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Interpreter Services for the Hearing Impaired



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CHAPTER 413 EMPLOYMENT AND RELATED SERVICES FOR PERSONS WITH DISABILITIES

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PART I BLIND SERVICES PROGRAM

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413.011 Division of Blind Services, legislative policy, intent; internal organizational structure and powers; Rehabilitation Council for the Blind.—

(1) POLICY.—It is the policy of the Legislature that all programs, projects, and activities of the division are to be carried out in a manner consistent with the following principles:

- (a) Respect for individual dignity, personal responsibility, self-determination to live independently, and pursuit of meaningful careers, based on informed choice;
- (b) Support for the involvement of an individual's representative if an individual requests, desires, or needs such support;
- (c) Respect for the individual's privacy and equal access, including the use of information in accessible formats; and
- (d) Integration and full participation of individuals who are blind in society on equal terms with others.

(2) PROGRAM OF SERVICES.—It is the intent of the Legislature to establish a coordinated program of services which will be available to individuals throughout this state who are blind. The program must be designed to maximize employment opportunities for such individuals and to increase their independence and self-sufficiency.

(3) DIVISION STRUCTURE AND DUTIES.—The internal organizational structure of the Division of Blind Services shall be designed for the purpose of ensuring the greatest possible efficiency and effectiveness of services to the blind and to be consistent with chapter 20. The Division of Blind Services shall plan, supervise, and carry out the following activities:

- (a) Recommend personnel as may be necessary to carry out the purposes of this section.
- (b) Develop and implement a state plan for vocational rehabilitation services for individuals who are blind, pursuant to s. 101 of the Rehabilitation Act of 1973, as amended.
- (c) In conjunction with the Florida Independent Living Council, develop and implement a 3-year state plan for independent living services and provide independent living services for blind and visually impaired individuals, including services for older individuals who are blind, pursuant to Title VII, chapter 2 of the Rehabilitation Act of 1973, as amended.
- (d) Provide services that contribute to the maintenance of or the increased independence of older individuals who are blind.
- (e) Establish, equip, and maintain an orientation and adjustment center or centers to provide independent living skills training and other training such as, but not limited to, instruction in braille; use of the long white cane for independent travel; homemaking and home-management skills; and communication skills, including the use of computer technology, to prepare individuals who are blind or visually impaired for eventual vocational training, job placement, and independence.
- (f) Establish and implement a small business enterprises program and serve as the state licensing agency for individuals who are blind, pursuant to the federal Randolph-Sheppard Act.
- (g) Purchase and distribute specialized equipment, devices, and technology, including low-vision aids, obtained directly from specialty vendors without using state centralized purchasing procedures.
- (h) In cooperation with the Library of Congress, provide library services to persons who are blind and persons who have other print-related disabilities.
- (i) In cooperation with other appropriate agencies, provide to employers, the state education agency, and local education agencies technical assistance in the provision of auxiliary aids and services to people who are blind, students, and their parents in complying with the Americans with Disabilities Act and the Individuals with Disabilities Education Act, as amended.
- (j) Provide technical assistance to agencies within the state in order to assure that information technology purchased or used by such agencies is accessible to and usable by individuals who are blind, at the time the technology is purchased or used.
- (k) Participate, through the designation of the director or an appropriate staff member of the division, on boards, commissions, or bodies in this state for the purpose of coordinating and planning services.
- (l) Adopt rules for administering the programs of the division.
- (m) Apply for and receive money from any state or federal agency to support the programs of the division.
- (n) Develop and administer any other program that will further the provision of services to people who are blind and that the division determines falls within its scope of responsibility.
- (o) Inquire into the cause of blindness, inaugurate preventive measures, and provide for the examination and treatment of the blind, or those threatened with blindness, for the benefit of such persons, and shall pay therefor, including necessary incidental expenses.
- (p) Aid the blind in finding employment, teach them trades and occupations within their capacities, assist them in disposing of products made by them in home industries, assist them in obtaining funds for establishing enterprises where federal funds reimburse the state, and do such things as will contribute to the efficiency of self-support of the blind.

(q) Establish one or more training schools and workshops for the employment of suitable blind persons; make expenditures of funds for such purposes; receive moneys from sales of commodities involved in such activities and from such funds make payments of wages, repairs, insurance premiums, and replacements of equipment. All of the activities provided for in this section may be carried on in cooperation with private workshops for the blind, except that all tools and equipment furnished by the division shall remain the property of the state.

(r) Provide special services and benefits for the blind for developing their social life through community activities and recreational facilities.

(s) Undertake such other activities as may ameliorate the condition of blind citizens of this state.

(t) Cooperate with other agencies, public or private, especially the National Library Service for the Blind and Physically Handicapped of the Library of Congress and the Division of Library and Information Services of the Department of State, to provide library service to persons with visual, physical, or reading disabilities as defined in federal law and regulations in carrying out any or all of the provisions of this law.

(u) Recommend contracts and agreements with federal, state, county, municipal and private corporations, and individuals.

(v) Receive moneys or properties by gift or bequest from any person, firm, corporation, or organization for any of the purposes herein set out, but without authority to bind the state to any expenditure or policy except such as may be specifically authorized by law. All such moneys or properties so received by gift or bequest as herein authorized may be disbursed and expended by the division upon its own warrant for any of the purposes herein set forth, and such moneys or properties shall not constitute or be considered a part of any legislative appropriation made by the state for the purpose of carrying out the provisions of this law. When determined to be in the best interest of the division, the division may lease property received pursuant to this paragraph, and the Department of Education may enter into leases of property and sublease property on behalf of the division. Division and department leases and subleases may be to governmental, public, or nonprofit entities for the provision of blind, education, health, and other social service programs.

(w) Prepare and make available to the blind, in braille and on electronic recording equipment, Florida Statutes chapters 20, 120, 121, and 413, in their entirety.

(x) Adopt by rule:

1. Procedures for providing vocational rehabilitation services for the blind; and
2. Instructions to be used by the division in its general administration.

(4) DEFINITIONS.—As used in this section, the term:

(a) “Act,” unless the context indicates otherwise, means the Rehabilitation Act of 1973, 29 U.S.C. ss. 701-797.

(b) “Blind” or “blindness” means the condition of any person for whom blindness is a disability as defined by the Rehabilitation Act of 1973, 29 U.S.C. s. 706(8)(b).

(c) “Department” means the Department of Education.

(5) CHILDREN’S PROGRAM.—There is created within the Division of Blind Services a children’s program to serve children who are blind from 5 years of age through transition to the Vocational Rehabilitation Program. This program must supplement services already offered by the school system to foster the child’s learning and ability to function independently. The child’s parents, guardian, and family members should be an integral part of the program in order to foster independence.

(6) FUNDING.—A state agency may use funds from all possible sources to make accommodations for individuals who are blind.

(7) EMPLOYMENT SCREENING.—The division shall require all employees and applicants for employment to undergo personnel screening and security background investigations as provided in chapter 435, using the level 2 standards for screening set forth in that chapter, as a condition of employment and continued employment. All division employees and applicants for employment must meet level 2 screening standards as provided in s. 435.04 prior to employment and as a condition of continued employment.

(8) REHABILITATION COUNCIL FOR THE BLIND.—There is created in the department the Rehabilitation Council for the Blind, which is an advisory council as defined in s. 20.03, to assist the division in the planning and development of statewide vocational rehabilitation programs and services pursuant to the Rehabilitation Act of 1973, as amended, to recommend improvements to such programs and services, and to perform the functions provided in this section.

- (a) The advisory council shall be composed of:
1. At least one representative of the Independent Living Council, which representative may be the chair or other designee of the council;
 2. At least one representative of a parent training and information center established pursuant to s. 631(c)(9) of the Individuals with Disabilities Act, 20 U.S.C. s. 1431(c)(9);
 3. At least one representative of the client assistance program established under the act;
 4. At least one vocational rehabilitation counselor who has knowledge of and experience in vocational rehabilitation services for the blind, who shall serve as an ex officio nonvoting member of the council if the counselor is an employee of the department;
 5. At least one representative of community rehabilitation program service providers;
 6. Four representatives of business, industry, and labor;
 7. At least one representative of a disability advocacy group representing individuals who are blind;
 8. At least one parent, family member, guardian, advocate, or authorized representative of an individual who is blind, has multiple disabilities, and either has difficulties representing himself or herself or is unable, due to disabilities, to represent himself or herself;
 9. Current or former applicants for, or recipients of, vocational rehabilitation services; and
 10. The director of the division, who shall be an ex officio member of the council.
- (b) Members of the council shall be appointed by the Governor, who shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals who have disabilities, and organizations interested in those individuals.
- (c) A majority of council members shall be persons who are:
1. Blind; and
 2. Not employed by the division.
- (d) The council shall select a chair from among its membership.
- (e) Each member of the council shall serve for a term of not more than 3 years, except that:
1. A member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of such term; and
 2. The terms of service of the members initially appointed shall be, as specified by the Governor, for such fewer number of years as will provide for the expiration of terms on a staggered basis.
- (f) A member of the council may not serve more than two consecutive full terms.
- (g) Any vacancy occurring in the membership of the council shall be filled in the same manner as the original appointment. A vacancy does not affect the power of the remaining members to execute the duties of the council.
- (h) In addition to the other functions specified in this section, the council shall:
1. Review, analyze, and advise the division regarding the performance of the responsibilities of the division under Title I of the act, particularly responsibilities relating to:
 - a. Eligibility, including order of selection;
 - b. The extent, scope, and effectiveness of services provided; and
 - c. Functions performed by state agencies that affect or potentially affect the ability of individuals who are blind to achieve rehabilitation goals and objectives under Title I.
 2. Advise the department and the division, and, at the discretion of the department or division, assist in the preparation of applications, the state plan, the strategic plan, and amendments to the plans, reports, needs assessments, and evaluations required by Title I.
 3. To the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with:
 - a. The functions performed by state agencies and other public and private entities responsible for performing functions for individuals who are blind.
 - b. Vocational rehabilitation services:
 - (I) Provided or paid for from funds made available under the act or through other public or private sources.
 - (II) Provided by state agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals who are blind.
 4. Prepare and submit an annual report on the status of vocational rehabilitation services for the blind in the state to the Governor and the Commissioner of the Rehabilitative Services Administration, established under s. 702 of the act, and make the report available to the public.
 5. Coordinate with other councils within the state, including the Independent Living Council, the advisory panel established under s. 613(a)(12) of the Individuals with Disabilities Education Act, 20 U.S.C. 1413(a)(12), the State Planning Council described in s. 124 of the Developmental

Disabilities Assistance and Bill of Rights Act, 42 U.S.C. s. 6024, and the state mental health planning council established under s. 1916(e) of the Public Health Service Act, 42 U.S.C. 300X-4(e).

6. Advise the department and division and provide for coordination and the establishment of working relationships among the department, the division, the Independent Living Council, and centers for independent living in the state.

7. Perform such other functions consistent with the purposes of the act as the council determines to be appropriate that are comparable to functions performed by the council.

(i)1. The council shall prepare, in conjunction with the division, a plan for the provision of such resources, including such staff and other personnel, as may be necessary to carry out the functions of the council. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

2. If there is a disagreement between the council and the division in regard to the resources necessary to carry out the functions of the council as set forth in this section, the disagreement shall be resolved by the Governor.

3. The council shall, consistent with law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions.

4. While assisting the council in carrying out its duties, staff and other personnel shall not be assigned duties by the division or any other state agency or office that would create a conflict of interest.

(j) A council member may not cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under state law.

(k) The council shall convene at least four meetings each year. These meetings shall occur in such places as the council deems necessary to conduct council business. The council may conduct such forums or hearings as the council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the public. The council shall make a report of each meeting which shall include a record of its discussions and recommendations, all of which reports shall be made available to the public.

History.—s. 1, ch. 20714, 1941; s. 1, ch. 21779, 1943; ss. 20, 34, ch. 26937, 1951; s. 1, ch. 61-210; s. 19, ch. 63-400; s. 1, ch. 67-463; ss. 10, 19, 35, ch. 69-106; s. 116, ch. 71-355; s. 157, ch. 71-377; s. 2, ch. 77-259; s. 4, ch. 78-323; ss. 1, 2, 3, ch. 81-58; ss. 1, 4, ch. 82-46; s. 2, ch. 83-265; s. 66, ch. 86-163; s. 2, ch. 88-303; s. 1, ch. 91-12; s. 10, ch. 91-49; ss. 1, 2, 3, ch. 91-52; s. 5, ch. 91-429; s. 8, ch. 95-327; s. 263, ch. 96-406; s. 1028, ch. 97-103; s. 2, ch. 98-19; s. 2, ch. 98-149; s. 7, ch. 2004-331; s. 4, ch. 2011-63.

Note.—Former s. 409.26.

413.0111 Blind services direct-support organization. —

(1) As used in this section, the term “direct-support organization” means a not-for-profit corporation incorporated under chapter 617 and organized and operated to conduct programs and activities; initiate developmental projects; raise funds; request and receive grants, gifts, and bequests of moneys; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the state and for blind persons in this state.

