

## CHAPTER 215

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**HUMAN SERVICES - BEHAVIORAL HEALTH**

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**SENATE BILL 18-145**

BY SENATOR(S) Kefalas, Aguilar, Court, Donovan, Fields, Garcia, Guzman, Jahn, Jones, Kagan, Kerr, Martinez Humenik, Merrifield, Moreno, Neville T., Priola, Smallwood, Tate, Todd, Williams A., Zenzinger;  
also REPRESENTATIVE(S) Ginal, Arndt, Bridges, Hooton, Lontine, Melton, Rosenthal, Young, Duran.

**AN ACT**

**CONCERNING THE IMPLEMENTATION OF EMPLOYMENT FIRST ADVISORY PARTNERSHIP RECOMMENDATIONS TO ADVANCE COMPETITIVE INTEGRATED EMPLOYMENT FOR PERSONS WITH DISABILITIES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) Despite having the ability and desire, eighty-five percent of adults with intellectual and developmental disabilities are either unemployed or underemployed due to barriers to competitive integrated employment;

(b) Colorado's low unemployment rate makes it difficult for many employers to fill staffing needs, and some of these needs could be met through employing persons with disabilities;

(c) In 2016, Senate Bill 16-077 created the Employment First Advisory Partnership and charged the members of the partnership with developing a strategic plan, including relevant policy changes, to expand competitive integrated outcomes for persons with disabilities;

(d) In its November 2017 preliminary report, the Employment First Advisory Partnership made several recommendations for working through public-private partnerships, including creating a Colorado Business Leadership Network, which utilizes business-to-business engagement to drive performance outcomes through disability inclusion, and developing and implementing an outreach program to employers, educators, case managers, and persons with disabilities and their families

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*Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

regarding employment first;

(e) Implementing the Employment First Advisory Partnership's 2017 recommendations will benefit persons with disabilities and further the work of the public-private partnerships, employers, and the state of Colorado by:

(I) Increasing the number of people entering the workforce who contribute to Colorado's tax base;

(II) Increasing the number of persons with disabilities in competitive integrated employment, thereby reducing dependence on public assistance programs; and

(III) Increasing the effectiveness of the service systems currently serving persons with disabilities who are seeking meaningful employment;

(f) Collecting and reporting disability services and employment data is necessary to determine progress toward eliminating segregation in services and increasing the number of persons with disabilities in competitive integrated employment;

(g) Persons with disabilities and potential employers would benefit from minimal requirements for basic training or certification in best practices for supported employment services professionals; and

(h) The discovery process, which is a best-practice assessment tool for persons with the most significant disabilities should be utilized, when appropriate, as an alternative to existing assessments provided by publicly funded employment services for persons with disabilities.

(2) Therefore, the General Assembly declares that implementing recommendations of the Employment First Advisory Partnership relating to data collection; training for supported employment professionals; appropriate use of the discovery process as an assessment for persons with disabilities; and training and outreach for employers, educators, case managers, and persons with disabilities and their families in employment first opportunities and best practices is necessary to increase opportunities for persons with disabilities and to build on the progress made through employment first initiatives.

**SECTION 2.** In Colorado Revised Statutes, 8-84-106, **amend** (3)(b)(IV); and **add** (3)(b)(III.5) as follows:

**8-84-106. Rehabilitation of persons with disabilities - rules.** (3) (b) The department shall:

(III.5) (A) PROMULGATE RULES IN CONJUNCTION WITH THE STATE MEDICAL SERVICES BOARD, NO LATER THAN JULY 1, 2019, REQUIRING ALL VENDORS OF SUPPORTED EMPLOYMENT SERVICES, INCLUDING SUPPORTED EMPLOYMENT PROFESSIONALS WHO PROVIDE INDIVIDUAL COMPETITIVE INTEGRATED EMPLOYMENT OUTCOMES, AND EXCLUDING THOSE PROFESSIONALS EXCLUSIVELY PROVIDING GROUP OR OTHER CONGREGATE SERVICES, TO OBTAIN A NATIONALLY RECOGNIZED SUPPORTED EMPLOYMENT TRAINING CERTIFICATE OR NATIONALLY RECOGNIZED SUPPORTED EMPLOYMENT CERTIFICATION. THE DEPARTMENT'S RULES MUST INCLUDE

TIME FRAMES FOR COMPLIANCE WITH THE TRAINING OR CERTIFICATION REQUIREMENT FOR EXISTING STAFF AND FOR NEWLY HIRED STAFF AND REQUIREMENTS FOR SUPERVISION OF NEWLY HIRED STAFF UNTIL THE STAFF MEMBER HAS COMPLETED THE TRAINING OR CERTIFICATION. THE TIME FRAMES ESTABLISHED IN THE DEPARTMENT'S RULES MUST PROVIDE FOR TRAINING TO BE COMPLETED OVER A FIVE-YEAR PERIOD, SUBJECT TO THE AVAILABILITY OF APPROPRIATIONS FOR REIMBURSEMENT OF VENDORS PURSUANT TO SUBSECTION (3)(b)(III.5)(B) OF THIS SECTION.

