

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1641 Session of 2017

INTRODUCED BY CUTLER, D. MILLER, NEILSON, ORTITAY, DEAN, KINSEY, READSHAW, WATSON, PICKETT, FEE, O'NEILL, SCHLOSSBERG, MURT, CALTAGIRONE, BARRAR, MILLARD, A. HARRIS, D. COSTA, B. MILLER, WARD, GROVE, FRANKEL, McNEILL, THOMAS, PHILLIPS-HILL, FREEMAN, SOLOMON, DEASY, ROZZI, MUSTIO, RAVENSTAHL, DONATUCCI, KLUNK, PASHINSKI, MATZIE, MCGINNIS, FARRY, RYAN, BERNSTINE, RADER, NELSON, ROTHMAN, COMMITTA, RAPP, GALLOWAY AND COX, JUNE 29, 2017

AS REPORTED FROM COMMITTEE ON LABOR AND INDUSTRY, HOUSE OF REPRESENTATIVES, AS AMENDED, NOVEMBER 20, 2017

AN ACT

1 Providing for competitive integrated employment in State, ~~county~~ <--
2 ~~and local agencies and entities~~; AND COUNTY AGENCIES AND ANY <--
3 ENTITY PROVIDING PUBLICLY FUNDED EDUCATION, TRAINING,
4 EMPLOYMENT AND RELATED SERVICES AND LONG-TERM SERVICES AND
5 SUPPORTS FOR WORKING-AGE PENNSYLVANIANS WITH A DISABILITY;
6 establishing Employment First, the Governor's Cabinet for
7 People with Disabilities and the Employment First Oversight
8 Commission and providing for their powers and duties; and
9 conferring powers and imposing duties on the Governor and the
10 Office of the Governor.

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

13 Section 1. Short title.

14 This act shall be known and may be cited as the Employment
15 First Act.

16 Section 2. Findings and declarations.

17 The General Assembly finds and declares as follows:

18 (1) It is the purpose of this act to ensure that

1 individuals with a disability be given the opportunity to
2 achieve economic independence through jobs that pay
3 competitive wages in community integrated settings.

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

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

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

12 (5) Each year throughout this Commonwealth, thousands of
13 high school students with a disability who use plans
14 developed in accordance with section 504 of the
15 Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C. §
16 794) or qualify under the Americans with Disabilities Act of
17 1990 (Public Law 101-336, 104 Stat. 327) graduate from
18 special education programs and are ready and able to work at
19 competitive wages in private sector and public sector jobs.

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

26 (7) Hundreds of thousands of job openings are listed
27 every day, reflecting the challenges faced by employers in
28 finding and keeping a dedicated work force, which could be
29 resolved, in part, through the hiring of individuals with a
30 disability.

1 (8) Recognition and furtherance of the benefits of
2 meaningful work applies to all working individuals, including
3 the opportunity for competitive integrated employment for
4 individuals with a disability.

5 Section 3. Definitions.

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

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

11 "Commission." The Employment First Oversight Commission
12 established under section 6.

13 "Competitive integrated employment." As defined in section 7
14 of the Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C.
15 § 705(5)).

16 "Disability." As defined in governing statutes and
17 regulations of each State agency.

18 "Employment First." The policy of State agencies which
19 provides that competitive integrated employment is the first
20 consideration and preferred outcome of publicly funded
21 education, training, employment and related services, and long-
22 term services and support for individuals with a disability.

23 "State agency." Any office, department, authority, board,
24 multistate agency or commission of the executive branch, an
25 independent agency or a State-affiliated entity. The term
26 includes:

- 27 (1) The Governor's Office.
28 (2) The Office of Attorney General.
29 (3) The Department of the Auditor General.
30 (4) The Treasury Department.

1 (5) An organization established by the Constitution of
2 Pennsylvania, a statute or an executive order which performs
3 or is intended to perform an essential government function.
4 Section 4. Employment First.

5 (a) Policy.--It shall be the policy of the Commonwealth that
6 competitive ~~employment in integrated settings~~ INTEGRATED <--
7 EMPLOYMENT shall be the preferred outcome for all ~~working age~~ <--
8 ~~adults and youth with disabilities~~ INDIVIDUALS WITH A DISABILITY <--
9 ELIGIBLE TO WORK UNDER FEDERAL OR STATE LAW, regardless of
10 severity of disability and assistance required-, AND WORK-BASED <--
11 LEARNING EXPERIENCES FOR ALL YOUTH WITH A DISABILITY IN
12 COLLABORATION WITH THE DEPARTMENT OF LABOR AND INDUSTRY.
13 Employment services and opportunities must be offered to all
14 individuals WITH A DISABILITY receiving publicly funded <--
15 services, regardless of whether they live in their own home or
16 in a residential setting.

