

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1969

ENROLLED

SENATE BILL NO. 218

(By Mr. Jackson, Mr. President,  
and Mr. Brotherton)

PASSED March 7, 1969

In Effect July 1, 1969 ~~Passage~~

#218

FILED IN THE OFFICE  
JOHN D. LOCKERILLER, IV  
SECRETARY OF STATE

THIS DATE 3-17-69

**ENROLLED**  
**Senate Bill No. 218**

(By MR. JACKSON, MR. PRESIDENT, and MR. BROTHERTON)

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[Passed March 7, 1969; in effect July 1, 1969.]

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AN ACT to amend and reenact sections one and eight, article ten-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto a new section, designated section twelve; and to amend and reenact sections one, two, three, four, five, six, seven and eight, article ten-b, all of said chapter eighteen, all relating to vocational rehabilitation and vocational rehabilitation centers and workshops.

*Be it enacted by the Legislature of West Virginia:*

That sections one and eight, article ten-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that

said article be further amended by adding thereto a new section, designated section twelve; and that sections one, two, three, four, five, six, seven and eight, article ten-b, all of said chapter eighteen, be amended and reenacted, all to read as follows:

**ARTICLE 10A. VOCATIONAL REHABILITATION.**

**§18-10A-1. Definitions.**

1 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 occupa-  
11 tional performance.

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

14 (6) "Vocational rehabilitation" and "vocational re-  
15 habilitation services" mean any services, provided di-  
16 rectly or through public or private instrumentalities,  
17 found by the director to be necessary to compensate a  
18 disabled individual for his employment handicap, and to  
19 enable him to engage in a remunerative occupation includ-  
20 ing, but not limited to, medical and vocational diagnosis,  
21 vocational guidance, counselling and placement, rehabili-  
22 tation training, physical restoration, transportation, occu-  
23 pational licenses, customary occupational tools and  
24 equipment, maintenance, and training books and ma-  
25 terials.

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

33 (8) "Physical restoration" means any medical, surgical  
34 or therapeutic treatment necessary to correct or sub-

35   stantially reduce a disabled individual's employment  
36   handicap within a reasonable length of time including,  
37   but not limited to, medical, psychiatric, dental and surgical  
38   treatment, nursing services, hospital care, convalescent  
39   home care, drugs, medical and surgical supplies, and  
40   prosthetic appliances, but excluding curative treatment  
41   for acute or transitory conditions.

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, permit  
46   or other written authority required by any governmental  
47   unit to be obtained in order to engage in an occupation.

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

51   (12) "Regulations" means regulations made by the di-  
52   rector with the approval of the state board.

**§18-10A-8. Eligibility for vocational rehabilitation.**

1    Vocational rehabilitation services shall be provided to  
2    any disabled individual who is present in the state at the

3 time of filing his application therefor, if the director after  
4 full investigation shall determine that his rehabilitation  
5 can be satisfactorily achieved. Such services shall also  
6 be provided to any person who is eligible therefor under  
7 the terms of an agreement with another state or with the  
8 federal government.

9 Except as otherwise provided by law or as specified  
10 in an agreement with the federal government with re-  
11 spect to classes of individuals certified to the state board  
12 thereunder, the following rehabilitation services shall be  
13 provided at public cost only to disabled individuals found  
14 to require financial assistance with respect thereto:

15 (1) Physical restoration.

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

20 (3) Occupational licenses.

21 (4) Customary occupational tools and equipment.

22 (5) Maintenance.

23 (6) Training books and materials.

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

**§18-10A-12. Vocational evaluation and work adjustment pro-  
gram for disadvantaged individuals.**

1 The state board of vocational education is authorized  
2 and directed to cooperate with the federal government in  
3 providing vocational evaluation and work adjustment  
4 services to disadvantaged individuals.

5 "Vocational evaluation and work adjustments services"  
6 include, as appropriate in each case, such services as:

7 (a) A preliminary diagnostic study to determine that  
8 the individual is disadvantaged, has an employment  
9 handicap, and that services are needed;

10 (b) A thorough diagnostic study consisting of a com-  
11 prehensive evaluation of pertinent medical, psychological,  
12 vocational, educational, cultural, social, and environ-  
13 mental factors which bear on the individual's handicap  
14 to employment and rehabilitation potential including, to  
15 the degree needed, an evaluation of the individual's per-  
16 sonality, intelligence level, educational achievements,

17 work experience, vocational aptitudes and interests, per-  
18 sonal and social adjustments, employment opportunities,  
19 and other pertinent data helpful in determining the nature  
20 and scope of services needed;

21 (c) Services to appraise the individual's patterns of  
22 work behavior and ability to acquire occupational skills,  
23 and to develop work attitudes, work habits, work toler-  
24 ance, and social and behavior patterns suitable for suc-  
25 cessful job performance, including the utilization of work,  
26 simulated or real, to assess and develop the individual's  
27 capacities to perform adequately in a work environment;

28 (d) Any other goods or services provided to a disad-  
29 vantaged individual, determined (in accordance with  
30 regulations of the federal government) to be necessary  
31 for, and which are provided for the purpose of, ascertain-  
32 ing the nature of the handicap to employment and wheth-  
33 er it may reasonably be expected the individual can bene-  
34 fit from vocational rehabilitation services or other serv-  
35 ices available to disadvantaged individuals;

36 (e) Outreach, referral, and advocacy; and

37 (f) The administration of these evaluation and work  
38 adjustment services.



