

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1945



ENROLLED

HOUSE BILL No. 169

(By Mr. Moal Speck)



PASSED July 22nd 1945

In Effect 90 days from Passage

169

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House Bill No. 169

(By MR. SPEAKER, MR. AMOS)

[Passed February 22, 1945; in effect ninety days from passage.]

AN ACT to repeal article nine, chapter nine, and sections six and seven, article ten, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article ten-a, relating to the vocational rehabilitation of handicapped or disabled persons.

Be it enacted by the Legislature of West Virginia:

That article nine, chapter nine, and sections six and seven, article ten, chapter eighteen, of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be designated article ten-a, to read as follows:

Article 10-a. Vocational Rehabilitation.

Section 1. *Definitions.*—As used in this article:

2 (1) “State board” means the state board of vocational
3 education.

4 (2) “Division” means the division of vocational reha-
5 bilitation established by this article.

6 (3) “Director” means the director of the division of
7 vocational rehabilitation.

8 (4) “Employment handicap” means a physical or men-
9 tal condition which constitutes, contributes to, or if not
10 corrected will probably result in, an obstruction to occu-
11 pational performance.

12 (5) “Disabled individual” means any person who has
13 a substantial employment handicap.

14 (6) “Vocational rehabilitation” and “vocational reha-
15 bilitation services” mean any services, provided directly
16 or through public or private instrumentalities, found by
17 the director to be necessary to compensate a disabled in-
18 dividual for his employment handicap, and to enable him
19 to engage in a remunerative occupation including, but not
20 limited to, medical and vocational diagnosis, vocational

21 guidance, counselling and placement, rehabilitation train-
22 ing, physical restoration, transportation, occupational li-
23 censes, customary occupational tools and equipment,
24 maintenance, and training books and materials.

25 (7) "Rehabilitation training" means all necessary
26 training provided to a disabled individual to compensate
27 for his employment handicap including, but not limited to,
28 manual, pre-conditioning, pre-vocational, vocational, and
29 supplementary training and training provided for the
30 purpose of achieving broader or more remunerative skills
31 and capacities.

32 (8) "Physical restoration" means any medical, surgi-
33 cal or therapeutic treatment necessary to correct or sub-
34 stantially reduce a disabled individual's employment
35 handicap within a reasonable length of time including,
36 but not limited to, medical, psychiatric, dental and surgi-
37 cal treatment, nursing services, hospital care not to ex-
38 ceed ninety days, convalescent home care, drugs, medical
39 and surgical supplies, and prosthetic appliances, but ex-
40 cluding curative treatment for acute or transitory con-
41 ditions.

42 (9) "Prosthetic appliance" means any artificial device
43 necessary to support or take the place of a part of the
44 body or to increase the acuity of a sense organ.

45 (10) "Occupational licenses" means any license, per-
46 mit or other written authority required by any govern-
47 mental unit to be obtained in order to engage in an occu-
48 pation.

49 (11) "Maintenance" means money payments not ex-
50 ceeding the estimated cost of subsistence during vocational
51 rehabilitation.

52 (12) "Regulations" means regulations made by the
53 director with the approval of the state board.

Sec. 2. *State Board of Vocational Education; Division*
2 *of Vocational Rehabilitation.*—For the purposes of this
3 article, the state board of education is hereby designated
4 as the state board of vocational education. As such, it is
5 authorized and directed to cooperate with the federal
6 government to the fullest extent in an effort to provide
7 vocational rehabilitation for disabled persons. To this end,
8 there is hereby established in the state board of vocational
9 education a division of vocational rehabilitation.

Sec. 3. *Director of Division of Vocational Rehabilita-*

2 *tion.*—The division shall be administered, under the gen-
3 eral supervision and direction of the state board, by a
4 director appointed by such board in accordance with
5 established personnel standards and on the basis of his
6 education, training, experience, and demonstrated abil-
7 ity.

8 In carrying out his duties under this article the director
9 shall:

10 (1) Appoint, with the approval of the state board,
11 such personnel as he deems necessary for the efficient
12 performance of the functions of the division.

13 (2) Establish a merit system of personnel manage-
14 ment, or in lieu thereof, avail himself of the services of
15 the state merit system upon payment of a fair share of
16 the expenses of the operation of such system.

17 (3) Make regulations governing the protection of rec-
18 ords and confidential information; the manner and form
19 of filing applications for vocational rehabilitation serv-
20 ices, eligibility therefor, and investigation and determi-
21 nation thereof; procedures for fair hearings; and such

22 other matters as may be necessary or desirable in accom-
23 plishing the purposes of this article.

24 (4) Establish, with the approval of the state board,
25 appropriate subordinate administrative units within the
26 division.

27 (5) Prepare and submit to the state board annual re-
28 ports of activities and expenditures and, prior to each
29 regular session of the Legislature, estimates of sums re-
30 quired for carrying out the provisions of this article and
31 estimates of the amounts to be made available for this
32 purpose from all sources.

33 (6) Make requisition for disbursement, in accordance
34 with regulations, of the funds available for vocational re-
35 habilitation purposes.

36 (7) Take such other action, with the approval of the
37 state board, as may be deemed necessary or appropriate
38 to carry out the purposes of this article.

39 In addition to the foregoing, the director may, with
40 the approval of the state board, delegate to any officer or
41 employee of the division such of his powers and duties,
42 except the making of regulations and the appointment of

43 personnel, as may be necessary or appropriate for the
44 purposes of this article.