(2)(a) The Division of Blind Services is authorized to organize and incorporate a direct-support organization pursuant to the requirements of this section and chapter 617 to accomplish the purposes and objectives set forth in this section.

(b) The first board of seven members of the direct-support organization shall be appointed by the Governor. Two members shall be appointed to serve 2-year terms, three members shall be appointed to serve 3-year terms, and two members shall be appointed to serve 4-year terms. Thereafter, the board shall be self-appointed according to the established bylaws.

(c) The director of the division or his or her designee shall serve as an ex officio member of the board of the direct-support organization.

(d) The direct-support organization is subject to the requirements of s. 24, Art. I of the State Constitution, chapter 119, and s. 286.011.

(e) Upon the dissolution of the corporation, all properties of the corporation revert to the division.

(f) The direct-support organization shall maintain donations and direct service expenditures in a bank account outside of the State Treasury.

(g) Any administrative costs of running and promoting the purposes of the corporation must be paid by private funds.

(3) The purposes and objectives of the direct-support organization must be consistent with the priority issues and objectives of the Department of Education and must be in the best

interests of the state, though the Division of Blind Services may permit, without charge, the appropriate use of property and facilities of the state by the direct-support organization subject to this section. Such use must be directly in keeping with the approved purposes of the direct-support organization.

(4) Funds designated for the direct-support organization must be used for the enhancement of programs and projects of the Division of Blind Services. All moneys received by the direct-support organization must be deposited into an account of the direct-support organization and must be used by the organization in a manner consistent with the purposes and goals of the direct-support organization.

(5) The direct-support organization shall comply with the audit requirements of s. 215.981.

(6) The director of the Division of Blind Services may designate employees of the division to solicit donations from public or private sources to fund the authorized purposes of the direct-support organization.

(7) This section is repealed October 1, 2017, unless reviewed and saved from repeal by the Legislature.

History.—s. 12, ch. 2004-331; s. 18, ch. 2014-96.

413.0115 State Board of Administration; authorization to invest division's portfolio.—The State Board of Administration may invest and reinvest the portfolio of stocks, bonds, and mutual funds held by the Division of Blind Services in accordance with the trust agreement approved by the Division of Blind Services and the State Board of Administration and the provisions of ss. 215.44-215.53. The director of the Division of Blind Services shall make the portfolio available and shall transfer it to the State Board of Administration for investment.

History.—s. 13, ch. 98-47.

413.012 Confidential records disclosure prohibited; exemptions.—

(1) All records furnished to the Division of Blind Services in connection with state or local vocational rehabilitation programs and containing information as to personal facts about applicants or clients given or made available to the state or local vocational rehabilitation agency or its representatives or employees in the course of the administration of the program, including lists of names and addresses and records of evaluations of clients, are confidential and exempt from the provisions of s. 119.07(1).

(2) It is unlawful for any person to disclose, authorize the disclosure, solicit, receive, or make use of any list of names and addresses or any record containing any information set forth in subsection (1) and maintained in the division. The prohibition provided for in this subsection shall not apply to the use of such information for purposes directly connected with the administration of the vocational rehabilitation program or with the monthly dispatch to the Division of Motorist Services of the Department of Highway Safety and Motor Vehicles of the name in full, place and date of birth, sex, social security number, and resident address of individuals with central visual acuity 20/200 or less in the better eye with correcting glasses, or a disqualifying field defect in which the peripheral field has contracted to such an extent that the widest diameter or visual field subtends an angular distance no greater than 20 degrees. When requested in writing by an applicant or client, or her or his representative, the Division of Blind Services shall release confidential information to the applicant or client or her or his representative.

(3) Any person who violates a provision of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 65-507; ss. 19, 35, ch. 69-106; s. 1, ch. 71-41; s. 356, ch. 71-136; s. 289, ch. 77-147; s. 3, ch. 77-259; s. 173, ch. 79-400; s. 2, ch. 91-12; s. 77, ch. 91-224; s. 264, ch. 96-406; s. 1029, ch. 97-103; s. 29, ch. 2011-66.

413.013 Destruction of records.—The Division of Blind Services may authorize the destruction of any correspondence, documents, or other records when the subject matter involved has been closed or terminated and their preservation is not required by federal or state law, rule, or regulation. No such material shall be destroyed unless specific authority is given by the division and unless said records have been in the possession of the division 5 or more years prior to their destruction.

History.—s. 1, ch. 65-508; ss. 19, 35, ch. 69-106; s. 290, ch. 77-147; s. 4, ch. 77-259; s. 174, ch. 79-400.

413.014 Community rehabilitation programs.—The Division of Blind Services shall enter into cooperative agreements with community rehabilitation programs as defined by the Rehabilitation Act of 1973, as amended, to be the service providers for the blind citizens of their communities. The division shall, as rapidly as feasible, increase the amount of such

services provided by community rehabilitation programs. The goal shall be to decrease the amount of such services provided by division employees and to increase to the maximum extent allowed by federal law the amount of such services provided through cooperative agreements with community service providers. The division shall seek, to the maximum extent allowed by federal and state law and regulation, all available federal funds for such purposes. Funds and in-kind matching contributions from community and private sources shall be used to maximize federal funds. Unless prohibited by federal law or regulation, the share of the federal vocational rehabilitation grant apportioned for services to the blind may not be less than 17 percent.

History.—s. 16, ch. 95-327; s. 8, ch. 2004-331.

413.021 Products and services by blind persons; sale, exhibition regulated.—

(1) When appearing in the Florida Statutes “blind person” shall mean an individual having central visual acuity 20/200 or less in the better eye with correcting glasses, or a disqualifying field defect in which the peripheral field has contracted to such an extent that the widest diameter or visual field subtends an angular distance no greater than 20 degrees.

(2) For the purposes of the Florida Statutes no representation shall be made that a product or service is “blind-made” unless the manufacturer employs blind persons to an extent constituting not less than 75 percent of the total hours worked by personnel engaged in the direct labor of production of manufactured blind-made products, or services. Direct labor production shall mean all work required for the preparation, processing and packing but not including supervision, administration, inspection and shipping, or the production of the materials from which the finished product is manufactured.

(3) No person or organization shall sell, distribute, or exhibit any product or service which purports or is advertised to be “blind-made,” unless the Division of Blind Services shall certify that such product or service complies with the provisions of subsection (2).

(4) Any person, including the officers, owners, or members of any corporation or organization that violates the provisions of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—ss. 1, 2, 3, 4, ch. 28029, 1953; s. 2, ch. 61-210; ss. 19, 35, ch. 69-106; s. 357, ch. 71-136; s. 291, ch. 77-147; s. 5, ch. 77-259; s. 78, ch. 91-224.

Note.—Former ss. 413.09, 409.261.

413.031 Products, purchase by state agencies and institutions.—

(1) DEFINITIONS.—When used in this section:

(a) “Accredited nonprofit workshop” means a Florida workshop which has been certified by either the Division of Blind Services, for workshops concerned with blind persons, or the Department of Children and Families, when other handicapped persons are concerned, and such “workshop” means a place where any article is manufactured or handwork is carried on and which is operated for the primary purpose of providing employment to severely handicapped individuals, including the blind, who cannot be readily absorbed in the competitive labor market.

(b) “Handicapped” means an individual so severely disabled physically, or mentally, as to be unable to enter private industry on a competitive basis, but who can be made employable through an accredited nonprofitmaking agency for the handicapped, and which individual is over the age of 16 years.

(2) State institutions and agencies shall, where possible, purchase brooms, mops, rugs, rubber mats and other supplies (other than the products of prison labor) from sheltered Florida workshops operated by accredited nonprofit corporations, provided that such goods and supplies are of standard quality and price.

(3) When convenience or emergency requires it, the Department of Children and Families may upon request of the purchasing officer of any institution or agency relieve her or him from the obligation of this section.

(4) No state agency or institution shall purchase products or supplies purporting to be made by physically handicapped persons in workshops not certified under the provisions of this section.

(5) Any purchasing officer who violates the provisions of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 29663, 1955; s. 2, ch. 61-210; ss. 19, 35, ch. 69-106; s. 358, ch. 71-136; s. 6, ch. 77-259; s. 9, ch. 79-12; s. 175, ch. 79-400; s. 79, ch. 91-224; s. 52, ch. 97-103; s. 199, ch. 99-8; s. 220, ch. 2014-19.

Note.—Former s. 409.262.

413.032 Purpose.—The purpose of this act is to further the policy of the state to encourage and assist blind and other severely handicapped individuals to achieve maximum personal independence through useful, productive, and gainful employment by assuring an expanded and constant market for their products and services, thereby enhancing their dignity and capacity for self-support and minimizing their dependence on welfare and need for costly institutionalization.

History.—s. 1, ch. 74-236; s. 4, ch. 78-323; ss. 6, 7, ch. 81-11; ss. 1, 4, ch. 82-46; ss. 3, 4, ch. 88-37; s. 5, ch. 91-429.

413.033 Definitions.—As used in ss. 413.032-413.037:

(1) “Blind” means an individual having central visual acuity of 20/200 or less in the better eye with correcting glasses or a disqualifying field defect in which the peripheral field has contracted to such an extent that the widest diameter or visual field subtends an angular distance no greater than 20 degrees.

(2) “Other severely handicapped” and “severely handicapped individuals” mean an individual or class of individuals under a physical or mental disability other than blindness, which, according to criteria established by the department, after consultation with appropriate entities of the state and taking into account the views of nongovernmental entities representing the handicapped, constitutes a substantial handicap to employment and is of such a nature as to prevent the individual under such disability from currently engaging in normal competitive employment.

(3) “Qualified nonprofit agency for the blind” means an agency:

(a) Organized under the laws of the United States or of this state, operated in the interest of blind individuals, the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual;

(b) Which complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor of the United States;

(c) Which, in the production of commodities and the provision of services, whether or not the commodities or services are procured under ss. 413.032-413.037, during the fiscal year employs blind individuals for not less than 75 percent of the person-hours of direct labor required for the production or provision of the commodities or services; and

(d) Which meets the criteria for determining nonprofit status under the provisions of s. 196.195 and is registered and in good standing as a charitable organization with the Department of Agriculture and Consumer Services under the provisions of chapter 496.

(4) “Qualified nonprofit agency for other severely handicapped” means an agency:

(a) Organized under the laws of the United States or of this state, operated in the interest of severely handicapped individuals who are not blind, the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual;

(b) Which complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor of the United States;

(c) Which, in the production of commodities and in the provision of services, whether or not the commodities or services are procured under ss. 413.032-413.037, during the fiscal year employs blind or other severely handicapped individuals for not less than 75 percent of the person-hours of direct labor required for the production or provision of the commodities or services; and

(d) Which meets the criteria for determining nonprofit status under the provisions of s. 196.195 and is registered and in good standing as a charitable organization with the Department of Agriculture and Consumer Services under the provisions of chapter 496.

(5) “Direct labor” includes all work required for preparation, processing, and packing, but not supervision, administration, inspection, and shipping.

(6) “Agency” includes any political subdivision of the state having its own purchasing agency, such as a county, municipality, school district, or other public body, that is supported in whole or in part by funds appropriated by the Legislature.

History.—s. 2, ch. 74-236; s. 4, ch. 78-323; ss. 1, 6, 7, ch. 81-11; ss. 1, 4, ch. 82-46; ss. 3, 4, ch. 88-37; s. 5, ch. 91-429; s. 8, ch. 97-98; s. 53, ch. 97-103; s. 38, ch. 2002-207.

413.035 Duties and powers of the department.—

(1) It shall be the duty of the department to determine the market price of all products and services offered for sale to the various agencies of the state by any qualified nonprofit agency for the blind or other severely handicapped. The price shall recover for the nonprofit agency the cost of raw materials, labor, overhead, and delivery, but without profit, and shall be revised from time to time in accordance with changing cost factors. The department shall make such

rules and regulations regarding specifications, time of delivery, and assignment of products and services to be supplied by nonprofit agencies for the blind or by agencies for the other severely handicapped, with priority for assignment of products to agencies for the blind, authorization of a central nonprofit agency to facilitate the allocation of orders among qualified nonprofit agencies for the blind, authorization of a central nonprofit agency to facilitate the allocation of orders among qualified nonprofit agencies for other severely handicapped, and other relevant matters of procedure as shall be necessary to carry out the purposes of this act. The department shall authorize the purchase of products and services elsewhere when requisitions cannot reasonably be complied with through the nonprofit agencies for the blind and other severely handicapped.

(2) The department shall establish and publish a list of products and services provided by any qualified nonprofit agency for the blind and any nonprofit agency for the other severely handicapped, which the department determines are suitable for procurement by agencies of the state pursuant to this act. This procurement list and revision thereof shall be distributed to all purchasing officers of the state and its political subdivisions. All products offered for purchase to a state agency by a qualified nonprofit agency shall have significant value added by blind or severely handicapped persons, as determined by the department.

History.—s. 4, ch. 74-236; s. 1, ch. 77-174; s. 4, ch. 78-323; ss. 3, 6, 7, ch. 81-11; ss. 1, 4, ch. 82-46; ss. 3, 4, ch. 88-37; s. 5, ch. 91-429; s. 39, ch. 2002-207.

