

HOUSE BILL 1222

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3lr2290
CF 3lr3021

By: **Delegate Guyton**

Introduced and read first time: February 10, 2023

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **State Department of Education – Division of Rehabilitation Services – Funding**
3 **and Staffing**

4 FOR the purpose of requiring the Governor to include in the annual budget bill certain
5 appropriations to the Division of Rehabilitation Services in the State Department of
6 Education in accordance with certain federal acts and to employ certain staff; and
7 generally relating to the Division of Rehabilitation Services.

8 BY repealing and reenacting, with amendments,

9 Article – Education

10 Section 21–301, 21–302, 21–303, 21–304(c), 21–305(a), 21–307, 21–308, 21–309(a),
11 and 21–310

12 Annotated Code of Maryland

13 (2022 Replacement Volume)

14 BY adding to

15 Article – Education

16 Section 21–304(d)

17 Annotated Code of Maryland

18 (2022 Replacement Volume)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
20 That the Laws of Maryland read as follows:

21 **Article – Education**

22 21–301.

23 (a) In this subtitle the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) "Disability" means any defect or infirmity that may incapacitate an individual
2 totally or partially for gainful employment or independent living.

3 (c) **"DIVISION" MEANS THE DIVISION OF REHABILITATION SERVICES OF**
4 **THE STATE DEPARTMENT OF EDUCATION.**

5 (D) "Federal acts" means the rehabilitation acts of the United States Congress.

6 [(d)] (E) "Rehabilitation" means the process of enabling a disabled individual to
7 become gainfully employed and to function more independently.

8 21-302.

9 (a) The State of Maryland assents to the federal acts.

10 (b) The State Treasurer shall:

11 (1) Be the custodian of any money received under the federal acts; and

12 (2) Disburse this money in accordance with the federal acts.

13 (c) The State Board of Education shall:

14 (1) Cooperate with the appropriate federal agencies in administering the
15 federal acts; and

16 (2) Do anything necessary to secure the benefits of the federal acts.

17 (D) (1) **IN THIS SUBSECTION, "STATE MATCH AMOUNT" MEANS THE**
18 **AMOUNT OF THE STATE'S SHARE OF FUNDING REQUIRED UNDER THE FEDERAL**
19 **ACTS, INCLUDING ANY ADJUSTMENTS BASED ON AN INCREASE IN THE CONSUMER**
20 **PRICE INDEX, TO ENSURE THERE IS NO REDUCTION IN THE STATE'S FEDERAL**
21 **SHARE OF FUNDING UNDER THE FEDERAL ACTS.**

22 (2) **SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE**
23 **GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL A GENERAL FUND**
24 **APPROPRIATION IN AN AMOUNT EQUAL TO THE STATE MATCH AMOUNT FOR THE**
25 **DIVISION.**

26 (3) **FOR EACH FISCAL YEAR, THE STATE MATCH AMOUNT MAY NOT BE**
27 **LESS THAN THE GREATER OF:**

28 (I) **THE AMOUNT OF THE GENERAL FUND APPROPRIATION FOR**
29 **THE DIVISION IN THE IMMEDIATELY PRECEDING FISCAL YEAR; OR**

1 (II) 21.3% OF THE TOTAL FUNDING PROVIDED UNDER THE
2 FEDERAL ACTS.

3 21–303.

4 (a) There is an Employment Program Fund in the Division [of Rehabilitation
5 Services in the State Department of Education].

6 (b) Funds for the Employment Program Fund established under this section shall
7 be included in the budget of the Division [of Rehabilitation Services in the State
8 Department of Education].

9 (c) A community rehabilitation and employment agency accredited by the
10 Division [of Rehabilitation Services in the State Department of Education] is eligible to
11 receive funds available in the Employment Program Fund established under this section.

12 (d) The Division [of Rehabilitation Services] may contract with nonprofit
13 rehabilitation and employment agencies to provide the funds established under this section
14 for:

15 (1) Supported employment placements;

16 (2) Competitive work placements; or

17 (3) Transitional employment.

18 (e) The Division [of Rehabilitation Services] shall adopt regulations to implement
19 the provisions of this section.

20 21–304.

21 (c) (1) The State Department of Education shall, in addition to licensing
22 vending facility managers in federal buildings in this State under § 21–302(c) of this
23 subtitle pursuant to the federal acts, license blind persons to manage vending facilities in
24 all State, county, and municipal buildings and in all privately owned buildings and
25 premises in this State in the event of contract with such person.

26 (2) The Division [of Rehabilitation Services in the State Department of
27 Education] shall be the licensing agency for all vending facilities within this State licensed
28 under this subtitle.

29 (D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, BEGINNING IN
30 FISCAL YEAR 2025, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL
31 AN APPROPRIATION IN AN AMOUNT SUFFICIENT TO EMPLOY 74 STAFF MEMBERS IN
32 THE DIVISION.

1 **(2) THE 74 STAFF MEMBERS REQUIRED UNDER THIS SUBSECTION**
2 **SHALL PERFORM DUTIES IN THE DIVISION’S VOCATIONAL REHABILITATION**
3 **PROGRAM THAT INCLUDE:**

4 **(I) REDUCING THE WAITLIST FOR PARTICIPATION IN THE**
5 **PROGRAM;**

6 **(II) REDUCING THE CASELOADS OF THE PROGRAM’S**
7 **COUNSELORS; AND**

8 **(III) EXPANDING TRAINING AND SERVICES IN**
9 **COMMUNITY-BASED SETTINGS, INCLUDING TRAINING AND SERVICES OFFERED AT**
10 **THE DIVISION’S WORKFORCE AND TECHNOLOGY CENTER.**

11 21-305.