17 (b) Implementation.--~~State, county and local~~ AND COUNTY <--
18 agencies and ~~any entity~~ ENTITIES providing publicly funded <--
19 education, training, employment and related services, and long-
20 term services and support for ~~individuals~~ WORKING-AGE <--
21 PENNSYLVANIANS with a disability that provide services and
22 support to individuals with a disability who are eligible to
23 work under Federal or State law shall comply with the
24 requirements of Employment First and ensure that the
25 requirements of Employment First are effectively implemented in
26 agency programs and services to the extent practicable.

27 (c) Collaboration.--~~State, county and local~~ AND COUNTY <--
28 agencies and ~~any entity~~ ENTITIES providing publicly funded <--
29 education, training, employment and related services, and long-
30 term services and support for ~~individuals~~ WORKING-AGE <--

1 PENNSYLVANIANS with a disability that provide services and
2 support to individuals with a disability shall coordinate
3 efforts and collaborate to ensure that State programs, policies,
4 procedures and funding support competitive integrated employment
5 for individuals with a disability who are eligible to work under
6 Federal or State law.

7 (d) Policies.--

8 (1) ~~State, county and local agencies~~ AND COUNTY AGENCIES <--
9 AND ENTITIES PROVIDING PUBLICLY FUNDED EDUCATION, TRAINING,
10 EMPLOYMENT AND RELATED SERVICES AND LONG-TERM SERVICES AND
11 SUPPORTS FOR WORKING-AGE PENNSYLVANIANS WITH A DISABILITY
12 shall review their respective policies relating to payment of
13 service providers, INCLUDING SUPPORTS COORDINATORS, to align <--
14 payment policies with the requirements of Employment First.
15 ~~State, county and local agencies and any entity providing~~ <--
16 ~~publicly funded education, training, employment and related~~
17 ~~services, and long term services and support for individuals~~
18 ~~with a disability shall ensure that providers of service~~
19 ~~coordination, case management and authorization services~~
20 ~~funded through the State Medicaid program, including home and~~
21 ~~community based waiver programs, receive financial incentives~~
22 ~~that~~ FINANCIAL INCENTIVES, WHEN ALLOWABLE UNDER FEDERAL <--
23 FUNDING RULES FOR EMPLOYMENT SERVICES, SHALL BE GRANTED TO
24 PROVIDERS WHO support the placement and continued employment
25 of individuals with ~~disabilities in competitive employment in~~ <--
26 ~~an integrated setting~~. A DISABILITY IN COMPETITIVE INTEGRATED <--
27 EMPLOYMENT.

28 (2) State agencies shall provide the designation of
29 employment champions, consistent with the designation
30 utilized by the Department of Human Services, to providers of

1 service coordination, case management and authorization
2 services funded through the State Medicaid program, including
3 home and community-based waiver programs, who demonstrate
4 commitment to Employment First and successfully support the
5 placement and continued employment of individuals with a
6 disability in competitive integrated employment. Employment
7 champions shall be provided increased technical assistance to
8 further support employment services. A complete list of
9 employment champions shall be made available on the State
10 agencies' websites.

11 (e) Staff.--~~State, county and local~~ AND COUNTY agencies and <--
12 ~~any entity~~ ENTITIES providing publicly funded education, <--
13 training, employment and related services, and long-term
14 services and support for ~~individuals~~ WORKING-AGE PENNSYLVANIANS <--
15 with a disability shall implement the requirements of Employment
16 First with trained and certified staff that are in compliance
17 with governing statutes and regulations of each State agency.

18 (f) Assessment.--~~State, county and local~~ AND COUNTY agencies <--
19 and ~~any entity~~ ENTITIES providing publicly funded education, <--
20 training, employment and related services, and long-term
21 services and support for individuals with a disability shall
22 develop clear outcome expectations for employment that include
23 annual baseline employment data and specific percentage goals
24 for individuals with a disability gaining competitive integrated
25 employment. Each agency shall complete an assessment of its
26 progress toward meeting these goals annually and ensure that the
27 information is publicly available and posted on its publicly
28 accessible Internet website.

29 (g) Progress.--State agencies are authorized to share
30 general, nonindividualized data and information across systems

1 in an effort to track implementation of Employment First. State
2 agencies are encouraged to adopt measurable goals and objectives
3 to promote the assessment of progress under this subsection.

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

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

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

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

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

15 (5) The State Civil Service Commission shall review and
16 consider changes in its policies and procedures in order to
17 support progress towards the initial goal established under
18 this subsection.

19 (i) Initial plan.--No later than one year after the
20 effective date of this subsection, the Office of the Governor
21 shall develop an initial three-year plan based upon information
22 provided by the State agencies for implementing Employment First
23 for submission to the General Assembly. The plan shall identify
24 the specific policies and implementation dates for State agency
25 compliance with this act.