(B) THE TRAINING OR CERTIFICATION REQUIREMENT IN SUBSECTION (3)(b)(III.5)(A) OF THIS SECTION IS CONTINGENT UPON APPROPRIATIONS TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING FOR REIMBURSEMENT TO VENDORS OF SUPPORTED EMPLOYMENT SERVICES FOR THE COST OF TRAINING AND CERTIFICATION PURSUANT TO SECTION 25.5-10-204.

(IV) Establish a fee schedule for goods and services that is designed to ensure reasonable cost to the program. THE FEE SCHEDULE ESTABLISHED BY THE DEPARTMENT MUST INCLUDE THE DISCOVERY PROCESS, AS DEFINED IN SECTION 8-84-301, AS AN ALTERNATIVE ASSESSMENT PURSUANT TO SUBSECTION (3)(b)(I) OF THIS SECTION.

**SECTION 3.** In Colorado Revised Statutes, 25.5-10-204, **amend** (1)(g)(III) and (2) introductory portion; and **add** (2)(k) as follows:

**25.5-10-204. Duties of the executive director - state board rules.** (1) In order to implement the provisions of this article 10, the executive director shall, subject to available appropriations, carry out the following duties:

(g) Facilitate employment first policies and practices by:

(III) Establishing annual reporting of THE FOLLOWING DATA, REPORTED BY COUNTY, FOR INDIVIDUALS ELIGIBLE FOR SUPPORTED EMPLOYMENT SERVICES, INCLUDING BUT NOT LIMITED TO HOME- AND COMMUNITY-BASED WAIVER SERVICES:

(A) The number of individuals employed in GROUP EMPLOYMENT, THE SECTOR OF EMPLOYMENT, THE MEAN WAGE PER HOUR EARNED, AND THE MEAN HOURS WORKED PER WEEK;

(B) The number of individuals employed in competitive integrated employment, ~~wages~~ THE SECTOR OF EMPLOYMENT, THE MEAN WAGE per hour earned, and THE MEAN hours worked per week; ~~for individuals served by the division;~~

(C) THE NUMBER OF INDIVIDUALS EMPLOYED AND SERVED IN PREVOCATIONAL SERVICES, THE SECTOR OF EMPLOYMENT, THE MEAN WAGE PER HOUR EARNED, THE MEAN HOURS WORKED PER WEEK, AND THE MEAN SERVICE HOURS PER WEEK;

(D) THE NUMBER OF INDIVIDUALS SERVED IN COMMUNITY-BASED NONWORK AND THE MEAN SERVICE HOURS PER WEEK;

(E) THE NUMBER OF INDIVIDUALS SERVED IN SPECIALIZED HABILITATION SERVICES AND THE MEAN SERVICE HOURS PER WEEK;

(F) THE NUMBER OF INDIVIDUALS EMPLOYED OR SERVED, AS APPLICABLE, IN ANY OTHER EMPLOYMENT SERVICES OR DAY SERVICES MODEL, THE SECTOR OF EMPLOYMENT, AND THE MEAN WAGE PER HOUR WORKED, MEAN HOURS WORKED PER WEEK, OR THE SERVICE HOURS PER WEEK, AS APPLICABLE;

(G) THE NUMBER OF INDIVIDUALS ELIGIBLE FOR EMPLOYMENT SERVICES, REGARDLESS OF WHETHER THE INDIVIDUAL IS UTILIZING EMPLOYMENT SERVICES; AND

(H) THE NUMBER OF INDIVIDUALS SERVED EARNING LESS THAN MINIMUM WAGE.

