

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0098.01 Jane Ritter x4342

HOUSE BILL 15-1188

HOUSE SPONSORSHIP

Ryden and Primavera, Nordberg

SENATE SPONSORSHIP

Neville T., Guzman, Jahn

House Committees

Public Health Care & Human Services

Senate Committees

A BILL FOR AN ACT

101 CONCERNING CLARIFICATIONS TO THE STATE VOCATIONAL
102 REHABILITATION PROGRAM.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Legislative Audit Committee. The bill addresses concerns identified by a recent audit of the state vocational rehabilitation program for persons with disabilities (program). Several areas of statute are repealed because they did not comply with federal regulations. The bill clarifies that the program does not entitle an eligible person with a disability to unlimited services from the program. Numerous duties are

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

statutorily assigned to the state department of human services, including the responsibility to complete a comprehensive assessment and develop employment outcomes or goals, including time frames, for each person with a disability receiving services; the requirement to develop a fee schedule for goods and services; and the requirement to close the record of services in a timely manner for a person with a disability after he or she has achieved his or her employment outcomes or goals. The state department of human services shall also establish a review process to allow for exceptions to the new requirements in isolated and unique cases. Language concerning recovery of state moneys for vocational rehabilitation services received through misrepresentation, fraud, collusion, or criminal conduct is added to statute.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 26-8-101 as
3 follows:

4 **26-8-101. Rehabilitation programs.** In carrying out the
5 provisions of this article, the state department ~~shall be~~ IS charged with
6 coordinating and strengthening the programs of rehabilitation ~~of disabled~~
7 ~~and nondisabled~~ FOR PERSONS WITH DISABILITIES to the end that they may
8 attain OR MAINTAIN their maximum potential in employment, ~~self-care~~
9 SELF-SUFFICIENCY, and independent living. NOTHING IN THIS ARTICLE IS
10 TO BE CONSTRUED AS AN ENTITLEMENT TO A VOCATIONAL
11 REHABILITATION SERVICE PROVIDED BY THE STATE.

12 **SECTION 2.** In Colorado Revised Statutes, 26-8-105, **amend** (2),
13 (3) (a), and (4); **repeal** (3) (h); and **add** (5) as follows:

14 **26-8-105. Rehabilitation of persons with disabilities.** (2) For
15 the purposes of this article, "person with a disability" means ~~any one or~~
16 ~~more of the following:~~ A PERSON WHO HAS A PHYSICAL OR MENTAL
17 IMPAIRMENT, AS DOCUMENTED BY QUALIFIED PERSONNEL, THAT
18 CONSTITUTES OR RESULTS IN A SUBSTANTIAL IMPEDIMENT TO
19 EMPLOYMENT, AND WHO CAN BENEFIT IN TERMS OF AN EMPLOYMENT

1 OUTCOME FROM THE PROVISION OF VOCATIONAL REHABILITATION
2 SERVICES.

3 ~~(a) Any individual who has a physical or mental condition which~~
4 ~~materially limits, contributes to limiting, or, if not corrected, will probably~~
5 ~~result in limiting the individual's activities or functioning and which~~
6 ~~constitutes a substantial disability to employment but which is of such~~
7 ~~nature that vocational rehabilitation services may reasonably be expected~~
8 ~~to render the individual fit to engage in a remunerative occupation;~~

9 ~~(b) An individual of not less than employable age who is under~~
10 ~~such physical or mental disability as to require institutional care or~~
11 ~~attendance in his household continuously or for a substantial portion of~~
12 ~~the time, but who can be reasonably expected, as a result of rehabilitation~~
13 ~~services, to achieve such ability of independent living that he will no~~
14 ~~longer require such institutional care or such attendance in his household;~~

15 ~~(c) An individual who does not have substantial physical or~~
16 ~~mental disability who is receiving aid from public funds and who~~
17 ~~otherwise may be expected to remain a public charge of the county or~~
18 ~~state; who has a vocational disability because of lack of training,~~
19 ~~experience, skills, or other factors which, if corrected, would lead to~~
20 ~~self-support instead of dependency; who is either responsible for the~~
21 ~~individual's own maintenance or is the responsible head of a household;~~
22 ~~and who has a potential capacity which would warrant development with~~
23 ~~a reasonable chance for employment after rehabilitation services.~~

