

SECOND REGULAR SESSION

HOUSE BILL NO. 1276

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE UNSICKER.

3209H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 209, RSMo, by adding thereto one new section relating to the Missouri employment first act.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 209, RSMo, is amended by adding thereto one new section, to be known as section 209.700, to read as follows:

209.700. 1. This section shall be known and may be cited as the "Missouri Employment First Act".

2. As used in this section, unless the context clearly requires otherwise, the following terms mean:

(1) "Competitive integrated employment", work that:

(a) Is performed on a full-time or part-time basis, including self-employment, and for which a person is compensated at a rate that:

a. Is not less than the higher of the rate specified in 29 U.S.C. Section 206(a)(1) or the rate required under any applicable state or local minimum wage law for the place of employment;

b. Is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not persons with disabilities and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills;

c. In the case of a person who is self-employed, yields an income that is comparable to the income received by other persons who are not persons with disabilities and who are

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 17 self-employed in similar occupations or on similar tasks and who have similar training,
18 experience, and skills; and
- 19 d. Is eligible for the level of benefits provided to other employees;
- 20 (b) Is at a location:
- 21 a. Typically found in the community; and
- 22 b. Where the employee with a disability interacts for the purpose of performing the
23 duties of the position with other employees within the particular work unit and the entire
24 work site and, as appropriate to the work performed, other persons, such as customers and
25 vendors, who are not persons with disabilities, other than supervisory personnel or persons
26 who are providing services to such employee, to the same extent that employees who are
27 not persons with disabilities and who are in comparable positions interact with these
28 persons; and
- 29 (c) Presents, as appropriate, opportunities for advancement that are similar to
30 those for other employees who are not persons with disabilities and who have similar
31 positions;
- 32 (2) "Customized employment", competitive integrated employment, for a person
33 with a significant disability, that is:
- 34 (a) Based on an individualized determination of the unique strengths, needs, and
35 interests of the person with a significant disability;
- 36 (b) Designed to meet the specific abilities of the person with a significant disability
37 and the business needs of the employer; and
- 38 (c) Carried out through flexible strategies, such as:
- 39 a. Job exploration by the person; and
- 40 b. Working with an employer to facilitate placement, including:
- 41 (i) Customizing a job description based on current employer needs or on previously
42 unidentified and unmet employer needs;
- 43 (ii) Developing a set of job duties, a work schedule and job arrangement, and
44 specifics of supervision, including performance evaluation and review, and determining
45 a job location;
- 46 (iii) Using a professional representative chosen by the person or self-representation,
47 if elected, to work with an employer to facilitate placement; and
- 48 (iv) Providing services and supports at the job location;
- 49 (3) "Disability", a physical or mental impairment that substantially limits one or
50 more major life activities of a person, as defined in the Americans with Disabilities Act of
51 1990, as amended. The term "disability" does not include brief periods of intoxication
52 caused by alcohol or drugs or dependence upon or addiction to any alcohol or drug;

53 (4) "Employment first", a concept to facilitate the full inclusion of persons with
54 disabilities in the workplace and community in which community-based, competitive
55 integrated employment is the first and preferred outcome for employment services for
56 persons with disabilities;

57 (5) "Employment-related services", services provided to persons, including persons
58 with disabilities, to assist them in finding employment. The term "employment-related
59 services" includes, but is not limited to, resume development, job fairs, and interview
60 training;

61 (6) "Integrated setting", a setting:

62 (a) Typically found in the community; and

63 (b) Where the employee with a disability interacts for the purpose of performing
64 the duties of the position with other employees within the particular work unit and the
65 entire work site and, as appropriate to the work performed, other persons, such as
66 customers and vendors, who are not persons with disabilities, other than supervisory
67 personnel or persons who are providing services to such employee, to the same extent that
68 employees who are not persons with disabilities and who are in comparable positions
69 interact with these persons;

70 (7) "Outcome", with respect to a person, entering, advancing in, or retaining full-
71 time or, if appropriate, part-time competitive integrated employment, including customized
72 employment, self-employment, telecommuting, or business ownership, or supported
73 employment that is consistent with a person's unique strengths, resources, priorities,
74 concerns, abilities, capabilities, interests, and informed choice;

75 (8) "Sheltered workshop", the same meaning given to the term in section 178.900;

76 (9) "State agency", an authority, board, branch, commission, committee,
77 department, division, or other instrumentality of the executive branch of state government;

78 (10) "Supported employment", competitive integrated employment, including
79 customized employment, or employment in an integrated setting in which persons are
80 working on a short-term basis toward competitive integrated employment, that is
81 individualized and customized consistent with the strengths, abilities, interests, and
82 informed choice of the persons involved who, because of the nature and severity of their
83 disabilities, need intensive supported employment services and extended services in order
84 to perform the work involved;

85 (11) "Supported employment services", ongoing support services, including
86 customized employment, needed to support and maintain a person with a most significant
87 disability in supported employment, that:

88 (a) Are provided singly or in combination and are organized and made available
89 in such a way as to assist an eligible person to achieve competitive integrated employment;
90 and

91 (b) Are based on a determination of the needs of an eligible person, as specified in
92 an individualized plan for employment;

93 (12) "Working age", sixteen years of age or older;

94 (13) "Youth with a disability", any person fourteen years of age or older and under
95 eighteen years of age who has a disability.