413.036 Procurement of services by agencies; authority of department.—

(1) If any agency intends to procure any product or service on the procurement list, that agency shall, in accordance with rules and regulations of the department, procure such product or service at the price established by the department from a qualified nonprofit agency for the blind or for the other severely handicapped if the product or service is available within a reasonable delivery time. This act shall not apply in any case in which products or services are available for procurement from any agency of the state and procurement therefrom is required under the provision of any law currently in effect. However, this act shall have precedence over any law requiring state agency procurement of products or services from any other nonprofit corporation unless such precedence is waived by the department in accordance with its rules.

(2) The provisions of part I of chapter 287 do not apply to any purchase of commodities or contractual services made by any legislative, executive, or judicial agency of the state from a qualified nonprofit agency for the blind or for the other severely handicapped.

(3) If, pursuant to a contract between any legislative, executive, or judicial agency of the state and any private contract vendor, a product or service is required by the Department of Management Services or on behalf of any state agency that is included on the procurement list established by the commission pursuant to s. 413.035(2), the contract must contain the following language:

“IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES THAT ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT SHALL BE PURCHASED FROM A NONPROFIT AGENCY FOR THE BLIND OR FOR THE SEVERELY HANDICAPPED THAT IS QUALIFIED PURSUANT TO CHAPTER 413, FLORIDA STATUTES, IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 413.036(1) AND (2), FLORIDA STATUTES; AND FOR PURPOSES OF THIS CONTRACT THE PERSON, FIRM, OR OTHER BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR THE STATE AGENCY INSOFAR AS DEALINGS WITH SUCH QUALIFIED NONPROFIT AGENCY ARE CONCERNED.”

(4) No similar product or service of comparable price and quality found necessary for use by any state agency may be purchased from any source other than the nonprofit agency for the blind or for the severely handicapped if the nonprofit agency certifies that the product is manufactured or supplied by, or the service is provided by, the blind or the severely handicapped and the product or service meets the comparable performance specifications and comparable price and quality requirements as determined by the department or an agency. The purchasing authority of any such state agency may make reasonable determinations of need, price, and quality with reference to products or services available from the nonprofit agency.

History.—s. 5, ch. 74-236; s. 4, ch. 78-323; ss. 4, 6, 7, ch. 81-11; ss. 1, 4, ch. 82-46; ss. 2, 3, 4, ch. 88-37; s. 5, ch. 91-429; s. 40, ch. 2002-207.

413.037 Cooperation with department required; duties of state agencies.—

(1) In furtherance of the purposes of this act and in order to contribute to the economy of state government, it is the intent of the Legislature that there be close cooperation between the department and any agency of the state from which procurement of products or services is required under the provision of any law currently in effect. The department and any such agency

of the state are authorized to enter into such contractual agreements, cooperative working relationships, or other arrangements as may be determined to be necessary for effective coordination and efficient realization of the objectives of this act and any other law requiring procurement of products or services from any agency of the state.

(2) The department may secure directly from any agency of the state information necessary to enable it to carry out this act. Upon request of the department, the head of the agency shall furnish such information to the department.

(3) Space shall be set aside in the State Capitol for the purpose of exhibiting products produced by clients of rehabilitation-oriented agencies of the state.

History.—ss. 6, 8, ch. 74-236; s. 4, ch. 78-323; ss. 5, 6, 7, ch. 81-11; ss. 1, 4, ch. 82-46; ss. 3, 4, ch. 88-37; s. 5, ch. 91-429; s. 55, ch. 97-103; s. 41, ch. 2002-207.

413.041 Eligible blind persons; placement in vending facilities in public places.—For the purpose of assisting blind persons to become self-supporting, the Division of Blind Services is hereby authorized to carry on activities to promote the employment of eligible blind persons, including the licensing and establishment of such persons as operators of vending facilities on public property. The division may cooperate with any agency of the Federal Government in the furtherance of the provisions of the Act of Congress entitled “An Act to authorize the operation of stands in federal buildings by blind persons, to enlarge the economic opportunities of the blind and for other purposes,” Pub. L. No. 732, 74th Congress, and the division may cooperate in the furtherance of the provisions of any other act of Congress providing for the rehabilitation of the blind which is now in effect or is hereafter enacted by Congress.

History.—s. 1, ch. 22681, 1945; ss. 21, 34, ch. 26937, 1951; s. 2, ch. 61-210; ss. 19, 35, ch. 69-106; s. 292, ch. 77-147; s. 8, ch. 77-259; s. 9, ch. 2004-331.

Note.—Former s. 409.271.

413.051 Eligible blind persons; operation of vending stands.—

(1) This section may be cited as the Little Randolph Sheppard Act.

(2) As used in this section, the term:

(a) “Blind licensee” means any blind person trained and licensed by the Division of Blind Services of the Department of Education to operate a vending stand.

(b) “Vending stand” means any manually operated cafeteria, snack bar, cart service, shelter, counter, or other manually operated facility for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, or other such articles or services.

(c) “State agency” means any agency of the state.

(d) “State property” means any building or land owned, leased, or otherwise controlled by the state, but does not include any building or land under the control of a state university board of trustees, a community college district board of trustees, or any state correctional institution as defined in s. 944.02.

(e) “Property custodian” or “person in charge” means any employee, agent, or person who is in control of or responsible for the maintenance, operation, and protection of any state property.

(3) Blind licensees shall be given the first opportunity to participate in the operation of vending stands on all state properties acquired after July 1, 1979, when such facilities are operated under the supervision of the Division of Blind Services of the Department of Education.

(4) The Division of Blind Services shall conduct a periodic survey of all state properties and, where feasible, shall establish vending facilities to be operated by blind licensees.

(5) All property custodians and duly authorized agents or employees of the state shall cooperate with the division in its survey of state properties and shall make available adequate space, electrical wiring, plumbing, and ventilation necessary to the installation of a vending facility on any state property designated as suitable by the division.

(6) The division shall be notified by property custodians or persons in charge at least 180 days prior to the initiation of any new construction, expansion, leasing, or acquisition of property occupied or to be occupied by a state agency.

(7) A person or persons may not be offered or granted any concession by any property custodian or person in charge to operate a vending stand on any state property acquired after July 1, 1979, unless the division is notified of that proposed concession.

(8) Income from new vending machines or replacement of existing machines installed on state property after July 1, 1979, shall accrue to the blind licensee who operates a vending facility on the same property or, if none, to the division. The division shall be responsible for the servicing and maintenance of all vending machines.

(9) This section does not divest any person or organization presently operating a vending stand on state, county, or municipal property from continuing to do so; however, the property custodian or person in charge shall notify the Division of Blind Services at least 180 days prior to the expiration whether the vending facility location is suitable for operation by a blind licensee.

(10) All the preceding provisions are permissive regarding all political subdivisions of the state.

(11) Effective July 1, 1996, blind licensees who remain members of the Florida Retirement System pursuant to s. 121.051(6)(b)1. shall pay any unappropriated retirement costs from their net profits or from program income. Within 30 days after the effective date of this act, each blind licensee who is eligible to maintain membership in the Florida Retirement System under s. 121.051(6)(b)1., but who elects to withdraw from the system as provided in s. 121.051(6)(b)3., must, on or before July 31, 1996, notify the Division of Blind Services and the Department of Management Services in writing of his or her election to withdraw. Failure to timely notify the divisions shall be deemed a decision to remain a compulsory member of the Florida Retirement System. However, if, at any time after July 1, 1996, sufficient funds are not paid by a blind licensee to cover the required contribution to the Florida Retirement System, that blind licensee shall become ineligible to participate in the Florida Retirement System on the last day of the first month for which no contribution is made or the amount contributed is insufficient to cover the required contribution. For any blind licensee who becomes ineligible to participate in the Florida Retirement System as described in this subsection, no creditable service shall be earned under the Florida Retirement System for any period following the month that retirement contributions ceased to be reported. However, any such person may participate in the Florida Retirement System in the future if employed by a participating employer in a covered position.

(12) The Division of Blind Services may adopt rules to permit the division to establish and maintain vending facilities, issue licenses, establish and maintain a vending facility training program, provide vendors access to financial data of the program, set aside funds from net proceeds of the vending facility, provide for the transfer and promotion of vendors, establish a vendors committee, provide for an operation agreement, provide duties and responsibilities of the division with respect to the vending facility program, and provide procedures for newspaper vending sales.

History.—s. 2, ch. 22681, 1945; s. 1, ch. 25141, 1949; ss. 22, 34, ch. 26937, 1951; s. 10, ch. 27991, 1953; s. 2, ch. 61-210; ss. 1, 2, ch. 65-227; ss. 19, 35, ch. 69-106; s. 293, ch. 77-147; s. 9, ch. 77-259; s. 1, ch. 79-370; s. 176, ch. 79-400; s. 1, ch. 81-91; s. 72, ch. 83-218; s. 10, ch. 95-327; s. 9, ch. 96-423; s. 3, ch. 98-149; s. 96, ch. 99-255; s. 16, ch. 99-392; s. 5, ch. 2000-214; s. 25, ch. 2002-22; s. 10, ch. 2004-331; s. 51, ch. 2007-217.

Note.—Former s. 409.272.

413.08 Rights and responsibilities of an individual with a disability; use of a service animal; prohibited discrimination in public employment, public accommodations, and housing accommodations; penalties.—

(1) As used in this section and s. 413.081, the term:

(a) “Housing accommodation” means any real property or portion thereof which is used or occupied, or intended, arranged, or designed to be used or occupied, as the home, residence, or sleeping place of one or more persons, but does not include any single-family residence, the occupants of which rent, lease, or furnish for compensation not more than one room therein.

(b) “Individual with a disability” means a person who has a physical or mental impairment that substantially limits one or more major life activities of the individual. As used in this paragraph, the term:

1. “Major life activity” means a function such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

2. “Physical or mental impairment” means:

a. A physiological disorder or condition, disfigurement, or anatomical loss that affects one or more bodily functions; or

b. A mental or psychological disorder that meets one of the diagnostic categories specified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, such as an intellectual or developmental disability, organic brain syndrome, traumatic brain injury, posttraumatic stress disorder, or an emotional or mental illness.

(c) “Public accommodation” means a common carrier, airplane, motor vehicle, railroad train, motor bus, streetcar, boat, or other public conveyance or mode of transportation; hotel; a timeshare that is a transient public lodging establishment as defined in s. 509.013; lodging place; place of public accommodation, amusement, or resort; and other places to which the

general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons. The term does not include air carriers covered by the Air Carrier Access Act of 1986, 49 U.S.C. s. 41705, and by regulations adopted by the United States Department of Transportation to implement such act.

(d) "Service animal" means an animal that is trained to do work or perform tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work done or tasks performed must be directly related to the individual's disability and may include, but are not limited to, guiding an individual who is visually impaired or blind, alerting an individual who is deaf or hard of hearing, pulling a wheelchair, assisting with mobility or balance, alerting and protecting an individual who is having a seizure, retrieving objects, alerting an individual to the presence of allergens, providing physical support and assistance with balance and stability to an individual with a mobility disability, helping an individual with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors, reminding an individual with mental illness to take prescribed medications, calming an individual with posttraumatic stress disorder during an anxiety attack, or doing other specific work or performing other special tasks. A service animal is not a pet. For purposes of subsections (2), (3), and (4), the term "service animal" is limited to a dog or miniature horse. The crime-deterrent effect of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for purposes of this definition.

(2) An individual with a disability is entitled to full and equal accommodations, advantages, facilities, and privileges in all public accommodations. A public accommodation must modify its policies, practices, and procedures to permit use of a service animal by an individual with a disability. This section does not require any person, firm, business, or corporation, or any agent thereof, to modify or provide any vehicle, premises, facility, or service to a higher degree of accommodation than is required for a person not so disabled.

(3) An individual with a disability has the right to be accompanied by a service animal in all areas of a public accommodation that the public or customers are normally permitted to occupy.

(a) The service animal must be under the control of its handler and must have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control by means of voice control, signals, or other effective means.

(b) Documentation that the service animal is trained is not a precondition for providing service to an individual accompanied by a service animal. A public accommodation may not ask about the nature or extent of an individual's disability. To determine the difference between a service animal and a pet, a public accommodation may ask if an animal is a service animal required because of a disability and what work or tasks the animal has been trained to perform.

(c) A public accommodation may not impose a deposit or surcharge on an individual with a disability as a precondition to permitting a service animal to accompany the individual with a disability, even if a deposit is routinely required for pets.

(d) An individual with a disability is liable for damage caused by a service animal if it is the regular policy and practice of the public accommodation to charge nondisabled persons for damages caused by their pets.

(e) The care or supervision of a service animal is the responsibility of the individual owner. A public accommodation is not required to provide care or food or a special location for the service animal or assistance with removing animal excrement.

(f) A public accommodation may exclude or remove any animal from the premises, including a service animal, if the animal is out of control and the animal's handler does not take effective action to control it, the animal is not housebroken, or the animal's behavior poses a direct threat to the health and safety of others. Allergies and fear of animals are not valid reasons for denying access or refusing service to an individual with a service animal. If a service animal is excluded or removed for being a direct threat to others, the public accommodation must provide the individual with a disability the option of continuing access to the public accommodation without having the service animal on the premises.