Sec. 4. *Administration.*—Except as otherwise provided
2 by law, the state board, through the division, shall pro-
3 vide vocational rehabilitation services to disabled indi-
4 viduals determined by the director to be eligible therefor,
5 and for this purpose the division is authorized among
6 other things to:

7 (1) Cooperate with other departments, agencies and
8 institutions, both public and private, in providing for the
9 vocational rehabilitation of disabled individuals, in study-
10 ing the problems involved therein, and in establishing,
11 developing and providing, in conformity with the pro-
12 visions of this article, such programs, facilities and serv-
13 ices as may be necessary or desirable.

14 (2) Enter into reciprocal agreements with any other
15 state to provide for the vocational rehabilitation of resi-
16 dents of such state.

17 (3) Conduct research and compile statistics relating to
18 the vocational rehabilitation of disabled individuals.

Sec. 5. *Cooperation with Federal Government.*—The

2 state board, through the division, shall make agreements
3 or plans to cooperate with the federal government in carry-
4 ing out the purposes of any federal statutes pertaining to
5 vocational rehabilitation and to this end may adopt such
6 methods of administration as are found by the federal
7 government to be necessary for the proper and efficient
8 operation of such agreements or plans for vocational re-
9 habilitation and to comply with such conditions as may
10 be necessary to secure the full benefits of such federal
11 statutes.

Sec. 6. *Receipt and Disbursement of Vocational Reha-*
2 *bilitation Funds.*—The state treasurer is hereby designated
3 as the custodian of all funds received from the federal
4 government under any federal statutes pertaining to vo-
5 cational rehabilitation. The state treasurer shall make
6 disbursements from such funds and from all state funds
7 available for vocational rehabilitation purposes on war-
8 rants of the state auditor, requisitioned as provided in
9 section three of this article.

Sec. 7. *Gifts.*—The director is hereby authorized and
2 empowered. with the approval of the state board, to accept

3 and use gifts made unconditionally by will or otherwise
4 for carrying out the purposes of this article. Gifts made
5 under such conditions as in the judgment of the state
6 board are proper and consistent with the provisions of
7 this article may be so accepted and shall be held, in-
8 vested, reinvested, and used in accordance with the con-
9 ditions of the gift.

Sec. 8. *Eligibility for Vocational Rehabilitation.*—Voca-
2 tional rehabilitation services shall be provided to any
3 disabled individual who is a resident of the state at the
4 time of filing his application therefor, if the director after
5 full investigation shall determine that his rehabilitation
6 can be satisfactorily achieved. Such services shall also
7 be provided to any person who is eligible therefor under
8 the terms of an agreement with another state or with the
9 federal government.

10 Except as otherwise provided by law or as specified in
11 an agreement with the federal government with respect
12 to classes of individuals certified to the state board there-
13 under, the following rehabilitation services shall be pro-
14 vided at public cost only to disabled individuals found to

15 require financial assistance with respect thereto:

16 (1) Physical restoration.

17 (2) Transportation, for any other purpose than that of
18 determining the eligibility of the individual for voca-
19 tional rehabilitation services and the nature and extent
20 of the services necessary.

21 (3) Occupational licenses.

22 (4) Customary occupational tools and equipment.

23 (5) Maintenance.

24 (6) Training books and materials.

25 The rights of a disabled individual under the provisions
26 of this article shall not be transferable or assignable at
27 law or in equity.

Sec. 9. *Hearings.*—Any individual applying for or re-
2 ceiving vocational rehabilitation who is aggrieved by any
3 action or inaction of the division shall be entitled, in ac-
4 cordance with regulations, to a fair hearing by the state
5 board.

Sec. 10. *Misuse of Vocational Rehabilitation Lists and*
2 *Records.*—It shall be unlawful, except for purposes di-
3 rectly connected with the administration of the vocational

4 rehabilitation program and in accordance with regula-
5 tions, for any person or persons to solicit, disclose, re-
6 ceive, or make use of, or authorize, knowingly permit,
7 participate in, or acquiesce in the use of, any list of, or
8 names of, or any information concerning, persons apply-
9 ing for or receiving vocational rehabilitation, directly or
10 indirectly derived from the records, papers, files, or com-
11 munications of the state or subdivisions or agencies there-
12 of, or acquired in the course of the performance of offi-
13 cial duties.

14 Any person who violates any of the provisions of this
15 section shall be guilty of a misdemeanor, and upon con-
16 viction thereof shall be fined not less than fifty dollars nor
17 more than five hundred dollars, or imprisoned for not less
18 than thirty days nor more than ninety days, or both
19 such fine and imprisonment, in the discretion of the court.

20 Sec. 11. *Limitation on Political Activity.*—No officer or
21 employee engaged in the administration of the voca-
22 tional rehabilitation program shall use his official author-
23 ity or influence or permit the use of the vocational reha-
24 bilitation program for the purpose of interfering with an

6 election or affecting the result thereof or for any partisan
7 political purpose. No such officer or employee shall take
8 an active part in the management of political campaigns
9 or participate in any political activity, except that he
10 shall retain the right to vote as he may please and to ex-
11 press his opinions as a citizen on all subjects. No such
12 officer or employee shall solicit or receive, nor shall any
13 such officer or employee be obliged to contribute or ren-
14 der, any service, assistance, subscription, assessment, or
15 contribution for any political purpose. Any officer or em-
16 ployee violating this provision shall be discharged.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Charles C. Morris
Chairman Senate Committee

Jade G. Gentry
Chairman House Committee

Originated in the *House*

Takes effect *90 days from* passage.

Thomas Hayes
Clerk of the Senate

J. Kliff
Clerk of the House of Delegates

Donald M. Tucker
President of the Senate

John C. Amos
Speaker House of Delegates

The within *Approved* this the *2nd*

day of *March*, 1945.

Robert C. Byrd
Governor.



Filed in the office of the Secretary of State
of West Virginia **MAR 2 1945**
Wm. S. O'Brien,
Secretary of State