96 3. All state agencies that provide employment-related services or that provide
97 services or support to persons with disabilities shall:

98 (1) Develop collaborative relationships with each other confirmed by a written
99 memorandum of understanding signed by each such state agency; and

100 (2) Implement coordinated strategies to promote competitive integrated
101 employment including, but not limited to, coordinated service planning, job exploration,
102 increased job training, and internship opportunities.

103 4. All state agencies that provide employment-related services or that provide
104 services or support to persons with disabilities shall:

105 (1) Implement an employment first policy by considering competitive integrated
106 employment as the first and preferred outcome when planning or providing services or
107 supports to persons with disabilities who are of working age;

108 (2) Offer information on competitive integrated employment to all working-age
109 persons with disabilities. The information offered shall include an explanation of the
110 relationship between a person's earned income and his or her public benefits, information
111 on ABLE accounts, and information on accessing assistive technology;

112 (3) Ensure that persons with disabilities receive the opportunity to understand and
113 explore education and training as pathways to employment, including postsecondary,
114 graduate, and postgraduate education; vocational and technical training; and other
115 training. State agencies shall not be required to fund any education or training unless
116 otherwise required by law;

117 (4) Promote the availability and accessibility of individualized training designed to
118 prepare a person with a disability for the person's preferred employment;

119 (5) Promote partnerships with private agencies that offer supported employment
120 services, if appropriate;

121 (6) Promote partnerships with employers to overcome barriers to meeting
122 workforce needs with the creative use of technology and innovation;

123 (7) Ensure that staff members of public schools, vocational service programs, and
124 community providers receive the support, guidance, and training that they need to
125 contribute to attainment of the goal of competitive integrated employment for all persons
126 with disabilities;

127 (8) Ensure that competitive integrated employment, while the first and preferred
128 outcome when planning or providing services or supports to persons with disabilities who
129 are of working age, is not required of a person with a disability to secure or maintain
130 public benefits for which the person is otherwise eligible; and

131 (9) At least once each year, discuss basic information about competitive integrated
132 employment with the parents or guardians of a youth with a disability. If the youth with
133 a disability has been emancipated, state agencies shall discuss this information with the
134 youth with a disability. The information offered shall include an explanation of the
135 relationship between a person's earned income and his or her public benefits, information
136 about ABLE accounts, and information about accessing assistive technology.

137 5. Nothing in this section shall require a state agency to perform any action that
138 would interfere with the state agency's ability to fulfill duties and requirements mandated
139 by federal law.

140 6. Nothing in this section shall be construed to limit or disallow any disability
141 benefits to which a person with a disability who is unable to engage in competitive
142 integrated employment would otherwise be entitled.

143 7. Nothing in this section shall be construed to eliminate any supported employment
144 services or sheltered workshop settings as options when appropriate.

145 8. (1) Nothing in this section shall be construed to require any state agency or other
146 employer to give a preference in hiring to persons with disabilities or to prohibit any
147 employment relationship or program that is otherwise permitted under applicable law.

148 (2) Any person who is employed by a state agency shall meet the minimum
149 qualifications and requirements for the position in which the person is employed.

150 9. All state agencies that provide employment-related services or that provide
151 services or support to persons with disabilities shall coordinate efforts and collaborate
152 within and among each other to ensure that state programs, policies, procedures, and
153 funding support competitive integrated employment for persons with disabilities who are
154 of working age. All such state agencies, when feasible, shall share data and information
155 across systems in order to track progress toward full implementation of this section. All
156 such state agencies are encouraged to adopt measurable goals and objectives to promote
157 assessment of progress in implementing this section.

158 **10. State agencies may promulgate rules to implement the provisions of this section.**
159 **Any rule or portion of a rule, as that term is defined in section 536.010, that is created**
160 **under the authority delegated in this section shall become effective only if it complies with**
161 **and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.**
162 **This section and chapter 536 are nonseverable, and if any of the powers vested with the**
163 **general assembly pursuant to chapter 536 to review, to delay the effective date, or to**
164 **disapprove and annul a rule are subsequently held unconstitutional, then the grant of**
165 **rulemaking authority and any rule proposed or adopted after August 28, 2020, shall be**
166 **invalid and void.**

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