(4) Any person, firm, or corporation, or the agent of any person, firm, or corporation, who denies or interferes with admittance to, or enjoyment of, a public accommodation or, with regard to a public accommodation, otherwise interferes with the rights of an individual with a disability or the trainer of a service animal while engaged in the training of such an animal

pursuant to subsection (8), commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083 and must perform 30 hours of community service for an organization that serves individuals with disabilities, or for another entity or organization at the discretion of the court, to be completed in not more than 6 months.

(5) It is the policy of this state that an individual with a disability be employed in the service of the state or political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds, and an employer may not refuse employment to such a person on the basis of the disability alone, unless it is shown that the particular disability prevents the satisfactory performance of the work involved.

(6) An individual with a disability is entitled to rent, lease, or purchase, as other members of the general public, any housing accommodations offered for rent, lease, or other compensation in this state, subject to the conditions and limitations established by law and applicable alike to all persons.

(a) This section does not require any person renting, leasing, or otherwise providing real property for compensation to modify her or his property in any way or provide a higher degree of care for an individual with a disability than for a person who is not disabled.

(b) An individual with a disability who has a service animal or who obtains a service animal is entitled to full and equal access to all housing accommodations provided for in this section, and such a person may not be required to pay extra compensation for such animal. However, such a person is liable for any damage done to the premises or to another person on the premises by the animal. A housing accommodation may request proof of compliance with vaccination requirements.

(c) This subsection does not limit the rights or remedies of a housing accommodation or an individual with a disability that are granted by federal law or another law of this state with regard to other assistance animals.

(7) An employer covered under subsection (5) who discriminates against an individual with a disability in employment, unless it is shown that the particular disability prevents the satisfactory performance of the work involved, or any person, firm, or corporation, or the agent of any person, firm, or corporation, providing housing accommodations as provided in subsection (6) who discriminates against an individual with a disability, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(8) Any trainer of a service animal, while engaged in the training of such an animal, has the same rights and privileges with respect to access to public facilities and the same liability for damage as is provided for those persons described in subsection (3) accompanied by service animals.

(9) A person who knowingly and willfully misrepresents herself or himself, through conduct or verbal or written notice, as using a service animal and being qualified to use a service animal or as a trainer of a service animal commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083 and must perform 30 hours of community service for an organization that serves individuals with disabilities, or for another entity or organization at the discretion of the court, to be completed in not more than 6 months.

History.—s. 1, ch. 25268, 1949; s. 1, ch. 61-217; s. 361, ch. 71-136; s. 1, ch. 71-276; s. 1, ch. 73-110; s. 1, ch. 74-286; s. 1, ch. 77-174; s. 19, ch. 77-259; s. 178, ch. 79-400; s. 1, ch. 82-111; s. 73, ch. 83-218; s. 60, ch. 85-81; s. 1, ch. 87-312; s. 1, ch. 89-317; s. 1, ch. 90-8; s. 1, ch. 91-94; s. 1, ch. 93-18; s. 57, ch. 97-103; s. 1, ch. 98-19; s. 3, ch. 2002-176; s. 1, ch. 2005-63; s. 1, ch. 2015-131.

413.081 Interference with or injury to a service animal; penalties; restitution. —

(1) A person who, with reckless disregard, interferes with, or permits a dog that he or she owns or is in the immediate control of to interfere with, the use of a service animal by obstructing, intimidating, or otherwise jeopardizing the safety of the service animal or its user commits a misdemeanor of the second degree for the first offense and a misdemeanor of the first degree for each subsequent offense, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who, with reckless disregard, injures or kills, or permits a dog that he or she owns or is in the immediate control of to injure or kill, a service animal commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A person who intentionally injures or kills, or permits a dog that he or she owns or is in the immediate control of to injure or kill, a service animal commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4)(a) A person who is convicted of a violation of this section, in addition to any other penalty, must make full restitution for all damages that arise out of or are related to the offense, including incidental and consequential damages incurred by the service animal's user.

(b) Restitution includes the value of the service animal; replacement and training or retraining expenses for the service animal and the user; veterinary and other medical and boarding expenses for the service animal; medical expenses for the user; and lost wages or income incurred by the user during any period that the user is without the services of the service animal.

History.—s. 2, ch. 2002-176; s. 2, ch. 2005-63.

413.082 Groups to recommend policies to improve access for individuals with disabilities.

—The Florida Americans with Disabilities Act Working Group and the Commission on Human Relations, jointly, are directed to provide to the Executive Office of the Governor recommendations that identify specific policies that the state can implement to ensure the effectiveness of this act and improve access for individuals with disabilities who are accompanied by service animals.

History.—s. 3, ch. 2005-63.

413.091 Identification cards.—

(1) The Division of Blind Services of the Department of Education shall issue identification cards to persons known to be blind or partially sighted, upon the written request of such individual.

(2) The individual shall submit proof of blindness as specified by the division.

(3) The division is responsible for design and content of the identification card and shall develop and adopt rules, regulations, and procedures relating to the eligibility and application for, and issuance and control of, these identification cards.

History.—ss. 1, 2, 3, ch. 71-265; s. 301, ch. 77-147; s. 20, ch. 77-259; s. 14, ch. 95-327; s. 29, ch. 2002-22; s. 11, ch. 2004-331.

413.092 Blind Babies Program.—

(1) The Blind Babies Program is created within the Division of Blind Services of the Department of Education to provide community-based early-intervention education to children from birth through 5 years of age who are blind or visually impaired, and to their parents, families, and caregivers, through community-based provider organizations. The division shall enlist parents, ophthalmologists, pediatricians, schools, the Early Steps Program, and therapists to help identify and enroll blind and visually impaired children, as well as their parents, families, and caregivers, in these educational programs.

(2) The program is not an entitlement but shall promote early development with a special emphasis on vision skills to minimize developmental delays. The education shall lay the groundwork for future learning by helping a child progress through normal developmental stages. It shall teach children to discover and make the best use of their skills for future success in school. It shall seek to ensure that visually impaired and blind children enter school as ready to learn as their sighted classmates. The program shall seek to link these children, and their parents, families, and caregivers, to other available services, training, education, and employment programs that could assist these families in the future. This linkage may include referrals to the school districts and the Early Steps Program for assessments to identify any additional services needed which are not provided by the Blind Babies Program. The division shall develop a formula for eligibility based on financial means and may create a means-based matrix to set a copayment fee for families having sufficient financial means.

(3) The division shall establish outcomes for this program, which shall include, but are not limited to, outcomes relating to the children's age-appropriate developmental stages; knowledge of assistive technology; proficiency at daily living; ability to participate in pre-school and school; participation in their communities; and ability to be literate. The division shall develop criteria to be used in identifying and contracting with community-based provider organizations. All services offered through the Blind Babies Program shall be provided by community-based provider organizations. The division shall require any community-based provider organization delivering services under this program to develop performance measures related to those services and report to the division on the progress in achieving those measures.

History.—s. 2, ch. 2000-359; s. 30, ch. 2002-22; s. 22, ch. 2016-238.

**PART II
GENERAL VOCATIONAL
REHABILITATION PROGRAMS**

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413.20 Definitions.—As used in this part, the term:

- (1) "Act" means the Rehabilitation Act of 1973, as amended.
- (2) "Activity of daily living" means an activity required on a frequent basis that permits an individual to secure or maintain independence. Such activities include, but are not limited to, personal home care, transportation, personal assistance services, housekeeping, shopping, attending school, communication, and employment.
- (3) "Assessment for determining eligibility and vocational rehabilitation needs" means a review of existing data to determine whether an individual is eligible for vocational rehabilitation services and to assign the priority, and, to the extent additional data is necessary to make such determination and assignment, a preliminary assessment of such data, including the provision of goods and services during such assessment. If additional data is necessary, the division must make a comprehensive assessment of the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of an eligible individual to make a determination of the goals, objectives, nature, and scope of vocational rehabilitation services to be included in the individualized plan for employment.
- (4) "Center for independent living" means a consumer-controlled, community-based, cross-disability, nonresidential, private, nonprofit organization designed and operated within a local

community by persons who have disabilities to provide an array of independent living services.

(5) “Community rehabilitation program” means a program that provides directly or facilitates the provision of one or more services to persons who have disabilities to enable them to maximize their opportunities for employment, including career advancement.

(6) “Department” means the Department of Education.

(7) “Disability” means a physical or mental impairment that constitutes or results in a substantial impediment to employment.

(8) “Division” means the Division of Vocational Rehabilitation of the Department of Education.

(9) “Employment outcome” means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market to the greatest extent practicable, supported employment, or any other type of employment, including self-employment, telework, or business ownership, that is consistent with an individual’s strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(10) “Extended services” means one or more ongoing support services and other appropriate services needed to support and maintain a person who has a most significant disability in supported employment and to assist an eligible person in maintaining integrated and competitive employment. Extended services are based upon a determination of the needs of the eligible person as specified in the person’s individualized plan for employment and are provided by a state agency, a nonprofit private organization, an employer, or any other appropriate resource after the person has made the transition from support provided by the department.

(11) “Independent living core services” means informational and referral services; independent living skills training; peer counseling, including cross-disability peer counseling; and individual and systems advocacy.

(12) “Independent living services” means any appropriate rehabilitation service that will enhance the ability of a person who has a significant disability to live independently, to function within her or his family and community and, if appropriate, to secure and maintain employment. Services may include, but are not limited to, psychological counseling and psychotherapeutic counseling; independent living care services; community education and related services; housing assistance; physical and mental restoration; personal attendant care; transportation; personal assistance services; interpretive services for persons who are deaf; recreational activities; services to family members of persons who have significant disabilities; vocational and other training services; telecommunications services; sensory and other technological aids and devices; appropriate preventive services to decrease the needs of persons assisted under the program; and other rehabilitation services appropriate for the independent living needs of a person who has a significant disability.

(13) “Occupational license” means any license, permit, or other written authority required by any governmental unit to be obtained in order to engage in an occupation.

(14) “Ongoing support services” means services provided at a twice-monthly minimum to persons who have a most significant disability, to:

(a) Make an assessment regarding the employment situation at the worksite of each individual in supported employment or, under special circumstances at the request of the individual, offsite.

(b) Based upon the assessment, provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain the individual’s employment stability.

The ongoing support services may consist of, but are not limited to, the provision of skilled job trainers who accompany the individual for intensive job-skill training at the worksite, job development and placement, social skills training, followup services, and facilitation of natural supports at the worksite.

(15) “Person who has a disability” means an individual who has a physical or mental impairment that, for the individual, constitutes or results in a substantial impediment to employment and who can benefit in terms of an employment outcome from vocational rehabilitation services. The term encompasses the terms “person who has a significant disability” and “person who has a most significant disability.”

(16) “Person who has a significant disability” means an individual who has a disability that is a severe physical or mental impairment that seriously limits one or more functional capacities, such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills, in terms of an employment outcome; whose vocational rehabilitation may be expected to require multiple vocational rehabilitation services over an extended period of time;

and who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, intellectual disability, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorder, neurological disorder, including stroke and epilepsy, paraplegia, quadriplegia, or other spinal cord condition, sickle-cell anemia, specific learning disability, end-stage renal disease, or another disability or a combination of disabilities that is determined, after an assessment for determining eligibility and vocational rehabilitation needs, to cause comparable substantial functional limitation.

(17) “Person who has a most significant disability” means a person who has a significant disability who meets the designated administrative unit’s criteria for a person who has a most significant disability.

(18) “Personal assistance services” means a range of services, provided by one or more individuals, designed to assist a person who has a disability to perform daily living activities, on or off the job, that the person would typically perform if the person did not have a disability. Such services shall be designed to increase the person’s control in life and ability to perform everyday activities on or off the job. The services must be necessary for achieving an employment outcome and may be provided only if the person who has a disability is receiving other vocational rehabilitation services. The services may include training in managing, supervising, and directing personal assistance services.

(19) “Physical and mental restoration” means any medical, surgical, or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that is stable or slowly progressive and constitutes an impediment to employment, but is of such nature that the treatment can reasonably be expected to correct or modify such impediment to employment within a reasonable length of time, including, but not limited to, medical, psychiatric, dental, and surgical treatment, nursing services, hospital care in connection with surgery or treatment, convalescent home care, drugs, medical and surgical supplies, and prosthetic and orthotic devices.

(20) “Service provider” means a person or entity who provides, pursuant to this part, employment services, supported employment services, independent living services, self-employment services, personal assistance services, vocational evaluation or tutorial services, or rehabilitation technology services on a contractual or fee-for-service basis to vulnerable persons as defined in s. 435.02.

(21) “State plan” means the state plan approved by the Federal Government as qualifying for federal funds under the Rehabilitation Act of 1973, as amended. However, the term “state plan,” as used in ss. 413.393-413.401, means the state plan for independent living under Title VII(A) of the Rehabilitation Act of 1973, as amended.

