e) *Employees of the Department of Labor and Industry.*—Under the direction of the board, the office shall be administered by the executive director and supervised by the secretary, and all persons employed in administering the laws relating to vocational rehabilitation on the effective date of this act shall become employees of the Department of Labor and Industry.

(f) *Duties of secretary.*—The secretary shall take such action as is necessary to ensure that:

(1) *The staffing of the office is sufficient to meet program needs and is at a level which will attract and maintain the most qualified personnel.*

(2) *The staff includes individuals who have training and experience in the provision of rehabilitation services and the competency of the staff meets professional standards.*

Section 8. Cooperation with Federal Government.

The Department of Labor and Industry shall cooperate, pursuant to agreements with the Federal Government, in carrying out the purposes of any Federal statutes pertaining to vocational rehabilitation, and is authorized to adopt such methods of administration as are found by the Federal Government to be necessary for the proper and efficient operation of such plans for vocational rehabilitation and to comply with such conditions as may be necessary to secure the full benefits of such Federal statutes.

Section 9. Receipt and disbursement of vocational rehabilitation funds.

(a) **State Treasurer.**—The State Treasurer is hereby designated as the custodian of all funds:

- (1) Received from the Federal Government for the purpose of carrying out any Federal statutes pertaining to vocational rehabilitation.
- (2) Contributed by the Commonwealth for vocational rehabilitation services and programs.
- (3) Received as a result of vocational rehabilitation services or for the promotion of vocational rehabilitation services.

The State Treasurer shall make disbursements from such funds, and from all other moneys available for vocational rehabilitation purposes in accordance with law.

(b) **Hiram G. Andrews Center Fund.**—The State Treasurer is hereby designated as the custodian of the funds arising from fees for services rendered by the Hiram G. Andrews Center at Johnstown, or from other income received by the center. The State Treasurer shall make disbursements from such funds and from all funds available for purposes of the Hiram G. Andrews Center at Johnstown in accordance with law. Such funds are hereby appropriated to the department for such purposes.

Section 10. Eligibility for vocational rehabilitation.

Vocational rehabilitation services shall be provided to any individual with a disability whose vocational rehabilitation the office determines after full investigation can be satisfactorily achieved or who is eligible therefor under the terms of a reciprocal agreement with another state or with the Federal Government. Except as otherwise provided by law or as specified in any agreement with the Federal Government with respect to classes of individuals certified to the office thereunder, vocational rehabilitation services as identified under Federal law shall be provided at public cost only to individuals with disabilities found to require financial assistance, except with respect to the following:

- (1) Evaluation of rehabilitation potential, including diagnostic and related services, incidental to the determination of eligibility for, and the nature and scope of, services to be provided.
- (2) Counseling, guidance, referral and placement services, including follow-up and follow-along services.

The services contained in paragraphs (1) and (2) shall be provided at public cost to individuals with handicaps without any consideration or requirement of economic need imposed for financial assistance.

Section 11. Rehabilitation and training; industrial cases; limitations.

(a) General rule.—Notwithstanding any provision of this act to the contrary, the office may provide vocational rehabilitation and vocational training and services to individuals who were injured in industrial accidents or who incurred industrial disabilities and are entitled to benefits under the act of June 2, 1915 (P.L.736, No.338), known as The Pennsylvania Workmen's Compensation Act, or the act of June 21, 1939 (P.L.566, No.284), known as The Pennsylvania Occupational Disease Act. These services and benefits may also be provided prior to the availability of Federal funds or services and prior to the availability of other State services or funds and may be supplemental thereto.

(b) Payments.—The office may make money payments necessary to meet living requirements for disabled or injured individuals and their families during the period of vocational rehabilitation and training and for an additional 60-day trial period of employment, if the disabled or injured individual is cooperative and demonstrates satisfactory progress.

(c) Priority of benefit payments.—The cost of providing the services and benefits under this act shall be paid for from Federal or State funds, if and when available, and if no such funds are available, from the Subsequent Injury Reserve Fund, administered by the department.

Section 12. Maintenance not assignable.

No right of an individual with handicaps or a person with disabilities under this act shall be transferable or assignable at law or in equity.

Section 13. Hearings.

Any individual who is applying for or receiving vocational rehabilitation and who is aggrieved by any action or inaction of any officer or agent of the office shall be entitled to a fair hearing in accordance with the Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C. § 701 et seq.).

Section 14. Misuse of vocational rehabilitation lists and records.

It shall be unlawful, except for purposes directly connected with the administration and implementation of the vocational rehabilitation program, and in accordance with regulations, for any person or persons to solicit, disclose, receive or make use of, or to authorize, knowingly permit, participate in or acquiesce in the use of any list of or names of, or any information concerning, persons applying for or receiving vocational rehabilitation, directly or indirectly derived from the records, papers, files or communications of the Commonwealth, or subdivisions or agencies thereof, or acquired in the course of the performance of official duties. Any officer or employee who violates this provision shall be subject to discharge or suspension after due hearing.

Section 15. Limitation on political activity.

Officers or employees engaged in the administration and operation of the vocational rehabilitation program are prohibited from engaging in political activity prohibited by 5 U.S.C. Ch. 15 (relating to political activity of certain state and local employees), as well as activity prohibited by sections 904 and 905 of the act of August 5, 1941 (P.L.752, No.286), known as the Civil Service Act.

Section 16. Reestablishment.

This act, with respect to the board, constitutes the legislation required to reestablish an agency under the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

Section 17. Expiration of membership.

The present members of the existing board, as of the effective date of this act, shall continue to serve as members until their present terms of office expire and until their successors are appointed and qualified.

Section 18. Repeals.

The act of May 22, 1945 (P.L.849, No.345), known as the Vocational Rehabilitation Act of one thousand nine hundred forty-five, is repealed.

Section 19. Effective date.

This act shall take effect July 1, 1988, or immediately, whichever is later.

APPROVED—The 20th day of December, A. D. 1988.

ROBERT P. CASEY