24 (3) The state department shall:

25 (a) Cooperate with other departments, agencies, and institutions,
26 both public and private, in providing the services authorized by this
27 article to persons with disabilities, in studying the problems involved

1 therein, and in establishing, developing, and providing, in conformity
2 with the purposes of this article, such programs, facilities, and services as
3 may be necessary; ~~or desirable;~~

4 (h) ~~Provide for the return to full or partial self-support of~~
5 ~~nondisabled recipients of public assistance whose capacity to earn a living~~
6 ~~is impaired.~~

7 (4) (a) Vocational rehabilitation services, as defined by the federal
8 "Vocational Rehabilitation Act", ~~shall~~ MUST be provided directly or
9 through public or private instrumentalities to or for the benefit of ~~any~~
10 ~~individual with disabilities~~ AN ELIGIBLE PERSON WITH A DISABILITY who
11 is residing in the state at the time of filing an application ~~therefor~~, and
12 whose rehabilitation the state department determines after full
13 investigation can be satisfactorily achieved, or who is eligible ~~therefor~~
14 under the terms of an agreement with another state or ~~with~~ the federal
15 government. THE STATE DEPARTMENT SHALL:

16 (I) COMPLETE A COMPREHENSIVE ASSESSMENT AND WORK WITH
17 THE PERSON WITH A DISABILITY TO DEVELOP AN EMPLOYMENT OUTCOME
18 OR GOAL BASED ON THE PERSON'S STRENGTHS, RESOURCES, PRIORITIES,
19 CONCERNS, ABILITIES, CAPABILITIES, INTERESTS, AND INFORMED CHOICE;

20 (II) AUTHORIZE ONLY THOSE SERVICES THAT ARE REASONABLE
21 AND NECESSARY TO ADDRESS THE REHABILITATION NEEDS OF THE PERSON
22 WITH A DISABILITY, BASED ON HIS OR HER DOCUMENTED DISABILITIES AND
23 IMPAIRMENTS, SO THAT HE OR SHE MIGHT ACHIEVE HIS OR HER
24 EMPLOYMENT OUTCOME OR GOAL;

25 (III) GIVE PREFERENCE TO SERVICES PROVIDED IN THE STATE OF
26 COLORADO. THE STATE DEPARTMENT SHALL NOT PAY FOR ANY SERVICES
27 PROVIDED OUTSIDE THE UNITED STATES.

1 (IV) ESTABLISH A FEE SCHEDULE FOR GOODS AND SERVICES THAT
2 IS DESIGNED TO ENSURE REASONABLE COST TO THE PROGRAM;

3 (V) LIMIT PAYMENT FOR SERVICES TO COLORADO IN-STATE
4 TUITION OR THE EQUIVALENT FOR ALL EDUCATION AND VOCATIONAL
5 SCHOOLING; EXCEPT THAT IF THE STATE DEPARTMENT FINDS, THROUGH ITS
6 COMPREHENSIVE ASSESSMENT, THAT THE PERSON WITH A DISABILITY
7 NEEDS SPECIALIZED EDUCATION OUTSIDE OF COLORADO TO ADDRESS HIS
8 OR HER BARRIERS TO EMPLOYMENT, THE STATE DEPARTMENT MAY
9 AUTHORIZE PAYMENT FOR OUT-OF-STATE TUITION ON A CASE-BY-CASE
10 BASIS IF NO COMPARABLE SERVICE IS OFFERED IN COLORADO;

11 (VI) ESTABLISH REASONABLE TIME FRAMES WITHIN EACH
12 EMPLOYMENT PLAN FOR INDIVIDUALS TO ATTAIN THE ESTABLISHED
13 EMPLOYMENT OUTCOMES OR GOALS;

14 (VII) CLOSE THE RECORD OF SERVICES IN A TIMELY MANNER FOR
15 A PERSON WITH A DISABILITY WHO HAS ACHIEVED HIS OR HER
16 EMPLOYMENT OUTCOMES OR GOALS; AND

17 (VIII) ESTABLISH A REVIEW PROCESS TO ALLOW FOR EXCEPTIONS
18 TO THE REQUIREMENTS OF SUBPARAGRAPHS (I) TO (VII) OF THIS
19 PARAGRAPH (a) IN ISOLATED AND UNIQUE CASES, IN ACCORDANCE WITH
20 FEDERAL REGULATIONS.

