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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 21 Session of  
2017

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INTRODUCED BY MENSCH, BARTOLOTTA, ARGALL, MCGARRIGLE, YUDICHAK,  
TARTAGLIONE, HAYWOOD, VULAKOVICH, VOGEL, COSTA, RAFFERTY,  
BREWSTER, SCARNATI, BOSCOLA AND GREENLEAF, JUNE 29, 2017

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REFERRED TO LABOR AND INDUSTRY, JUNE 29, 2017

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AN ACT

1 Providing for competitive integrated employment in State, county  
2 and local agencies and entities; establishing Employment  
3 First, the Governor's Cabinet for People with Disabilities  
4 and the Employment First Oversight Commission and providing  
5 for their powers and duties; and conferring powers and  
6 imposing duties on the Governor and the Office of the  
7 Governor.

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

10 Section 1. Short title.

11 This act shall be known and may be cited as the Employment  
12 First Act.

13 Section 2. Findings and declarations.

14 The General Assembly finds and declares as follows:

15 (1) It is the purpose of this act to ensure that  
16 individuals with a disability be given the opportunity to  
17 achieve economic independence through jobs that pay  
18 competitive wages in community integrated settings.

19 (2) The current work force participation rate for  
20 individuals with a disability is 20%.

1           (3) Pennsylvanians with a disability are valued members  
2 of society, and all members of society deserve to have the  
3 opportunity to work.

4           (4) Significant changes have occurred and are continuing  
5 to evolve with advances in effective support strategies and  
6 technology.

7           (5) Each year throughout this Commonwealth, thousands of  
8 high school students with a disability who use plans  
9 developed in accordance with section 504 of the  
10 Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C. §  
11 794) or qualify under the Americans with Disabilities Act of  
12 1990 (Public Law 101-336, 104 Stat. 327) graduate from  
13 special education programs and are ready and able to work at  
14 competitive wages in private sector and public sector jobs.

15           (6) The Commonwealth can realize a return on its  
16 significant investment in young adults with a disability who  
17 have benefited from a free and appropriate public education  
18 and other State services by adopting policies that further  
19 the goal of competitive integrated employment for individuals  
20 with a disability.

21           (7) Hundreds of thousands of job openings are listed  
22 every day, reflecting the challenges faced by employers in  
23 finding and keeping a dedicated work force, which could be  
24 resolved, in part, through the hiring of individuals with a  
25 disability.

26           (8) Recognition and furtherance of the benefits of  
27 meaningful work applies to all working individuals, including  
28 the opportunity for competitive integrated employment for  
29 individuals with a disability.

30 Section 3. Definitions.

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

4 "Cabinet." The Governor's Cabinet for People with  
5 Disabilities established under section 5.

6 "Commission." The Employment First Oversight Commission  
7 established under section 6.

8 "Competitive integrated employment." As defined in section 7  
9 of the Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C.  
10 § 705(5)).

11 "Disability." As defined in governing statutes and  
12 regulations of each State agency.

13 "Employment First." The policy of State agencies which  
14 provides that competitive integrated employment is the first  
15 consideration and preferred outcome of publicly funded  
16 education, training, employment and related services, and long-  
17 term services and support for individuals with a disability.

18 "State agency." Any office, department, authority, board,  
19 multistate agency or commission of the executive branch, an  
20 independent agency or a State-affiliated entity. The term  
21 includes:

22 (1) The Governor's Office.

23 (2) The Office of Attorney General.

24 (3) The Department of the Auditor General.

25 (4) The Treasury Department.

26 (5) An organization established by the Constitution of  
27 Pennsylvania, a statute or an executive order which performs  
28 or is intended to perform an essential government function.

29 Section 4. Employment First.

30 (a) Policy.--It shall be the policy of the Commonwealth that

1 competitive employment in integrated settings shall be the  
2 preferred outcome for all working age adults and youth with  
3 disabilities, regardless of severity of disability and  
4 assistance required. Employment services and opportunities must  
5 be offered to all individuals receiving publicly funded  
6 services, regardless of whether they live in their own home or  
7 in a residential setting.

8 (b) Implementation.--State, county and local agencies and  
9 any entity providing publicly funded education, training,  
10 employment and related services, and long-term services and  
11 support for individuals with a disability that provide services  
12 and support to individuals with a disability who are eligible to  
13 work under Federal or State law shall comply with the  
14 requirements of Employment First and ensure that the  
15 requirements of Employment First are effectively implemented in  
16 agency programs and services to the extent practicable.