(2) The state board shall adopt such rules, in accordance with section 24-4-103, ~~C.R.S.~~, as are necessary to carry out the provisions and purposes of this ~~article~~ ARTICLE 10, including but not limited to the following subjects:

(k) (I) NO LATER THAN JULY 1, 2019, THE STATE BOARD, IN CONJUNCTION WITH THE DEPARTMENT OF LABOR AND EMPLOYMENT, SHALL REQUIRE A NATIONALLY RECOGNIZED SUPPORTED EMPLOYMENT TRAINING CERTIFICATE OR NATIONALLY RECOGNIZED SUPPORTED EMPLOYMENT CERTIFICATION FOR ALL VENDORS OF SUPPORTED EMPLOYMENT SERVICES, INCLUDING SUPPORTED EMPLOYMENT PROFESSIONALS WHO PROVIDE INDIVIDUAL COMPETITIVE INTEGRATED EMPLOYMENT OUTCOMES, AND EXCLUDING THOSE PROFESSIONALS EXCLUSIVELY PROVIDING GROUP OR OTHER CONGREGATE SERVICES. THE STATE BOARD'S RULES MUST INCLUDE TIME FRAMES FOR COMPLIANCE WITH THE TRAINING OR CERTIFICATION REQUIREMENT FOR EXISTING STAFF AND FOR NEWLY HIRED STAFF AND REQUIREMENTS FOR SUPERVISION OF NEWLY HIRED STAFF UNTIL THE STAFF MEMBER HAS COMPLETED THE TRAINING OR CERTIFICATION. THE TIME FRAMES ESTABLISHED IN THE STATE BOARD'S RULES MUST PROVIDE FOR TRAINING TO BE COMPLETED OVER A FIVE-YEAR PERIOD, SUBJECT TO THE AVAILABILITY OF APPROPRIATIONS FOR REIMBURSEMENT OF VENDORS PURSUANT TO SUBSECTION (2)(k)(II) OF THIS SECTION.

(II) THE TRAINING OR CERTIFICATION REQUIREMENT IN SUBSECTION (2)(k)(I) OF THIS SECTION IS CONTINGENT UPON APPROPRIATIONS TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING FOR REIMBURSEMENT TO VENDORS OF SUPPORTED EMPLOYMENT SERVICES FOR THE COST OF TRAINING AND CERTIFICATION. THE STATE BOARD SHALL ADOPT RULES FOR ADMINISTERING THE REIMBURSEMENT TO VENDORS, WHICH REIMBURSEMENT MUST BE THREE HUNDRED DOLLARS FOR EACH CERTIFICATION EXAM AND TWELVE HUNDRED DOLLARS FOR EACH TRAINING PROGRAM CERTIFICATE, WHICH INCLUDES REIMBURSEMENT FOR BOTH THE COST OF THE TRAINING AND WAGES PAID TO EMPLOYEES DURING TRAINING. THE STATE BOARD MAY INCREASE THE FIXED REIMBURSEMENT AMOUNT OVER TIME BASED ON INCREASES IN THE COST OF THE EXAM AND EMPLOYEE WAGES.

**SECTION 4.** In Colorado Revised Statutes, 8-84-304, **add** (4) as follows:

**8-84-304. Duties of the employment first advisory partnership - strategic plan - repeal.** (4) (a) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2021.

(b) PRIOR TO REPEAL OF THE EMPLOYMENT FIRST ADVISORY PARTNERSHIP, THE DEPARTMENT OF REGULATORY AGENCIES SHALL CONDUCT A SUNSET REVIEW PURSUANT TO THE PROVISIONS OF SECTION 2-3-1203.

**SECTION 5.** In Colorado Revised Statutes, 2-3-1203, **amend** (12)(a)(VI) as follows:

**2-3-1203. Sunset review of advisory committees - legislative declaration - definition - repeal.** (12) (a) The following statutory authorizations for the designated advisory committees will repeal on September 1, 2021:

(VI) The employment first advisory partnership in the department of labor and employment described in ~~section 8-84-303, C.R.S.~~ SECTIONS 8-84-303 AND 8-84-304.

**SECTION 6. Appropriation.** (1) For the 2018-19 state fiscal year, \$27,675 is appropriated to the department of health care policy and financing for use by the executive director's office. This appropriation is from the general fund. To implement this act, the office may use this appropriation as follows:

(a) \$22,972 for personal services, which amount is based on an assumption that the department will require an additional 0.4 FTE; and

(b) \$4,703 for operating expenses.

(2) For the 2018-19 state fiscal year, \$2,131 is appropriated to the department of labor and employment. This appropriation is from the general fund. To implement this act, the department may use this appropriation for the purchase of legal services.

(3) For the 2018-19 state fiscal year, \$2,131 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of labor and employment under subsection (2) of this section. To implement this act, the department of law may use this appropriation to provide legal services for the department of labor and employment.

**SECTION 7. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 18, 2018