21 (b) Any goods or services, ~~other than diagnostic, and related~~
22 ~~services~~ EXCLUDING DIAGNOSTIC AND RELATED ASSESSMENT SERVICES
23 (including transportation), required for the determination of eligibility for
24 service and of the nature and scope of the services to be provided,
25 ~~guidance, training, and placement,~~ VOCATIONAL REHABILITATION
26 GUIDANCE, REFERRAL, PERSONAL ASSISTANCE TRAINING, INTERPRETER
27 SERVICES, AND JOB PLACEMENT AND RETENTION, ~~shall~~ MUST be provided

1 at the public cost only to the extent that the ~~individual with disabilities~~
2 PERSON WITH A DISABILITY is found to require financial assistance in
3 accordance with the rules and regulations of the state department.

4 (c) THE STATE DEPARTMENT SHALL DETERMINE A PERSON WITH A
5 DISABILITY'S NEED FOR FINANCIAL ASSISTANCE BASED ON THE PERSON'S
6 NEED AND INCOME, OR THE INCOME OF THE PERSON'S LEGALLY AND
7 FINANCIALLY RESPONSIBLE RELATIVE, IF THE RELATIVE IDENTIFIED THE
8 PERSON AS A DEPENDANT FOR FEDERAL INCOME TAX PURPOSES. THE STATE
9 DEPARTMENT SHALL DETERMINE THE NEED FOR FINANCIAL ASSISTANCE
10 FOR A PERSON WITH A DISABILITY, OR FOR THE PERSON'S LEGALLY AND
11 FINANCIALLY RESPONSIBLE RELATIVE, IF THE RELATIVE IDENTIFIED THE
12 PERSON AS A DEPENDANT FOR FEDERAL INCOME TAX PURPOSES, PRIOR TO
13 PROVIDING VOCATIONAL REHABILITATION SERVICES, EXCEPT FOR
14 DIAGNOSTIC, GUIDANCE, JOB PLACEMENT, AND RELATED SERVICES. THE
15 PERSON WITH A DISABILITY, OR THE PERSON'S LEGALLY AND FINANCIALLY
16 RESPONSIBLE RELATIVE, IF THE RELATIVE IDENTIFIED THE PERSON AS A
17 DEPENDANT FOR FEDERAL INCOME TAX PURPOSES, SHALL CONTRIBUTE
18 TOWARD THE COST OF HIS OR HER VOCATIONAL REHABILITATION SERVICES
19 TO THE EXTENT THAT THE STATE DEPARTMENT DETERMINES THAT HE OR
20 SHE IS FINANCIALLY ABLE; EXCEPT THAT, IF THE PERSON WITH A
21 DISABILITY HAS BEEN DETERMINED ELIGIBLE FOR SOCIAL SECURITY
22 BENEFITS UNDER TITLE II OR XVI OF THE FEDERAL "SOCIAL SECURITY
23 ACT", AS AMENDED, HE OR SHE IS NOT REQUIRED TO CONTRIBUTE TO THE
24 COSTS OF ANY SERVICES PROVIDED.

25 (5) TO THE EXTENT THAT THE STATE DEPARTMENT DETERMINES
26 THAT ANY GOODS OR SERVICES RECEIVED BY THE PERSON WITH A
27 DISABILITY WERE ACQUIRED THROUGH MISREPRESENTATION, FRAUD,

1 COLLUSION, OR CRIMINAL CONDUCT, PAYMENT FOR THOSE GOODS AND
2 SERVICES MAY BE RECOVERED BY THE STATE DEPARTMENT FROM THE
3 PERSON WITH A DISABILITY.

4 **SECTION 3. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.