17 (c) Collaboration.--State, county and local agencies and any  
18 entity providing publicly funded education, training, employment  
19 and related services, and long-term services and support for  
20 individuals with a disability that provide services and support  
21 to individuals with a disability shall coordinate efforts and  
22 collaborate to ensure that State programs, policies, procedures  
23 and funding support competitive integrated employment for  
24 individuals with a disability who are eligible to work under  
25 Federal or State law.

26 (d) Policies.--

27 (1) State, county and local agencies shall review their  
28 respective policies relating to payment of service providers  
29 to align payment policies with the requirements of Employment  
30 First. State, county and local agencies and any entity

1 providing publicly funded education, training, employment and  
2 related services, and long-term services and support for  
3 individuals with a disability shall ensure that providers of  
4 service coordination, case management and authorization  
5 services funded through the State Medicaid program, including  
6 home and community-based waiver programs, receive financial  
7 incentives that support the placement and continued  
8 employment of individuals with disabilities in competitive  
9 employment in an integrated setting.

10 (2) State agencies shall provide the designation of  
11 employment champions, consistent with the designation  
12 utilized by the Department of Human Services, to providers of  
13 service coordination, case management and authorization  
14 services funded through the State Medicaid program, including  
15 home and community-based waiver programs, who demonstrate  
16 commitment to Employment First and successfully support the  
17 placement and continued employment of individuals with a  
18 disability in competitive integrated employment. Employment  
19 champions shall be provided increased technical assistance to  
20 further support employment services. A complete list of  
21 employment champions shall be made available on the State  
22 agencies' websites.

23 (e) Staff.--State, county and local agencies and any entity  
24 providing publicly funded education, training, employment and  
25 related services, and long-term services and support for  
26 individuals with a disability shall implement the requirements  
27 of Employment First with trained and certified staff that are in  
28 compliance with governing statutes and regulations of each State  
29 agency.

30 (f) Assessment.--State, county and local agencies and any

1 entity providing publicly funded education, training, employment  
2 and related services, and long-term services and support for  
3 individuals with a disability shall develop clear outcome  
4 expectations for employment that include annual baseline  
5 employment data and specific percentage goals for individuals  
6 with a disability gaining competitive integrated employment.  
7 Each agency shall complete an assessment of its progress toward  
8 meeting these goals annually and ensure that the information is  
9 publicly available and posted on its publicly accessible  
10 Internet website.

11 (g) Progress.--State agencies are authorized to share  
12 general, nonindividualized data and information across systems  
13 in an effort to track implementation of Employment First. State  
14 agencies are encouraged to adopt measurable goals and objectives  
15 to promote the assessment of progress under this subsection.

16 (h) State agency compliance.--The following shall apply:

17 (1) State agencies shall make an effort to employ  
18 individuals with a disability in no less than 7% of the  
19 overall State work force.

20 (2) State agencies shall review on a biannual basis, the  
21 adequacy of hiring, placement and advancement practices with  
22 respect to individuals with a disability.

23 (3) No State agency shall be required to give preference  
24 in hiring to individuals with a disability.

25 (4) The Office of Administration shall develop a  
26 framework for individuals to self-report a disability.

27 (5) The State Civil Service Commission shall review and  
28 consider changes in its policies and procedures in order to  
29 support progress towards the initial goal established under  
30 this subsection.

1 (i) Initial plan.--No later than one year after the  
2 effective date of this subsection, the Office of the Governor  
3 shall develop an initial three-year plan based upon information  
4 provided by the State agencies for implementing Employment First  
5 for submission to the General Assembly. The plan shall identify  
6 the specific policies and implementation dates for State agency  
7 compliance with this act.

8 (j) Annual report.--The assessment information compiled by  
9 each State, county and local agency and any entity providing  
10 publicly funded education, training, employment and related  
11 services, and long-term services and support for individuals  
12 with a disability under subsections (f) and (g) and any other  
13 information deemed necessary shall be sent to the Governor's  
14 Office of Policy and Planning no later than October 1 of each  
15 year for consideration and inclusion in an annual report by the  
16 Office of the Governor to the General Assembly that documents  
17 continued and improved State agency compliance with this act.  
18 The report shall be submitted to the General Assembly no later  
19 than January 30 of each year.