12 (a) (1) In this section the following words have the meanings indicated.

13 (2) [“Division” means the Division of Rehabilitation Services within the
14 Maryland State Department of Education.

15 (3)] “Transition services” means a coordinated set of activities for a student
16 with a disability who meets the definition of a transitioning student that promotes
17 movement from school to postschool activities, including postsecondary education,
18 vocational training, integrated employment, supported employment, adult services,
19 independent living, and community participation.

20 [(4) (3) “Transitioning student” means a student with a disability who is
21 between the ages of 14 and 21 years who meets the eligibility criteria of the federal
22 Individuals with Disabilities Education Act or § 7 of the federal Rehabilitation Act.

23 21-307.

24 (a) The State Board of Education and the State Workers’ Compensation
25 Commission shall administer jointly the program established in this section.

26 (b) The State Workers’ Compensation Commission:

27 (1) Shall establish a rehabilitation program;

28 (2) May employ the necessary rehabilitation counselors and clerical staff
29 to review all reports and claims;

30 (3) Shall select from the reports and claims filed with it those for which
31 rehabilitation services appear to be appropriate;

1 (4) After proper investigation, shall refer appropriate cases to the Division
2 [of Rehabilitation Services];

3 (5) On request of the Division [of Rehabilitation Services], shall make
4 available to the Division a complete medical evaluation, including a prognosis of work
5 potential of any worker whose case it refers to the Division; and

6 (6) Shall pay the salaries of the employees of the workers' compensation
7 rehabilitation program and all necessary expenses incurred:

8 (i) In investigating and reviewing all reports and claims; and

9 (ii) For supplies, furniture, and office space.

10 21-308.

11 Any report, record, memorandum, action, or finding of the Division [of Rehabilitation
12 Services] may not be referred to in any way or be received as evidence in any civil
13 proceeding before any agency or court, except under the rules and regulations adopted by
14 the State Board of Education, under this subtitle.

15 21-309.

16 (a) (1) In this section the following words have the meanings indicated.

17 (2) "Business entity" means:

18 (i) A person conducting or operating a trade or business in
19 Maryland; or

20 (ii) An organization operating in Maryland that is exempt from
21 taxation under § 501(c)(3) or (4) of the Internal Revenue Code.

22 (3) ["Division" means the Division of Rehabilitation Services of the
23 Maryland State Department of Education.

24 (4) "Qualified child care or transportation expenses" means:

25 (i) State regulated child care expenses that are incurred by a
26 business entity to enable a qualified employee with a disability to be gainfully employed;
27 or

28 (ii) Transportation expenses that are incurred by a business entity
29 to enable a qualified employee with a disability to travel to and from work.

1 [(5)] (4) (i) “Qualified employee with a disability” means an
2 individual who:

3 1. Meets the definition of an individual with a disability as
4 defined by the Americans with Disabilities Act;

5 2. Has a disability that presently constitutes an impediment
6 to obtaining or maintaining employment or to transitioning from school to work;

7 3. Is ready for employment; and

8 4. Has been determined by the Division or the Maryland
9 Department of Labor, in consultation with the Division, as having met the criteria of a
10 qualified employee with a disability established under this section.

11 (ii) “Qualified employee with a disability” includes:

12 1. An individual who has been determined by the Maryland
13 Department of Labor, in consultation with the United States Veterans Administration, as
14 having been discharged or released from active duty in the armed forces of the United
15 States for a service-connected disability; and

16 2. Any other individual meeting the definition of
17 subparagraph (i) of this paragraph, whether or not the individual receives services from
18 the Division.

19 [(6)] (5) “Wages” means wages, within the meaning of § 51(c)(1), (2), and
20 (3) of the Internal Revenue Code without regard to § 51(c)(4) of the Internal Revenue Code
21 that are paid by a business entity to an employee for services performed in a trade or
22 business of the employer.

23 21–310.

24 (a) (1) In this section the following words have the meanings indicated.

25 (2) [“DORS” means the Division of Rehabilitation Services in the State
26 Department of Education.

27 (3) “DORS] “**DIVISION** consumer” means an individual determined
28 eligible for rehabilitation services under § 21–306 of this subtitle who is placed by [DORS]
29 **THE DIVISION** in an unpaid work-based learning experience.

30 [(4)] (3) “Unpaid work-based learning experience” means a program that
31 provides a [DORS] **DIVISION** consumer with structured employer-supervised learning
32 that:

- 1 (i) Occurs in the workplace;
- 2 (ii) Links with an individualized plan for employment;
- 3 (iii) Is coordinated by a [DORS] DIVISION rehabilitation specialist;
- 4 and
- 5 (iv) Is conducted in accordance with the terms of an individual
- 6 written work-based learning experience agreement between [DORS] DIVISION and the
- 7 employer of that participating [DORS] DIVISION consumer.

8 (b) A [DORS] DIVISION consumer who is placed with an employer in an unpaid

9 work-based learning experience is a covered employee of that employer, as defined in Title

10 9 of the Labor and Employment Article for the purpose of coverage for medical services and

11 treatment under the State workers' compensation laws.

12 (c) (1) The participating employer where a [DORS] DIVISION consumer is

13 placed in an unpaid work-based learning experience shall secure workers' compensation

14 coverage for that [DORS] DIVISION consumer.

15 (2) The State Department of Education shall reimburse the employer in an

16 amount equal to the lesser of:

- 17 (i) The cost of the premium for the workers' compensation coverage;
- 18 or
- 19 (ii) \$250.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July

21 1, 2023.