39 As used in this section, the term “disadvantaged in-  
40 dividuals” means (1) disabled individuals as defined in  
41 subdivision five, section one of this article, (2) individuals  
42 disadvantaged by reason of their youth or advanced age,  
43 low educational attainments, ethnic or cultural factors,  
44 prison or delinquency records, or other conditions which  
45 constitute a barrier to employment, and (3) other mem-  
46 bers of their families when the provision of vocational  
47 rehabilitation services to family members is necessary  
48 for the rehabilitation of the individual described in sub-  
49 division one or two above.

**ARTICLE 10B. VOCATIONAL REHABILITATION FACILITIES.**

**§18-10B-1. Definitions.**

1 As used in this article:

2 (1) “Vocational rehabilitation facility” means a facility  
3 which is operated for the primary purpose of providing  
4 vocational rehabilitation services to, or gainful employ-  
5 ment for, handicapped individuals, or, for providing  
6 evaluation and work adjustment services for disadvan-  
7 tagged individuals, and which provides singly or in com-  
8 bination one or more of the following services for handi-

9 capped individuals: (a) Comprehensive rehabilitation serv-  
10 ices which shall include, under one management, medical,  
11 psychological, social, and vocational services; (b) testing,  
12 fitting, or training in the use of prosthetic and orthopedic  
13 devices; (c) provocational conditioning or recreational  
14 therapy; (d) physical and occupational therapy; (e)  
15 therapy for speech and hearing pathology; (f) psycho-  
16 logical and social services; (g) evaluation; (h) personal  
17 and work adjustment; (i) vocational training (in com-  
18 bination with other rehabilitation services); (j) evalua-  
19 tion or control of special disabilities; and (k) extended  
20 employment for the severely handicapped who cannot  
21 be readily absorbed in the competitive labor market;  
22 but all medical and related health services must be pre-  
23 scribed by, or under the formal supervision of, persons  
24 licensed to practice medicine or surgery in the state.

25 (2) "Workshop" means a particular type of vocational  
26 rehabilitation facility where any manufacture or handi-  
27 work is carried on and which is operated by a public  
28 agency or by a private corporation or association, no  
29 part of the net earnings of which inures or may lawfully

30 inure to the benefit of any private shareholder or indi-  
31 vidual, or by a cooperative, for the primary purpose of  
32 providing remunerative employment to disabled persons  
33 (a) as an interim step in the rehabilitation process for  
34 those who cannot be readily absorbed in the competi-  
35 tive labor market; or (b) during such time as employ-  
36 ment opportunities for them in the competitive labor  
37 market do not exist; or (c) for providing vocational  
38 evaluation and work adjustment services for disadvan-  
39 tagged persons.

40 (3) "Cooperative" means an association, or member-  
41 ship corporation, whose membership is limited to disabled  
42 individuals and which is organized and operated on a co-  
43 operative basis for the exclusive benefit of its members  
44 and, by its charter or bylaws, is required to divide any  
45 profits, realized from the operation of workshops oper-  
46 ated by it and not reinvested in such workshops, among  
47 its disabled members actually working therein.

48 (4) "Nonprofit institution" means a corporation or  
49 association no part of the net earnings of which inures,  
50 or may lawfully inure, to the benefit of any private share-  
51 holder or individual.

52 (5) "State board," "division," and "director" shall  
53 have the same meaning as in article ten-a of this code.

**§18-10B-2. Establishment of state vocational rehabilitation  
facilities.**

1 The state board, through the division, is authorized and  
2 empowered to establish, operate, and maintain vocational  
3 rehabilitation facilities: *Provided*, That to establish voca-  
4 tional rehabilitation facilities includes the acquisition by  
5 purchase, lease, gift, or otherwise, of necessary lands, and  
6 the construction, expansion, remodeling, or alteration and  
7 equipment of necessary buildings; or, for any particular  
8 facility, the making of contracts and agreements with any  
9 state, county, or municipal agency, or nonprofit institution  
10 providing for the equipment, operation or maintenance  
11 by the state board, through the division, of any facility  
12 of such agency or institution in accordance with, and for  
13 the purpose of this article: *Provided further*, That not-  
14 withstanding any other provisions of law, the state board,  
15 through the division, shall, itself, properly operate, main-  
16 tain, repair, and manage and control the fiscal affairs of  
17 vocational rehabilitation facilities established pursuant to

18 this section: *Provided further*, That the state board,  
19 through the division, is authorized and empowered to  
20 make and enter into all contracts and agreements neces-  
21 sary and incidental to the performance of its powers and  
22 duties under this section, in connection with which it is  
23 also authorized and empowered to cooperate with other  
24 agencies of the state.