20 Section 5. The Governor's Cabinet for People with Disabilities.

21 (a) Establishment.--The Governor shall establish the  
22 Governor's Cabinet for People with Disabilities. The Governor  
23 shall appoint the members of the cabinet.

24 (b) Composition.--The cabinet shall consist of the following  
25 members, who may not delegate their duties to other members,  
26 except for good cause:

27 (1) Secretary of Human Services or a designee who shall  
28 be an employee of the Department of Human Services.

29 (2) Secretary of Labor and Industry or a designee who  
30 shall be an employee of the Department of Labor and Industry.

1           (3) Secretary of Health or a designee who shall be an  
2 employee of the Department of Health.

3           (4) Secretary of Education or a designee who shall be an  
4 employee of the Department of Education.

5           (5) Secretary of Transportation or a designee who shall  
6 be an employee of the Department of Transportation.

7           (6) Secretary of the Budget or a designee who shall be  
8 an employee of Office of the Budget.

9           (7) Secretary of Aging or a designee who shall be an  
10 employee of the Department of Aging.

11          (8) Secretary of Military and Veterans Affairs or a  
12 designee who shall be an employee of the Department of  
13 Military and Veterans Affairs.

14          (9) Secretary of State or a designee who shall be an  
15 employee of the Department of State.

16          (10) Secretary of Policy and Planning or a designee who  
17 shall be an employee of the Office of Policy and Planning.

18          (11) Secretary of Community and Economic Development or  
19 a designee who shall be an employee of the Department of  
20 Community and Economic Development.

21          (12) Executive Director of the Pennsylvania Human  
22 Relations Commission or a designee who shall be an employee  
23 of the Pennsylvania Human Relations Commission.

24          (13) Executive Director of the Pennsylvania State Civil  
25 Service Commission or a designee who shall be an employee of  
26 the Pennsylvania State Civil Service Commission.

27          (14) Executive Director of the Pennsylvania Housing  
28 Finance Agency or a designee who shall be an employee of the  
29 Pennsylvania Housing Finance Agency.

30          (15) Executive Director of the Pennsylvania



1 Developmental Disabilities Council or a designee who shall be  
2 an employee of the Pennsylvania Developmental Disabilities  
3 Council.

4 (16) Executive Director of the Pennsylvania Council on  
5 the Arts or a designee who shall be an employee of the  
6 Pennsylvania Council on the Arts.

7 (c) Powers and duties.--The cabinet shall have the following  
8 powers and duties:

9 (1) To conduct:

10 (i) a detailed review of existing regulations,  
11 policies and procedures relating to the goal of  
12 competitive integrated employment for individuals with a  
13 disability; and

14 (ii) a review and alignment of service definitions,  
15 policies and payment structures within and across State  
16 agencies.

17 (2) To develop:

18 (i) recommendations to the Governor, the Secretary  
19 of Education, the Secretary of Human Services, the  
20 Secretary of Labor and Industry, the Secretary of  
21 Administration and the Secretary of General Services for  
22 changes in regulations, policies and procedures necessary  
23 to ensure implementation of Employment First;

24 (ii) recommendations to the Governor, the Secretary  
25 of Education, the Secretary of Human Services, the  
26 Secretary of Labor and Industry, the Secretary of  
27 Administration and the Secretary of General Services for  
28 the consistent collection of data and the enforceable  
29 sharing of data;

30 (iii) recommendations to the Governor for

1 legislative changes necessary to support and implement  
2 this act.

3 (d) Collaboration.--The cabinet shall encourage the  
4 development and adoption of agreements among local entities of  
5 the State agencies to promote collaboration among agencies at  
6 regional and local levels across this Commonwealth.

7 (e) Meetings.--The cabinet shall meet quarterly and shall be  
8 responsible for coordinating the development of policies  
9 designed to implement this act by each State agency providing  
10 services to an individual with a disability.

11 Section 6. Employment First Oversight Commission.

12 (a) Establishment and composition.--An independent  
13 Employment First Oversight Commission is established. The  
14 commission shall consist of the following members, at least 51%  
15 of whom must have disabilities, who shall serve for a three-year  
16 term:

17 (1) Four members, not under the employ of the  
18 Commonwealth, who are individuals with a disability or  
19 individuals who are knowledgeable about the employment of  
20 individuals with a disability. The following shall apply:

21 (i) One shall be appointed by the President pro  
22 tempore of the Senate.

