

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 21 Session of 2017

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

SENATOR WARD, LABOR AND INDUSTRY, AS AMENDED, NOVEMBER 14, 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
19 individuals with a disability be given the opportunity to
20 achieve economic independence through jobs that pay
21 competitive wages in community integrated settings.

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

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

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

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

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

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

28 (8) Recognition and furtherance of the benefits of
29 meaningful work applies to all working individuals, including
30 the opportunity for competitive integrated employment for

1 individuals with a disability.

2 Section 3. Definitions.

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

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

8 "Commission." The Employment First Oversight Commission
9 established under section 6.

10 "Competitive integrated employment." As defined in section 7
11 of the Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C.
12 § 705(5)).

13 "Disability." As defined in governing statutes and
14 regulations of each State agency.

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

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

24 (1) The Governor's Office.

25 (2) The Office of Attorney General.

26 (3) The Department of the Auditor General.

27 (4) The Treasury Department.

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

1 Section 4. Employment First.

2 (a) Policy.--It shall be the policy of the Commonwealth that
3 competitive ~~employment in integrated settings~~ INTEGRATED <--
4 EMPLOYMENT shall be the preferred outcome for all ~~working age~~ <--
5 ~~adults and youth with disabilities~~ INDIVIDUALS WITH A DISABILITY <--
6 ELIGIBLE TO WORK UNDER FEDERAL OR STATE LAW, regardless of
7 severity of disability and assistance required, AND WORK BASED <--
8 LEARNING EXPERIENCES FOR ALL YOUTH WITH A DISABILITY IN
9 COLLABORATION WITH THE DEPARTMENT OF LABOR AND INDUSTRY.

10 Employment services and opportunities must be offered to all
11 individuals WITH A DISABILITY receiving publicly funded <--
12 services, regardless of whether they live in their own home or
13 in a residential setting.

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

24 (c) Collaboration.--State, ~~county and local~~ AND COUNTY <--
25 agencies and ~~any entity~~ ENTITIES providing publicly funded <--
26 education, training, employment and related services, and long-
27 term services and support for ~~individuals~~ WORKING-AGE <--
28 PENNSYLVANIANS with a disability that provide services and
29 support to individuals with a disability shall coordinate
30 efforts and collaborate to ensure that State programs, policies,

1 procedures and funding support competitive integrated employment
2 for individuals with a disability who are eligible to work under
3 Federal or State law.

4 (d) Policies.--

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

25 (2) State agencies shall provide the designation of
26 employment champions, consistent with the designation
27 utilized by the Department of Human Services, to providers of
28 service coordination, case management and authorization
29 services funded through the State Medicaid program, including
30 home and community-based waiver programs, who demonstrate

1 commitment to Employment First and successfully support the
2 placement and continued employment of individuals with a
3 disability in competitive integrated employment. Employment
4 champions shall be provided increased technical assistance to
5 further support employment services. A complete list of
6 employment champions shall be made available on the State
7 agencies' websites.

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

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

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

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

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

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

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

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

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

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

23 (j) Annual report.--The assessment information compiled by
24 each State,~~county and local~~ AND COUNTY agency and any entity <--
25 providing publicly funded education, training, employment and
26 related services, and long-term services and support for
27 ~~individuals~~ WORKING-AGE PENNSYLVANIANS with a disability under <--
28 subsections (f) and (g) and any other information deemed
29 necessary shall be sent to the Governor's Office of Policy and
30 Planning no later than October 1 of each year for consideration

1 and inclusion in an annual report by the Office of the Governor
2 to the General Assembly that documents continued and improved
3 State agency compliance with this act. The report shall be
4 submitted to the General Assembly no later than January 30 of
5 each year.

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

7 (a) Establishment.--The Governor shall establish the
8 Governor's Cabinet for People with Disabilities. The Governor
9 shall appoint the members of the cabinet.

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

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

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

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

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

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

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

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

27 (8) Secretary of Military and Veterans Affairs or a
28 designee who shall be an employee of the Department of
29 Military and Veterans Affairs.

30 (9) Secretary of State or a designee who shall be an

1 employee of the Department of State.

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

4 (11) Secretary of Community and Economic Development or
5 a designee who shall be an employee of the Department of
6 Community and Economic Development.

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

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

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

16 (15) Executive Director of the Pennsylvania
17 Developmental Disabilities Council or a designee who shall be
18 an employee of the Pennsylvania Developmental Disabilities
19 Council.

20 (16) Executive Director of the Pennsylvania Council on
21 the Arts or a designee who shall be an employee of the
22 Pennsylvania Council on the Arts.

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

25 (1) To conduct:

26 (i) a detailed review of existing regulations,
27 policies and procedures relating to the goal of
28 competitive integrated employment for individuals with a
29 disability; and

30 (ii) a review and alignment of service definitions,

1 policies and payment structures within and across State
2 agencies.

3 (2) To develop:

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

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

16 (iii) recommendations to the Governor for
17 legislative changes necessary to support and implement
18 this act.

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

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

27 Section 6. Employment First Oversight Commission.

28 (a) Establishment and composition.--An independent
29 Employment First Oversight Commission is established. The
30 commission shall consist of the following members, at least 51%

1 of whom must have disabilities, who shall serve for a three-year
2 term:

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

7 (i) One shall be appointed by the President pro
8 tempore of the Senate.

9 (ii) One shall be appointed by the Minority Leader
10 of the Senate.

11 (iii) One shall be appointed by the Speaker of the
12 House of Representatives.

13 (iv) One shall be appointed by the Minority Leader
14 of the House of Representatives.

15 (2) Two individuals with a disability, appointed by the
16 Governor.

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

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

24 (5) A representative of Disabilities Rights
25 Pennsylvania, appointed by the Governor.

26 (6) A representative of the Pennsylvania Rehabilitation
27 Council, appointed by the Governor.

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

30 ~~(8) A representative of a State association of~~

<--

1 ~~accredited employment providers, appointed by the Governor.~~

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

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

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

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

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

27 (d) Progress.--The commission shall establish measurable
28 goals and objectives governing the implementation of this act.
29 The commission shall track the measurable progress of public
30 agencies in implementing this act. All State agencies shall

1 fully cooperate with and provide data and information to assist
2 the commission in carrying out its duties.

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

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

22 Section 7. Training and outreach.

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

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

30 (2) Providers of employment services for individuals

1 with a disability.

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

5 Section 8. Applicability.

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

17 Section 9. Effective date.

18 This act shall take effect in 60 days.