**§18-10B-3. Establishment of local vocational rehabilitation  
facilities.**

1 Counties and municipalities in accordance with rules,  
2 regulations and standards made and adopted by the di-  
3 rector, individually or jointly with any one or more such  
4 counties or municipalities are authorized and empowered  
5 to establish, operate, and maintain necessary vocational  
6 rehabilitation facilities for disabled persons: *Provided*,  
7 That to establish vocational rehabilitation facilities in-  
8 cludes the acquisition by purchase, lease, gift, or other-  
9 wise, of necessary lands, and the construction, expansion,  
10 remodeling, or alteration and equipment of necessary  
11 buildings.

**§18-10B-4. Rules and regulations.**

1 The director shall make and adopt rules, regulations,  
2 and standards for the establishment, operation and main-  
3 tenance, government and control of vocational rehabilita-  
4 tion facilities established pursuant to this article, includ-  
5 ing such rules, regulations and standards as may be neces-  
6 sary for cooperation under and compliance with any exist-  
7 ing or future federal statutes pertaining to grants-in-aid  
8 for vocational rehabilitation facilities.

**§18-10B-5. Cooperation with federal government in vocational  
rehabilitation facility program.**

1 The state board, through the division, is hereby desig-  
2 nated the sole state agency to cooperate with the federal  
3 government in any federal program relating to the estab-  
4 lishment, operation and maintenance of vocational re-  
5 habilitation facilities; and is hereby authorized and em-  
6 powered to adopt and supervise the administration of  
7 such a statewide plan, or such statewide plans, for the  
8 establishment of vocational rehabilitation facility or work-  
9 shop programs as may be necessary to comply with the  
10 requirements and conditions of federal law with respect  
11 to federal grants-in-aid for such purposes.

**§18-10B-6. Cooperation with state department of health.**

1 The state board, through the division, and the state  
2 department of health shall cooperate to assure coordina-  
3 tion of the vocational rehabilitation facility program  
4 under this article with the hospital construction program  
5 provided for under chapter sixteen, article one, section  
6 fourteen of the code of West Virginia, one thousand nine  
7 hundred thirty-one, as amended.

**§18-10B-7. Personnel.**

1 The director shall appoint in accordance with chapter  
2 eighteen, article ten-a, section five of the code of West  
3 Virginia, one thousand nine hundred thirty-one, as  
4 amended, all personnel he deems necessary for the effi-  
5 cient and economical operation and maintenance of voca-  
6 tional rehabilitation facilities established, operated and  
7 maintained pursuant to section two of this article.

**§18-10B-8. Advisory committee.**

1 There shall be an advisory committee of not less than  
2 five and not more than ten members to serve as advisors  
3 and consultants to the director of the division. The com-  
4 mittee shall meet at least twice each year and at the call

5 of the director of the division. The members of the com-  
6 mittee shall annually elect one of its members to serve as  
7 chairman.

8 The advisory committee shall be appointed by the di-  
9 rector, by and with the advice and consent of the state  
10 board, and shall include among its members representa-  
11 tives of state and nongovernmental agencies concerned  
12 with the establishment, operation or utilization of voca-  
13 tional rehabilitation services and facilities, and at least  
14 one of the members shall be a person well versed in  
15 problems related to employment of the disabled.

16 The members shall serve for five-year terms, or until  
17 replaced, except that in the first year one fifth of the  
18 members shall be named for a one-year term, one fifth  
19 for a two-year term, one fifth for a three-year term, one  
20 fifth for a four-year term, and one fifth for a five-year  
21 term. Thereafter each member shall be appointed for  
22 five years or until his successor is appointed. In the case  
23 of a vacancy the appointee shall serve the remainder of  
24 the unexpired term.



25 Members of the advisory committee shall be eligible  
26 to succeed themselves. Members of the advisory com-  
27 mittee shall serve without compensation but shall be  
28 entitled to reimbursement for all reasonable and neces-  
29 sary expenses actually incurred in the performance of  
30 the duties of their office.

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

*William Tompax*  
Chairman Senate Committee

*Clayton C. Davidson*  
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1969.

*J. Howard Myers*  
Clerk of the Senate

*W. A. Blankenship*  
Clerk of the House of Delegates

*Leahy G. Jackson*  
President of the Senate

*Sam F. Boushey*  
Speaker House of Delegates

The within *approved* this the *17<sup>th</sup>*  
day of *March*, 1969.

*Arch. H. Shreve, Jr.*  
Governor



PRESENTED TO THE  
GOVERNOR

Date 3/12/69  
Time 2:45 p.m.