26 (j) Annual report.--The assessment information compiled by
27 each State,~~county and local~~ AND COUNTY agency and any entity <--
28 providing publicly funded education, training, employment and
29 related services, and long-term services and support for
30 ~~individuals~~ WORKING-AGE PENNSYLVANIANS with a disability under <--

1 subsections (f) and (g) and any other information deemed
2 necessary shall be sent to the Governor's Office of Policy and
3 Planning no later than October 1 of each year for consideration
4 and inclusion in an annual report by the Office of the Governor
5 to the General Assembly that documents continued and improved
6 State agency compliance with this act. The report shall be
7 submitted to the General Assembly no later than January 30 of
8 each year.

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

10 (a) Establishment.--The Governor shall establish the
11 Governor's Cabinet for People with Disabilities. The Governor
12 shall appoint the members of the cabinet.

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

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

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

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

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

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

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

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

30 (8) Secretary of Military and Veterans Affairs or a

1 designee who shall be an employee of the Department of
2 Military and Veterans Affairs.

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

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

7 (11) Secretary of Community and Economic Development or
8 a designee who shall be an employee of the Department of
9 Community and Economic Development.

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

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

16 (14) Executive Director of the Pennsylvania Housing
17 Finance Agency or a designee who shall be an employee of the
18 Pennsylvania Housing Finance Agency.

19 (15) Executive Director of the Pennsylvania
20 Developmental Disabilities Council or a designee who shall be
21 an employee of the Pennsylvania Developmental Disabilities
22 Council.

23 (16) Executive Director of the Pennsylvania Council on
24 the Arts or a designee who shall be an employee of the
25 Pennsylvania Council on the Arts.

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

28 (1) To conduct:

29 (i) a detailed review of existing regulations,
30 policies and procedures relating to the goal of

1 competitive integrated employment for individuals with a
2 disability; and

3 (ii) a review and alignment of service definitions,
4 policies and payment structures within and across State
5 agencies.

6 (2) To develop:

7 (i) recommendations to the Governor, the Secretary
8 of Education, the Secretary of Human Services, the
9 Secretary of Labor and Industry, the Secretary of
10 Administration and the Secretary of General Services for
11 changes in regulations, policies and procedures necessary
12 to ensure implementation of Employment First;

13 (ii) recommendations to the Governor, the Secretary
14 of Education, the Secretary of Human Services, the
15 Secretary of Labor and Industry, the Secretary of
16 Administration and the Secretary of General Services for
17 the consistent collection of data and the enforceable
18 sharing of data;

19 (iii) recommendations to the Governor for
20 legislative changes necessary to support and implement
21 this act.

22 (d) Collaboration.--The cabinet shall encourage the
23 development and adoption of agreements among local entities of
24 the State agencies to promote collaboration among agencies at
25 regional and local levels across this Commonwealth.

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

30 Section 6. Employment First Oversight Commission.

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

6 (1) Four members, not under the employ of the
7 Commonwealth, who are individuals with a disability or
8 individuals who are knowledgeable about the employment of
9 individuals with a disability. The following shall apply:

10 (i) One shall be appointed by the President pro
11 tempore of the Senate.

12 (ii) One shall be appointed by the Minority Leader
13 of the Senate.

14 (iii) One shall be appointed by the Speaker of the
15 House of Representatives.

16 (iv) One shall be appointed by the Minority Leader
17 of the House of Representatives.

18 (2) Two individuals with a disability, appointed by the
19 Governor.

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

22 (4) Two individuals who have successful experience in
23 providing services and support to high school students and
24 recent graduates with a disability, leading to competitive
25 employment in an integrated setting, appointed by the
26 Governor.

27 (5) A representative of Disabilities Rights
28 Pennsylvania, appointed by the Governor.

29 (6) A representative of the Pennsylvania Rehabilitation
30 Council, appointed by the Governor.

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

3 ~~(8) A representative of a State association of~~ <--
4 ~~accredited employment providers, appointed by the Governor.~~

5 (8) A REPRESENTATIVE OF THE PENNSYLVANIA CLIENT <--
6 ASSISTANCE PROGRAM, APPOINTED BY THE GOVERNOR.

7 (9) A REPRESENTATIVE OF A STATE ASSOCIATION OF
8 ORGANIZATIONS THAT PROVIDES COMPETITIVE INTEGRATED EMPLOYMENT
9 SERVICES, AMONG OTHER SERVICES, IN THE COMMUNITY FOR
10 INDIVIDUALS WITH DISABILITIES, APPOINTED BY THE GOVERNOR.

11 (10) A REPRESENTATIVE OF AN ORGANIZATION THAT PARTNERS
12 WITH PRIVATE BUSINESSES OR STATE AGENCIES, OR BOTH, TO
13 DELIVER SERVICES THAT CREATE COMPETITIVE EMPLOYMENT
14 OPPORTUNITIES IN THE COMMUNITY FOR INDIVIDUALS WITH
15 DISABILITIES, 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.