(22) “Supported employment” means competitive work in integrated working settings for persons who have most significant disabilities and for whom competitive employment has not traditionally occurred or for whom competitive employment has been interrupted or is intermittent as a result of such a disability. Persons who have most significant disabilities requiring supported employment need intensive supported employment services or extended services in order to perform such work.

(23) “Supported employment services” means ongoing support services and other appropriate services needed to support and maintain a person who has a most significant disability in supported employment. Supported employment services are based upon a determination of the needs of the eligible individual as specified in the person’s individualized plan for employment. The services are provided singly or in combination and are organized and made available in such a way as to assist eligible individuals in entering or maintaining integrated, competitive employment. The services are provided for a period of time not to extend beyond 18 months, but can be extended under special circumstances with the consent of the individual in order to achieve the objectives of the rehabilitation plan.

(24) “Third-party coverage” means any claim for, right to receive payment for or any coverage for, the payment of any vocational rehabilitation and related services.

(25) “Third-party payment” means any and all payments received or due as a result of any third-party coverage.

(26) “Transition services” means a coordinated set of activities for a student, designed within an outcome-oriented process, that promote movement from school to postschool activities, including postsecondary education; vocational training; integrated employment; supported employment; continuing and adult education; adult services; independent living; or

community participation. The coordinated set of activities must be based upon the individual student's needs, taking into account the student's preferences and interests, and must include instruction, community experiences, the development of employment and other postschool adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.

(27) "Vocational rehabilitation" and "vocational rehabilitation services" mean any service, provided directly or through public or private entities, to enable an individual or group of individuals to achieve an employment outcome, including, but not limited to, medical and vocational diagnosis, an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel; counseling, guidance, and work-related placement services; vocational and other training services; physical and mental restoration services; maintenance for additional costs incurred while participating in rehabilitation; interpreter services for individuals who are deaf; recruitment and training services to provide new employment opportunities in the fields of rehabilitation, health, welfare, public safety, law enforcement, and other appropriate service employment; occupational licenses; tools, equipment, and initial stocks and supplies; transportation; telecommunications, sensory, and other technological aids and devices; rehabilitation technology services; referral services designed to secure needed services from other agencies; transition services; on-the-job or other related personal assistance services; and supported employment services.

History.—s. 2, ch. 25364, 1949; s. 13, ch. 65-239; ss. 15, 19, 35, ch. 69-106; ss. 1, 2, ch. 69-344; s. 158, ch. 71-377; s. 302, ch. 77-147; s. 111, ch. 79-164; s. 21, ch. 86-220; s. 8, ch. 90-330; s. 4, ch. 94-324; s. 58, ch. 97-103; s. 6, ch. 2002-22; s. 1, ch. 2010-70; s. 5, ch. 2012-73; s. 17, ch. 2012-215; s. 15, ch. 2013-162.

Note.—Former ss. 229.26, 229.0100.

413.201 Designated state agency.—Effective on the effective date of this act, for the purposes of effecting compliance with the Vocational Rehabilitation Act of 1973, as amended, the Department of Education is designated the official state agency.

History.—s. 7, ch. 2002-22.

413.202 Designated administrative unit.—Effective on the effective date of this act, for the purposes of effecting compliance with the Vocational Rehabilitation Act of 1973, as amended, the Division of Vocational Rehabilitation is designated as the administrative unit.

History.—s. 8, ch. 2002-22.

413.203 Conflict of laws.—It is the intent of the Legislature that the provisions of this part not conflict with any federal statute or implementing regulation governing federal grant-in-aid programs administered by the Division of Vocational Rehabilitation. Wherever such a conflict is asserted by the applicable agency of the Federal Government, the Department of Education shall submit to the United States Department of Education, or other applicable federal agency, a request for a favorable policy interpretation of the conflicting portions.

History.—s. 9, ch. 2002-22.

413.205 Payments not treated as collateral payments.—Notwithstanding any other law to the contrary, payments made under programs covered by this part are neither collateral payments nor collateral sources within the meaning of chapter 86-160, Laws of Florida, or chapter 88-1, Laws of Florida.

History.—s. 50, ch. 88-277; s. 5, ch. 94-324.

413.207 Division of Vocational Rehabilitation; quality assurance; performance improvement plan.—

(1) The Division of Vocational Rehabilitation shall maintain an internal system of quality assurance, have proven functional systems, perform due diligence, review provider systems of quality assurance, and be subject to monitoring for compliance with state and federal laws, rules, and regulations.

(2) No later than October 1, 2016, the division shall develop and implement a performance improvement plan designed to achieve the following goals:

(a) Decrease the average wait list time for reportable individuals.

(b) Increase the percentage of participants who are in unsubsidized employment during the second quarter after they exit the program.

(c) Increase the percentage of participants who are in unsubsidized employment during the fourth quarter after they exit the program.

(d) Increase the number of persons earning CAPE industry certifications and CAPE postsecondary industry certifications approved pursuant to s. 1008.44.

(e) Increase the median earnings of participants who are in unsubsidized employment during the second quarter after they exit the program.

(f) Increase the percentage of participants who obtained a recognized postsecondary credential or a secondary school diploma or its recognized equivalent during participation in, or within 1 year after they exit, the program.

(g) Increase the percentage of youth who received preemployment transition services without applying for additional vocational rehabilitation services and who obtained a recognized postsecondary credential or a secondary school diploma or its recognized equivalent during participation in, or within 1 year after they exit, the program.

(h) Increase the percentage of participants who, during a program year, are in an education or training program that leads to a recognized postsecondary credential or to employment and who are achieving a measurable gain of skill, including documented academic, technical, ¹or occupational gains or other forms of progress toward a postsecondary credential or employment.

(i) Increase the number of students receiving preemployment transition services.

(j) Increase the division's effectiveness in serving employers, based on indicators developed as required by s. 116(b)(2)(A)(iv) of the federal Workforce Innovation and Opportunity Act.

(3) The goals established under subsection (2) must be designed to elevate the state vocational rehabilitation program to one of the top 10 in the nation.

(4) By December 1 of each year, the division shall submit a performance report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which includes the following information for each of the 5 most recent fiscal years:

(a) Caseload data, including the number of individuals who apply for services and who receive services, by service type, reported statewide and by service area.

(b) Service use data, by service type, including the number of units of service provided, statewide and by service area.

(c) Financial data, by service type, including expenditures for administration and the provision of services. Expenditure data shall be reported on a statewide basis and by service area, and expenditures for education-related services must be identified in specific categories such as tuition and fees, program fees, and support services.

(d) Outcome data, statewide and by service area, including the number of cases closed without employment and the number of cases closed with employment. Employment data must be provided separately for supported employment.

History.—s. 11, ch. 2002-22; s. 38, ch. 2016-237.

¹Note.—The word “or” was inserted by the editors to improve clarity.

413.208 Service providers; quality assurance; fitness for responsibilities; background screening.—

(1) Service providers must register with the division. To qualify for registration, the division must ensure that the service provider maintains an internal system of quality assurance, has proven functional systems, and is subject to a due-diligence inquiry as to its fitness to undertake service responsibilities.

(2)(a) As a condition of registration under this section, level 2 background screening pursuant to chapter 435 must be conducted by the division on each of the following persons:

1. The administrator or a similarly titled person who is responsible for the day-to-day operation of the service provider.

2. The financial officer or similarly titled person who is responsible for the financial operation of the service provider.

3. Any person employed by, or otherwise engaged on the behalf of, a service provider who is expected to have direct, face-to-face contact with a vulnerable person as defined in s. 435.02 while providing services to the vulnerable person and having access to that person's living areas, funds, personal property, or personal identification information as defined in s. 817.568.

4. A director of the service provider.

(b) Level 2 background screening pursuant to chapter 435 is not required for the following persons:

1. A licensed physician, nurse, or other professional who is licensed by the Department of Health and who has undergone fingerprinting and background screening as part of such licensure if providing a service that is within the scope of her or his licensed practice.

2. A relative of the vulnerable person receiving services. For purposes of this section, the term “relative” means an individual who is the father, mother, stepfather, stepmother, son, daughter, brother, sister, grandmother, grandfather, great-grandmother, great-grandfather, grandson, granddaughter, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-

law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister of the vulnerable person.

(c) Service providers are responsible for initiating and completing the background screening as a condition of registration.

(d)1. Every 5 years following the initial screening, each person subject to background screening under this section must submit to level 2 background rescreening as a condition of the service provider retaining such registration.

2. Until the person's background screening results are retained in the clearinghouse created under s. 435.12, the division may accept as satisfying the requirements of this section proof of compliance with level 2 screening standards submitted within the previous 5 years to meet any provider or professional licensure requirements of the Agency for Health Care Administration, the Department of Health, the Department of Elderly Affairs, the Agency for Persons with Disabilities, or the Department of Children and Families, provided:

a. The screening standards and disqualifying offenses for the prior screening are equivalent to those specified in s. 435.04 and this section;

b. The person subject to screening has not had a break in service from a position that requires level 2 screening for more than 90 days; and

c. Such proof is accompanied, under penalty of perjury, by an affidavit of compliance with the provisions of chapter 435 and this section.

(e) In addition to the disqualifying offenses listed in s. 435.04, all persons subject to undergo background screening pursuant to this section must not have an arrest awaiting final disposition for, must not have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, and must not have been adjudicated delinquent, and the record has not been expunged for, any offense prohibited under any of the following provisions or similar law of another jurisdiction:

1. Section 409.920, relating to Medicaid provider fraud.

2. Section 409.9201, relating to Medicaid fraud.

3. Section 741.28, relating to domestic violence.

4. Section 817.034, relating to fraudulent acts through mail, wire, radio, electromagnetic, photoelectronic, or photooptical systems.

5. Section 817.234, relating to false and fraudulent insurance claims.

6. Section 817.505, relating to patient brokering.

7. Section 817.568, relating to criminal use of personal identification information.

8. Section 817.60, relating to obtaining a credit card through fraudulent means.

9. Section 817.61, relating to fraudulent use of credit cards, if the offense was a felony.

10. Section 831.01, relating to forgery.

11. Section 831.02, relating to uttering forged instruments.

12. Section 831.07, relating to forging bank bills, checks, drafts, or promissory notes.

13. Section 831.09, relating to uttering forged bank bills, checks, drafts, or promissory notes.

14. Section 831.31, relating to the sale, manufacture, delivery, or possession with the intent to sell, manufacture, or deliver any counterfeit controlled substance, if the offense was a felony.

(f) The division may grant an exemption from disqualification from this section only as provided in s. 435.07.

(3) The cost of the state and national criminal history records checks required by level 2 screening and their retention shall be borne by the service provider or the person being screened.

(4)(a) The division shall deny, suspend, terminate, or revoke a registration, rate agreement, purchase order, referral, contract, or other agreement, or pursue other remedies in addition to or in lieu of denial, suspension, termination, or revocation, for failure to comply with this section.

(b) If the division has reasonable cause to believe that grounds for denial or termination of registration exist, it shall provide written notification to the person affected, identifying the specific record that indicates noncompliance with the standards established in this section.

(c) If a provider refuses to remove a person who is employed by, or otherwise engaged on behalf of, the provider and who is found to be not in compliance with the standards established in this section from contact with any vulnerable person, the service provider's registration and contract shall be revoked.

(5) The background screening requirements of this section apply only to registrations entered into or renewed with the division after the Care Provider Background Screening Clearinghouse becomes operational and retains the background screening results in the clearinghouse under s. 435.12.

History.—s. 12, ch. 2002-22; s. 6, ch. 2012-73; s. 221, ch. 2014-19; s. 4, ch. 2014-84.

413.215 Division's status in workers' compensation proceedings.—Notwithstanding any other law to the contrary, the division retains all rights and remedies granted under s. 413.445 as against moneys paid under chapter 440.

History.—s. 6, ch. 94-324.

413.22 Division rules.—The division shall prepare rules as it finds necessary to carry out the purposes of this part.

History.—s. 4, ch. 25364, 1949; s. 13, ch. 65-239; s. 2, ch. 67-438; s. 159, ch. 71-377; s. 304, ch. 77-147; s. 34, ch. 83-216; s. 1, ch. 87-227; s. 1, ch. 91-269; s. 7, ch. 94-324.

Note.—Former ss. 229.28, 229.0102.

413.23 Administration.—The division shall provide vocational rehabilitation services to persons who have disabilities determined to be eligible therefor and, in carrying out the purposes of this part, is authorized, among other things:

(1) To cooperate with other departments, agencies, and institutions, both public and private, in providing for the vocational rehabilitation of persons who have disabilities, in studying the problems involved therein, and in establishing, developing, and providing, in conformity with the purposes of this part, such programs, facilities, and services as may be necessary or desirable;

(2) To enter into reciprocal agreements with other states to provide for the vocational rehabilitation of residents of the states concerned;

(3) To conduct research and compile statistics relating to the vocational rehabilitation of persons who have disabilities;

(4) To prepare a federally required state plan for vocational rehabilitation, as required by the act. The state plan must contain all of the elements required by s. 101 of the act, including an assessment of the needs of persons who have disabilities and how those needs may be most effectively met. The division is authorized to make amendments to the state plan considered necessary to maintain compliance with the act and to implement such changes in order to qualify for and maintain federal funding. After completion of the state plan or making amendments to the state plan, the division must distribute copies of the state plan to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the United States Secretary of Education.