23 (ii) One shall be appointed by the Minority Leader  
24 of the Senate.

25 (iii) One shall be appointed by the Speaker of the  
26 House of Representatives.

27 (iv) One shall be appointed by the Minority Leader  
28 of the House of Representatives.

29 (2) Two individuals with a disability, appointed by the  
30 Governor.

1           (3) Two parents or family members of individuals with a  
2 disability, appointed by the Governor.

3           (4) Two individuals who have successful experience in  
4 providing services and support to high school students and  
5 recent graduates with a disability, leading to competitive  
6 employment in an integrated setting, appointed by the  
7 Governor.

8           (5) A representative of Disabilities Rights  
9 Pennsylvania, appointed by the Governor.

10          (6) A representative of the Pennsylvania Rehabilitation  
11 Council, appointed by the Governor.

12          (7) A representative of the Pennsylvania Statewide  
13 Independent Living Council, appointed by the Governor.

14          (8) A representative of a State association of  
15 accredited employment providers, appointed by the Governor.

16          (b) Meetings.--The Governor shall designate one member to  
17 convene and organize the first meeting of the commission at  
18 which the commission shall elect a chairperson and other  
19 officers as it deems necessary from among its members. The  
20 commission shall meet at least four times each year or at the  
21 call of the chairperson. A quorum shall consist of a majority of  
22 the members of the commission. All actions of the commission  
23 shall be taken only after approval by a majority vote of the  
24 members present after a quorum is established during a lawful  
25 meeting of the commission.

26          (c) Reimbursement.--Each member of the commission shall be  
27 reimbursed normal and customary travel expenses in accordance  
28 with Commonwealth travel policies for attendance at meetings of  
29 the commission.

30          (d) Progress.--The commission shall establish measurable

1 goals and objectives governing the implementation of this act.  
2 The commission shall track the measurable progress of public  
3 agencies in implementing this act. All State agencies shall  
4 fully cooperate with and provide data and information to assist  
5 the commission in carrying out its duties.

6 (e) Annual report.--The commission shall issue an annual  
7 report on October 1 of each year, detailing the progress made on  
8 each of the measurable goals and objectives during the preceding  
9 fiscal year. The annual report shall also include  
10 recommendations to the Governor and the General Assembly for  
11 effective strategies and policies needed to support the  
12 implementation of this act.

13 (f) Support.--The Office of the Governor shall ensure that  
14 reasonable staff and support are made available to the  
15 commission to carry out its duties under this section. The  
16 Office of the Governor shall also ensure that administrative  
17 costs, including money for travel expenses authorized under  
18 subsection (c) and money for the distribution of the annual  
19 report and other related administrative costs, are made  
20 available to enable the commission to carry out its duties under  
21 this section. The commission may seek the attendance and  
22 participation of members of the cabinet in meetings of the  
23 commission in order to assist the commission in carrying out its  
24 responsibilities under this section.

25 Section 7. Training and outreach.

26 All State agencies providing services to individuals with a  
27 disability who are eligible to work under Federal and State law  
28 shall establish systems of outreach and training that provide  
29 information to the following individuals about Employment First  
30 and available opportunities for participation in competitive

1 integrated employment:

2 (1) Individuals with a disability and their families.

3 (2) Providers of employment services for individuals  
4 with a disability.

5 (3) Education, vocational rehabilitation and human  
6 service officials responsible for services to individuals  
7 with a disability.

8 Section 8. Applicability.

9 Nothing under this act shall be interpreted to supersede or  
10 preempt Federal or State law. Nothing in this act shall be  
11 construed to change, supersede, preempt or otherwise redefine  
12 the term "age of majority" as it applies to individuals who  
13 qualify under the provisions of the Individuals with  
14 Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400  
15 et seq.) pursuant to 22 Pa. Code § 11.12 (relating to school  
16 age). This act is not intended to create and does not create a  
17 prohibition of existing employment options and opportunities or  
18 of the informed choices of individuals with a disability made  
19 through a person-centered planning process.

20 Section 9. Effective date.

21 This act shall take effect in 60 days.