History.—s. 5, ch. 25364, 1949; s. 13, ch. 65-239; ss. 19, 35, ch. 69-106; s. 117, ch. 71-355; s. 305, ch. 77-147; s. 112, ch. 79-164; s. 2, ch. 87-227; s. 8, ch. 94-324; s. 13, ch. 2002-22.

Note.—Former ss. 229.29, 229.0103.

413.24 Cooperation with Federal Government.—The division is authorized to adopt such methods of administration not in conflict with the laws of this state as are found by the Federal Government to be necessary for the proper and efficient operation of such agreements or plans for vocational rehabilitation and to comply with such conditions as may be necessary to secure the full benefits of federal statutes pertaining to vocational rehabilitation.

History.—s. 6, ch. 25364, 1949; s. 13, ch. 65-239; ss. 19, 35, ch. 69-106; s. 306, ch. 77-147; s. 3, ch. 87-227; s. 9, ch. 94-324.

Note.—Former ss. 229.30, 229.0104.

413.26 Cooperative agreements with other governmental agencies relative to joint use of services and facilities.—

(1)(a) The division is authorized to enter into cooperative agreements with any state agency or institution, county, county agency or institution, municipality, or municipal agency or institution for the purpose of enabling the division and cooperating governing bodies, agencies, and institutions to jointly use their services and facilities to enlarge and improve the opportunities for persons who have disabilities to achieve self-support or self-care.

(b) For such an agreement to be valid, it must be entered into by the governing bodies, agencies, or institutions involved and approved by the administrative officers or by the boards governing the counties, municipalities, agencies, or institutions. Such agreements shall provide only for those services by each political subdivision, agency, or institution which the political subdivision, agency, or institution is authorized by law to provide, provided that any political subdivision, agency, or institution shall be permitted to withdraw and terminate its part of an

agreement at the end of any fiscal year by giving the other political subdivision, agency, or institution involved 30 days' notice.

(2) In order to effectuate the provisions of this section, the Executive Office of the Governor is authorized and empowered within its discretion, when it finds it to be in the public interest to do so, to permit two or more agencies, institutions, or county or city governments, pursuant to their mutual, unanimous request, to pool funds or to transfer funds to the account of the division in order to carry out plans for rehabilitation which are lawful and which give promise of better achieving the rehabilitation of persons who have disabilities than would result through the separate efforts of the participants in the agreement. Funds pooled or transferred under this section may be made available for expenditures for rehabilitation by the agency designated in the agreement to disburse such funds. Funds expended pursuant to agreements authorized under this section may be utilized for the purpose of matching funds available under the terms of federal laws pertaining to the rehabilitation of persons who have disabilities.

(3) A copy of each agreement made pursuant to this section shall be filed with the Department of State within a period of 30 days following the consummation of such agreement.

History.—ss. 1, 2, 3, 4, ch. 63-246; s. 13, ch. 65-239; ss. 2, 3, ch. 67-371; ss. 10, 19, 31, 35, ch. 69-106; s. 4, ch. 69-344; s. 307, ch. 77-147; s. 137, ch. 79-190; s. 4, ch. 87-227; s. 10, ch. 94-324.

Note.—Former ss. 229.302, 229.0106.

413.27 Cooperative agreements with Florida School for the Deaf and the Blind.—

(1) The division is authorized to enter into cooperative agreements with the Board of Trustees of the Florida School for the Deaf and the Blind for the purpose of enabling said agencies to utilize jointly their services and facilities to enlarge and improve the opportunities for the deaf and blind individuals to achieve self-support or self-care.

(2)(a) For such an agreement to be valid, it must be entered into mutually by such agencies and must be approved by the administrative officers or by the boards governing same. The agreement may provide for those services which each agency or institution is authorized by law to furnish; provided that such agreement may establish a vocational rehabilitation facility for the deaf at the Florida School for the Deaf and the Blind which facility may accept as clients any deaf adult otherwise qualified for admission. Either agency may withdraw and terminate its part of such agreement at the end of any fiscal year by giving the other agency involved 30 days' notice.

(b) The Board of Trustees of the Florida School for the Deaf and the Blind is authorized to use funds now in its budget for matching those of the division, in furtherance of such agreement. Said school may employ such additional personnel as may be necessary to implement such agreement.

(3) In order to effectuate the provisions of this section, the Executive Office of the Governor shall, upon the conclusion of any such agreement, pool portions of the funds of said agencies as indicated in such agreement. Funds pooled or transferred under this section may be made available for expenditures for rehabilitation by the agency designated in the agreement to disburse such funds and may be used to compensate additional personnel employed under paragraph (2)(b). Funds expended pursuant to any agreement authorized under this section may be utilized to match funds available under the terms of federal laws pertaining to the rehabilitation of the deaf.

(4) A copy of any such agreement, when and if concluded pursuant hereto, shall be filed with the Department of State within a period of 30 days following the consummation of such agreement.

History.—ss. 1, 2, 3, 4, ch. 63-389; s. 13, ch. 65-239; ss. 2, 3, ch. 67-371; ss. 10, 15, 19, 31, 35, ch. 69-106; s. 308, ch. 77-147; s. 138, ch. 79-190; s. 5, ch. 87-227; s. 11, ch. 94-324.

Note.—Former ss. 229.303, 229.0107.

413.271 Florida Coordinating Council for the Deaf and Hard of Hearing.—

(1) For purposes of this section, the term:

(a) "Communication access realtime translation" means the instant translation of the spoken word into English text using information technology in which the text appears on a computer monitor or other display.

(b) "Coordinating council" means the Florida Coordinating Council for the Deaf and the Hard of Hearing.

(c) "Deaf" means having a hearing impairment of such severity that an individual must depend on visual or tactile methods, or both, to communicate.

(d) "Hard of hearing" means having a hearing impairment that results in a loss of hearing functions to an individual and in which the individual: relies on residual hearing that may be

sufficient to process linguistic information through audition with or without amplification under favorable listening conditions; depends on visual methods to communicate; depends on assistive listening devices; or has an impairment with other auditory disabling conditions.

(e) "Interpreter" means a provider of accessible and effective communication between and among individuals who are deaf or hard of hearing and between and among such individuals and other persons. This process includes, but is not limited to, communication through American Sign Language and spoken English. It may also involve various other modalities that involve visual, gestural, and tactile methods.

For purposes of this section, individuals with any level of loss of hearing provided in the definitions in this subsection are included in references to deaf or hard of hearing individuals.

(2)(a) There is established the Florida Coordinating Council for the Deaf and Hard of Hearing. The council is assigned to the Department of Health.

(b) The coordinating council shall be composed of 17 members. The appointment of members not representing agencies shall be made by the Governor. The appointment of members representing organizations shall be made by the Governor in consultation with those organizations. The membership shall be as follows:

1. Two members representing the Florida Association of the Deaf.
2. Two members representing the Florida Association of Self Help for Hard of Hearing People.
3. A member representing the Association of Late-Deafened Adults.
4. An individual who is deaf and blind.
5. A parent of an individual who is deaf.
6. A member representing the Deaf Service Center Association.
7. A member representing the Florida Registry of Interpreters for the Deaf.
8. A member representing the Florida Alexander Graham Bell Association for the Deaf and Hard of Hearing.
9. A communication access realtime translator.
10. An audiologist licensed under part I of chapter 468.
11. A hearing aid specialist licensed under part II of chapter 484.
12. The Secretary of Children and Families or his or her designee.
13. The State Surgeon General or his or her designee.
14. The Commissioner of Education or his or her designee.
15. The Secretary of Elderly Affairs or his or her designee.

If any organization from which a representative is to be drawn ceases to exist, a representative of a similar organization shall be named to the coordinating council. The Governor shall make appointments to the coordinating council no later than August 1, 2004, and may remove any member for cause. Each member shall be appointed to a term of 4 years. However, for the purpose of providing staggered terms, of the initial appointments not representing state agencies, seven members, including the audiologist and the hearing aid specialist, shall be appointed to 2-year terms and six members shall be appointed to 4-year terms. Any vacancy on the coordinating council shall be filled in the same manner as the original appointment, and any member appointed to fill a vacancy occurring because of death, resignation, or ineligibility for membership shall serve only for the unexpired term of the member's predecessor. Prior to serving on the coordinating council, all appointees must attend orientation training that shall address, at a minimum, the provisions of this section; the programs operated by the coordinating council; the role and functions of the coordinating council; the current budget for the coordinating council; the results of the most recent formal audit of the coordinating council; and the requirements of the state's public records law, the code of ethics, the Administrative Procedure Act, and other laws relating to public officials, including conflict-of-interest laws.

(c) It is cause for the removal from the coordinating council of a member who during service on the coordinating council:

1. Is unable to discharge his or her duties for a substantial portion of the term for which he or she is appointed because of illness or disability; or
2. Is absent from more than one-half of the regularly scheduled coordinating council meetings during a calendar year, except when the absence is excused by majority vote of the coordinating council.

(d) The first meeting of the council shall be held no later than August 1, 2004. The council members, at the organizational meeting, shall elect by a majority vote of the members one member to serve as chair of the council for a term of 1 year. The council shall meet at least

once each quarter. All meetings are subject to the call of the chair. Nine members of the council shall constitute a quorum.

(e) Members of the council shall serve without compensation but may be reimbursed for per diem and travel expenses pursuant to s. 112.061.

(f) Staff of the Department of Health shall be assigned by the State Surgeon General to assist the council in the duties assigned to it by this section.

(3) It is the role of the council to serve as an advisory and coordinating body in the state which recommends policies that address the needs of deaf, hard-of-hearing, and late-deafened persons and which recommends methods that improve the coordination of services among the public and private entities that provide services pertaining to interpreter services, computer aided real-time captioning services, and assistive listening devices, excluding hearing aids. The council is authorized to provide technical assistance, advocacy, and education. To that end, the council shall:

(a) Provide information and assistance to the Legislature;

(b) Provide technical assistance to other state agencies;

(c) Provide information and referral services;

(d) Promote public and individual advocacy for deaf, hard-of-hearing, and late-deafened citizens; and

(e) Conduct public hearings as needed.

(4) The council may:

(a) Secure assistance from all state departments and agencies in order to avail itself of expertise at minimal cost.

(b) Obtain information and assistance from the state or any political subdivision, municipal corporation, public officer, or governmental department or agency thereof.

(c) Apply for and accept funds, grants, gifts, and services from local or state government or the Federal Government, or from any of their agencies, or any other public or private source and may use funds for the purposes authorized by this section.

(5) All executive branch state agencies are instructed, and all other state agencies are requested, to assist the council in accomplishing its purposes.

(6) This act does not extend the duties or responsibilities of the council to any program, service, or activity that is subject to the jurisdiction or oversight of the Public Service Commission or that is subject to regulation under part I of chapter 468 or part II of chapter 484.

History.—s. 1, ch. 2004-359; s. 115, ch. 2008-4; s. 59, ch. 2008-6; s. 222, ch. 2014-19.

413.273 Per diem, travel expenses, personal care attendants, and interpreters for council members; conflicts of interest; removal.—

(1) Members of any council established under this part are entitled to per diem and travel expenses for required attendance at council meetings in accordance with the provisions of s. 112.061. Reasonable expenses for personal care attendants and interpreters needed by members during required attendance at council meetings shall be reimbursed. No member shall receive any compensation for performance of duties specified in, or arising out of, her or his duties as a council member under this part except as otherwise specified in this part.

(2) No member of any council established under this part shall cast a vote on any matter that would provide direct financial benefit to the member or create a conflict of interest under state law.

(3) Members of any council established under this part may be removed from office by the appointing authority for malfeasance, misfeasance, neglect of duty, incompetence, or permanent inability to perform official duties or for pleading nolo contendere to, or being found guilty of, a crime. Malfeasance shall include, but is not limited to, violation of any specific prohibitions within this part.

History.—s. 12, ch. 94-324; s. 59, ch. 97-103.

413.28 Appropriations of federal funds.—In the event federal funds are available to the state for vocational rehabilitation purposes, the division is authorized to comply with such requirements as may be necessary to obtain said federal funds in the most advantageous proportions possible insofar as this may be done without violating other provisions of the state law and Constitution.

History.—s. 7, ch. 25364, 1949; s. 25, ch. 29764, 1955; s. 13, ch. 65-239; ss. 2, 3, ch. 67-371; ss. 19, 31, 35, ch. 69-106; s. 160, ch. 71-377; s. 1, ch. 73-305; s. 309, ch. 77-147; s. 6, ch. 87-227; s. 14, ch. 94-324.

Note.—Former ss. 229.31, 229.0108.

413.29 Gifts.—The division is hereby authorized and empowered to accept and use gifts made unconditionally by will or otherwise for carrying out the purposes of this part. Gifts made under such conditions as in the judgment of the division are proper and consistent with the provisions of this part and the laws of the United States and the laws of this state may be so accepted and shall be held, invested, reinvested, and used in accordance with the condition of the gift.

History.—s. 8, ch. 25364, 1949; s. 13, ch. 65-239; ss. 19, 35, ch. 69-106; s. 310, ch. 77-147; s. 113, ch. 79-164; s. 7, ch. 87-227; s. 15, ch. 94-324.

Note.—Former ss. 229.32, 229.0109.

413.30 Eligibility for vocational rehabilitation services.—

(1) A person is eligible for vocational rehabilitation services if the person has a disability and requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment.

(2) Determinations by other state or federal agencies regarding whether an individual satisfies one or more factors relating to the determination that an individual has a disability may be used. Individuals determined to have a disability pursuant to Title II or Title XVI of the Social Security Act shall be considered to have a physical or mental impairment that constitutes or results in a substantial impediment to employment and a significant disability.

(3) An individual is presumed to benefit in terms of an employment outcome from vocational rehabilitation services under this part unless the division can demonstrate by clear and convincing evidence that the individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome. Before making such a determination, the division must consider the individual's abilities, capabilities, and capacity to perform in a work situation through the use of trial work experiences. Trial work experiences include supported employment, on-the-job training, or other work experiences using realistic work settings. Under limited circumstances, if an individual cannot take advantage of trial work experiences or if options for trial work experiences have been exhausted, the division shall conduct an extended evaluation, not to exceed 18 months. The evaluation must determine the eligibility of the individual and the nature and scope of needed vocational rehabilitation services. The extended evaluation must be reviewed once every 90 days to determine whether the individual is eligible for vocational rehabilitation services.

(4) The division shall determine the eligibility of an individual for vocational rehabilitation services within a reasonable period of time, not to exceed 60 days after the individual has submitted an application to receive vocational rehabilitation services, unless unforeseen circumstances beyond the control of the division prevent the division from completing the determination within the prescribed time and the division and the individual agree that an extension of time is warranted.

(5) When the division determines that an individual is eligible for vocational rehabilitation services, the division must complete an assessment for determining eligibility and vocational rehabilitation needs and ensure that an individualized plan for employment is prepared.

(a) Each individualized plan for employment must be jointly developed, agreed upon, and signed by the vocational rehabilitation counselor or coordinator and the eligible individual or, in an appropriate case, a parent, family member, guardian, advocate, or authorized representative, of the individual.

(b) The division must ensure that each individualized plan for employment is designed to achieve the specific employment outcome of the individual, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the individual, and otherwise meets the content requirements for an individualized plan for employment as set out in federal law or regulation.

(c) Each individualized plan for employment shall be reviewed annually, at which time the individual, or the individual's parent, guardian, advocate, or authorized representative, shall be afforded an opportunity to review the plan and jointly redevelop and agree to its terms. Each plan shall be revised as needed.

(6) The division must ensure that a determination of ineligibility made with respect to an individual before the initiation of an individualized plan for employment, based upon the review, and, to the extent necessary, upon the preliminary assessment, includes specification of the reasons for such a determination; the rights and remedies available to the individual, including, if appropriate, recourse to administrative remedies; and the availability of services provided by the client assistance program to the individual. If there is a determination of ineligibility, the division must refer the individual to other services that are part of the one-stop

delivery system under s. 445.009 that address the individual's training or employment-related needs or to local extended employment providers if the determination is based on a finding that the individual is incapable of achieving an employment outcome.

(7) If the division provides an eligible individual with vocational rehabilitation services in the form of vehicle modifications, the division shall consider all options available, including the purchase of a new, original equipment manufacturer vehicle that complies with the Americans with Disabilities Act for transportation vehicles. The division shall make the decision on vocational rehabilitation services based on the best interest of the eligible individual and cost-effectiveness.

(8) If the division is unable to provide services to all eligible individuals, the division shall establish an order of selection and serve those persons who have the most significant disabilities first.

History.—s. 9, ch. 25364, 1959; s. 13, ch. 65-239; ss. 19, 35, ch. 69-106; s. 5, ch. 69-344; s. 311, ch. 77-147; s. 8, ch. 87-227; s. 16, ch. 94-324; s. 1, ch. 2009-60; s. 2, ch. 2010-70.

Note.—Former ss. 229.33, 229.0110.

413.31 Benefits not assignable.—The right of a person who has a disability to any of the benefits under this part is not transferable or assignable, and any benefits, including money, goods, or chattels received under this part, are exempt from all state, county, and municipal taxes and from sale under the process of any court, except for obligations contracted for the purchase of such property.

History.—s. 10, ch. 25364, 1949; s. 13, ch. 65-239; s. 114, ch. 79-164; s. 17, ch. 94-324.

Note.—Former ss. 229.34, 229.0111.

413.32 Retention of title to and disposal of equipment.—

(1) The division is authorized to retain title to any property, tools, instruments, training supplies, equipment, or other items of value acquired for use of persons who have disabilities or personnel employed in the operation of the vocational rehabilitation program, and to repossess and transfer same for the use of other persons who have disabilities or personnel employed in the operation of the vocational rehabilitation program.

(2) The division is authorized to offer for sale any surplus items acquired in the operation of the program when they are no longer necessary or to exchange them for necessary items which may be used to greater advantage. When any such surplus equipment is sold or exchanged a receipt for same shall be taken from the purchaser showing the consideration given for such equipment and forwarded to the Chief Financial Officer, and any funds received by the division pursuant to any such transactions shall be deposited in the State Treasury in the appropriate federal or state rehabilitation funds and shall be available for expenditure for any purpose consistent with this part.

(3) The division shall have the exclusive right to develop rules relating to records and recordkeeping for division-owned property referenced in subsections (1) and (2).

History.—s. 11, ch. 25364, 1949; s. 13, ch. 65-239; ss. 19, 35, ch. 69-106; s. 312, ch. 77-147; s. 115, ch. 79-164; s. 9, ch. 87-227; s. 18, ch. 94-324; s. 454, ch. 2003-261.

Note.—Former ss. 229.35, 229.0112.

413.341 Applicant and eligible individual records; confidential and privileged.—

(1) All oral and written records, information, letters, and reports received, made, or maintained by the division relative to any applicant or eligible individual are privileged, confidential, and exempt from the provisions of s. 119.07(1). Any person who discloses or releases such records, information, or communications in violation of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Such records may not be released except that:

(a) Records may be released to the applicant or eligible individual or his or her representative upon receipt of a written waiver from the applicant or eligible individual. Medical, psychological, or other information that the division believes may be harmful to an applicant or eligible individual may not be released directly to him or her, but must be provided through his or her designated representative.

(b) Records may be released to an entity or individual officially engaged in an audit, a program evaluation, or research. Personally identifying information released under this paragraph remains privileged, confidential, and exempt under this section and may not be disclosed to third parties.

(c) Records used in administering the program may be released as required to administer the program or as required by an agency or political subdivision of the state in the performance of

its duties. Any agency or political subdivision to which records are released under this paragraph may not disclose the records to third parties.

(d) Records may be released upon the order of an administrative law judge, a hearing officer, a judge of compensation claims, an agency head exercising quasi-judicial authority, or a judge of a court of competent jurisdiction following a finding in an in camera proceeding that the records are relevant to the inquiry before the court and should be released. The in camera proceeding and all records relating thereto are confidential and exempt from the provisions of s. 119.07(1).

(e) Whenever an applicant or eligible individual receiving services has declared any intention to harm other persons or property, such declaration may be disclosed.

(f) The division may also release personal information about an applicant or eligible individual receiving services in order to protect him or her or others when he or she poses a threat to his or her own safety or to the safety of others and shall, upon official request, release such information to law enforcement agencies investigating the commission of a crime.

(2) Records that come into the possession of the division and that are confidential by other provisions of law are confidential and exempt from the provisions of s. 119.07(1), and may not be released by the division, except as provided in this section.

History.—s. 1, ch. 88-214; s. 17, ch. 90-330; s. 36, ch. 91-46; s. 57, ch. 91-220; s. 2, ch. 91-269; s. 19, ch. 94-324; s. 265, ch. 96-406; s. 196, ch. 96-410; s. 1030, ch. 97-103; s. 3, ch. 2010-70.

413.36 Duties of other agencies and officials regarding this part.—It shall be the duty of all officials in charge of state or county agencies whose official duties enable them to know the need for vocational rehabilitation of persons who have disabilities to report to the division the names of such persons who come to their attention and who appear eligible for vocational rehabilitation services provided under this part. Such officials shall cooperate with the division in carrying out the purpose of this part insofar as their duties and facilities permit, but the division may not delegate any of its duties and responsibilities under this part to any other agency or individual except with respect to persons for whom a vocational rehabilitation plan has been approved by the division or by a member of its staff to whom it has delegated authority to approve individual vocational rehabilitation plans. However, nothing in this part shall be so construed as to prevent other agencies from rendering services to persons who have disabilities, which services are not designed especially for the purpose of vocationally rehabilitating such persons or services to which such persons might be entitled without regard to their disabilities.

History.—s. 15, ch. 25364, 1949; s. 13, ch. 65-239; ss. 19, 35, ch. 69-106; s. 314, ch. 77-147; s. 116, ch. 79-164; s. 10, ch. 87-227; s. 20, ch. 94-324.

Note.—Former ss. 229.39, 229.0116.

413.371 Independent living program; establishment and administration.—The division shall establish and administer an independent living program that will provide any appropriate rehabilitation services or other services to enhance the ability of persons who have significant disabilities to live independently and function within their communities and, if appropriate, to secure and maintain employment.

History.—s. 2, ch. 88-214; s. 21, ch. 94-324; s. 4, ch. 2010-70.

413.393 State plan for independent living.—

(1) The state plan for independent living shall be jointly developed and submitted by the Florida Independent Living Council and the division, and the plan must:

(a) Include the existence of appropriate planning, financial support and coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the state for the provision of state independent living services; the development and support of a statewide network of centers for independent living; and working relationships between programs providing independent living services and independent living centers and the vocational rehabilitation program established to provide services for persons who have disabilities.

(b) Specify the objectives to be achieved under the plan, establish time periods for the achievement of the objectives, and explain how such objectives are consistent with and further the purpose of this part.

(c) Specify that the state will provide independent living services under this part to persons who have significant disabilities and will provide the services in accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such a plan is unnecessary.

(d) Describe the extent and scope of independent living services to be provided under this part to meet such objectives. If the state makes arrangements, by grant or contract, for

providing such services, such arrangements shall be described in the plan.

(e) Set forth a design for the establishment of a statewide network of centers for independent living that comply with the standards and assurances set forth in federal law.

(f) Set forth the steps that will be taken to maximize the cooperation, coordination, and working relationships among the independent living rehabilitation service program, the Florida Independent Living Council, centers for independent living, the division, other agencies represented on such council, other councils that address the needs of specific disability populations and issues, and other public and private entities determined to be appropriate by the council.

(g) Describe how services funded under this part will be coordinated with, and complement, other services in order to avoid unnecessary duplication with other federal and state funding for centers for independent living and independent living services.

(h) Set forth steps to be taken regarding outreach to populations that are not served or that are underserved by programs under the act, including minority groups and urban and rural populations.

(i) Provide satisfactory assurances that all entities receiving financial assistance funds under this part will notify all individuals seeking or receiving services under this part about the availability of the client-assistance program, the purposes of the services provided under such program, and how to contact such program; take affirmative action to employ and advance in employment qualified persons who have disabilities on the same terms and conditions required with respect to the employment of such persons; adopt such fiscal control and fund-accounting procedures as may be necessary to ensure the proper disbursement of and accounting for funds paid to the state under this part and meet all the other requirements of federal law or regulation.

(j) Establish a method for the periodic evaluation of the effectiveness of the state plan in meeting the objectives of the state plan, including evaluation of satisfaction by persons who have disabilities.

(2) The state plan for independent living shall provide for the review and revision of the plan, not less than once every 3 years, to ensure the existence of appropriate planning, financial support and coordination, and other assistance to appropriately address statewide, the needs in the state for independent living services.

History.—s. 22, ch. 94-324; s. 5, ch. 2010-70.

413.395 Florida Independent Living Council.—

(1) There is created the Florida Independent Living Council to assist the division and the Division of Blind Services of the Department of Education, as well as other state agencies and local planning and administrative entities assisted under Title VII of the act, in the expansion and development of statewide independent living policies, programs, and concepts and to recommend improvements for such programs and services. The council shall function independently of the division and, unless the council elects to incorporate as a not-for-profit corporation, is assigned to the division for administrative purposes only. The council may elect to be incorporated as a Florida corporation not for profit and, upon such election, shall be assisted in the incorporation by the division for the purposes stated in this section. The appointed members of the council may constitute the board of directors for the corporation.

(2) The council shall consist of a minimum of 14 members, excluding ex officio, nonvoting members. The members of the council shall be appointed by the Governor after soliciting recommendations from the council.

(3) The council shall include:

(a) At least one director of a center for independent living who is chosen by the directors of centers for independent living within the state.

(b) As ex officio, nonvoting members:

1. A representative from the division.

2. A representative from the Division of Blind Services.

3. Representatives from other state agencies that provide services to persons who have disabilities.

(4) The council may include:

(a) Other representatives from centers for independent living.

(b) Parents and guardians of persons who have disabilities.

(c) Advocates of and for persons who have disabilities.

(d) Representatives from private businesses.

- (e) Representatives from organizations that provide services for persons who have disabilities.
- (f) Other appropriate individuals.
- (5) The council shall be composed of members:
 - (a) Who provide statewide representation.
 - (b) Who represent a broad range of persons who have disabilities.
 - (c) Who are knowledgeable about centers for independent living and independent living services.
 - (d) A majority of whom are:
 - 1. Persons who have disabilities.
 - 2. Not employed by any state agency or center for independent living.
- (6) The council shall select a chairperson from among the membership of the council.
- (7) Each member of the council shall serve for a term of 3 years, except that:
 - (a) A member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term.
 - (b) The terms of service of the members initially appointed shall be, as specified by the Governor, for such fewer number of years as will provide for the expiration of terms on a staggered basis.
 - (c) No member of the council may serve more than two consecutive full terms.
- (8) Any vacancy occurring in the membership of the council shall be filled in the same manner as the original appointment. A vacancy does not affect the power of the remaining members to execute the duties of the council.
- (9) The chairperson of the council shall also serve as a member of the Florida Rehabilitation Council.
- (10) The council may meet at the call of the chairperson, at the joint request of the division and the Division of Blind Services, or at such times as may be prescribed by rule, but not less than twice each calendar year. The council shall make a report of each meeting, which shall include a record of its discussions and recommendations. The division and the Division of Blind Services shall make such reports available to the public.
- (11) The council shall:
 - (a) Jointly develop and submit, in conjunction with the division, the state plan for independent living.
 - (b) Monitor, review, and evaluate the implementation of the state plan for independent living.
 - (c) Coordinate activities with the Florida Rehabilitation Council and other councils that address the needs of specific disability populations and issues under other federal law.
 - (d) Ensure that all regularly scheduled meetings of the council are open to the public with sufficient advance notice.
 - (e) Submit to the Commissioner of the Federal Rehabilitation Administration Services such periodic reports as the commissioner may reasonably request and keep such records, and afford access to such records, as the commissioner finds necessary to verify such reports.

History.—ss. 5, 12, ch. 88-214; s. 5, ch. 91-429; s. 23, ch. 94-324; s. 15, ch. 95-327; s. 1, ch. 99-136; s. 14, ch. 2002-22.

413.40 Powers of division; independent living program.—The division, in administering a program to provide independent living services to persons who have significant disabilities, shall be authorized, contingent upon available funding, to:

- (1) Employ necessary personnel and consultants.
- (2) Contract with any public or private entity, including centers for independent living, to provide independent living services in accordance with the state plan for independent living.

History.—s. 4, ch. 59-385; s. 13, ch. 65-239; s. 318, ch. 77-147; s. 14, ch. 87-227; s. 6, ch. 88-214; s. 24, ch. 94-324; s. 6, ch. 2010-70.

Note.—Former ss. 229.44, 229.0124.

413.401 Eligibility for independent living services.—Independent living services may be provided to any person who has a significant disability and for whom a reasonable expectation exists that independent living services will significantly assist the individual to improve her or his ability to function independently within the family or community, or to engage in or continue in employment, and to be able to function independently.

History.—s. 7, ch. 88-214; s. 25, ch. 94-324; s. 60, ch. 97-103; s. 15, ch. 2002-22.

413.402 James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program.—The Florida Endowment Foundation for Vocational

Rehabilitation shall maintain an agreement with the Florida Association of Centers for Independent Living to administer the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program and shall remit sufficient funds monthly to meet the requirements of subsection (5).

(1) As used in this section, the term “competitive and integrated employment” means employment in the public or private sector in which the employee earns comparable wages and benefits, commensurate with his or her qualifications and experience, and works in comparable conditions to those experienced by the general workforce in that industry or profession.

(2) The program shall provide personal care attendants and other support and services necessary to enable persons eligible under subsection (3) who have significant and chronic disabilities to obtain or maintain competitive and integrated employment, including self-employment.

(3) In order to be eligible to participate in the program, a person must:

(a) Be at least 18 years of age, be a legal resident of this state, and be significantly and chronically disabled.

(b) As determined by a physician, psychologist, or psychiatrist, require a personal care attendant for assistance with or support for at least two activities of daily living as defined in s. 429.02.

(c) Require a personal care attendant and, as needed, other support and services to accept an offer of employment and commence working or to maintain competitive and integrated employment.

(d) Be able to acquire and direct the support and services provided pursuant to this section, including the services of a personal care attendant.

(4)(a) The Florida Association of Centers for Independent Living shall provide program participants with appropriate training on the hiring and management of a personal care attendant and on other self-advocacy skills needed to effectively access and manage the support and services provided under this section.

(b) In cooperation with the oversight council created in subsection (6), the Florida Association of Centers for Independent Living shall adopt and, as necessary, revise the policies and procedures governing the operation of the program and the training required in paragraph (a). The oversight council shall recommend the maximum monthly reimbursement provided to program participants. The association shall provide technical assistance to program participants and administrative support services to the program and implement appropriate internal financial controls to ensure program integrity.

(5) The James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program shall reimburse the Florida Association of Centers for Independent Living monthly for payments made to program participants and for costs associated with program administration and oversight in accordance with the annual operating budget approved by the board of directors of the association, taking into consideration recommendations made by the oversight council created under subsection (6). The annual operating budget for costs associated with activities of the association for program operation, administration, and oversight may not exceed 12 percent of the funds deposited with the Florida Endowment Foundation for Vocational Rehabilitation pursuant to ss. 320.08068(4)(d) and 413.4021(1) for the previous fiscal year or the budget approved for the previous fiscal year, whichever amount is greater.

(6) The James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program Oversight Council is created adjunct to the Department of Education for the purpose of providing program recommendations, recommending the maximum monthly reimbursement available to program participants, advising the Florida Association of Centers for Independent Living on policies and procedures, and recommending the program’s annual operating budget for activities of the association associated with operations, administration, and oversight. The oversight council shall also advise on and recommend the schedule of eligible services for which program participants may be reimbursed subject to the requirements and limitations of paragraph (3)(c) which, at a minimum, must include personal care attendant services. The oversight council shall advise and make its recommendations under this section to the board of directors of the association. The oversight council is not subject to the control of or direction by the department, and the department is not ¹responsible for providing staff support or paying any expenses incurred by the oversight council in the performance of its duties.

(a) The oversight council consists of the following members:

1. The director of the division or his or her designee;

2. A human resources professional or an individual who has significant experience managing and operating a business based in this state, recommended by the Florida Chamber of Commerce and appointed by the Governor;
3. A financial management professional, appointed by the Governor;
4. A program participant, appointed by the Secretary of Health or his or her designee;
5. The director of the advisory council on brain and spinal cord injuries or his or her designee;
6. The director of the Florida Endowment Foundation for Vocational Rehabilitation or his or her designee; and
7. The director of the Florida Association of Centers for Independent Living or his or her designee.

(b) The appointed members shall serve for a term concurrent with the term of the official who made the appointment and shall serve at the pleasure of such official.

History.—s. 1, ch. 2002-286; s. 2, ch. 2005-172; s. 1, ch. 2008-99; s. 223, ch. 2014-19; s. 1, ch. 2016-30.

¹**Note.**—The word “be” preceding the word “responsible” was deleted by the editors.

413.4021 Program participant selection; tax collection enforcement diversion program.—

The Department of Revenue, in coordination with the Florida Association of Centers for Independent Living and the Florida Prosecuting Attorneys Association, shall select judicial circuits in which to operate the program. The association and the state attorneys’ offices shall develop and implement a tax collection enforcement diversion program, which shall collect revenue due from persons who have not remitted their collected sales tax. The criteria for referral to the tax collection enforcement diversion program shall be determined cooperatively between the state attorneys’ offices and the Department of Revenue.

(1) Notwithstanding s. 212.20, 50 percent of the revenues collected from the tax collection enforcement diversion program shall be deposited into the special reserve account of the Florida Endowment Foundation for Vocational Rehabilitation, to be used to administer the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program and to contract with the state attorneys participating in the tax collection enforcement diversion program in an amount of not more than \$75,000 for each state attorney.

(2) The program shall operate only from funds deposited into the operating account of the Florida Endowment Foundation for Vocational Rehabilitation.

(3) The Revenue Estimating Conference shall annually project the amount of funds expected to be generated from the tax collection enforcement diversion program.

History.—s. 2, ch. 2002-286; s. 83, ch. 2003-399; s. 71, ch. 2004-269; s. 3, ch. 2005-172; s. 2, ch. 2008-99; s. 2, ch. 2016-30.

413.405 Florida Rehabilitation Council.—There is created the Florida Rehabilitation Council to assist the division in the planning and development of statewide rehabilitation programs and services, to recommend improvements to such programs and services, and to perform the functions listed in this section.

(1) The council shall be composed of:

(a) At least one representative of the Florida Independent Living Council, one of whom must be the chairperson or other designee of the Florida Independent Living Council.

(b) At least one representative of a parent training and information center established pursuant to s. 671 of the Individuals with Disabilities Education Act, 20 U.S.C. s. 1471.

(c) At least one representative of the client assistance program established under s. 112 of the act, one of whom must be the director of the program or other individual recommended by the program.

(d) At least one qualified vocational rehabilitation counselor who has knowledge of and experience in vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the council if the counselor is an employee of the department.

(e) At least one representative of community rehabilitation program service providers.

(f) Four representatives of business, industry, and labor.

(g) Representatives of disability groups that include a cross-section of:

1. Individuals who have physical, cognitive, sensory, or mental disabilities.

2. Representatives of individuals with disabilities who have difficulty representing themselves or are unable due to their disabilities to represent themselves.

(h) Current or former applicants for, or recipients of, vocational rehabilitation services.

(i) The director of the division, who shall be an ex officio member of the council.

(j) At least one representative of the state educational agency responsible for the public education of students with disabilities who are eligible to receive vocational rehabilitation services and services under the Individuals with Disabilities Education Act.

(k) At least one representative of the board of directors of CareerSource Florida, Inc.

(l) At least one representative who is a director of a Vocational Rehabilitation Services Project for American Indians with Disabilities under s. 121 of the act, if this state participates in one or more such projects.

(2) Employees of the department may serve only as nonvoting members of the council.

(3) Total membership on the council, excluding ex officio members, shall be no fewer than 15 and no more than 25 at any one time.

(4) Members of the council shall be appointed by the Governor, who shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals who have disabilities and organizations interested in those individuals. In selecting members, the extent to which minority populations are represented must be considered to the greatest extent practicable.

(5) A majority of council members shall be persons who are:

(a) Individuals who have a physical or mental impairment that substantially limits one or more of the person's major life activities; who have a record of such an impairment; or who are regarded as having such an impairment.

(b) Not employed by the division.

(6) The council shall select a chairperson from among the membership of the council.

(7)(a) Each member of the council shall serve for a term of not more than 3 years, except that:

1. A member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of such term.

2. The terms of service of the members initially appointed shall be, as specified by the Governor, for such fewer number of years as will provide for the expiration of terms on a staggered basis.

(b) A member of the council may not serve more than two consecutive full terms; however, this provision does not apply to a member appointed under paragraph (1)(c) or paragraph (1)(l).

(8) Any vacancy occurring in the membership of the council shall be filled in the same manner as the original appointment. A vacancy does not affect the power of the remaining members to execute the duties of the council.

(9) In addition to the other functions specified in this section, the council shall, after consulting with the board of directors of CareerSource Florida, Inc.:

(a) Review, analyze, and advise the division regarding the performance of the responsibilities of the division under Title I of the act, particularly responsibilities relating to:

1. Eligibility, including order of selection.

2. The extent, scope, and effectiveness of services provided.

3. Functions performed by state agencies which affect or potentially affect the ability of individuals with disabilities to achieve employment outcomes under Title I.

(b) In partnership with the division:

1. Develop, agree to, and review state goals and priorities in accordance with 34 C.F.R. s. 361.29(c); and

2. Evaluate the effectiveness of the vocational rehabilitation program and submit reports of progress to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the United States Secretary of Education in accordance with 34 C.F.R. s. 361.29(e).

(c) Advise the department and the division and assist in the preparation of the state plan and amendments to the plan, applications, reports, needs assessments, and evaluations required by Title I.

(d) To the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with:

1. The functions performed by state agencies and other public and private entities responsible for performing functions for individuals who have disabilities.

2. Vocational rehabilitation services:

a. Provided or paid for from funds made available under the act or through other public or private sources.

b. Provided by state agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals who have disabilities.

3. The employment outcomes achieved by eligible individuals receiving services under this part, including the availability of health or other employment benefits in connection with those employment outcomes.

(e) Prepare and submit an annual report on the status of vocational rehabilitation programs in the state to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the United States Secretary of Education and make the report available to the public.

(f) Coordinate with other councils within Florida, including the Florida Independent Living Council, the advisory panel established under s. 612(a)(21) of the Individuals with Disabilities Education Act, 20 U.S.C. s. 1412(a)(21), the State Planning Council described in s. 124 of the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. s. 15024, the state mental health planning council established under s. 1914 of the Public Health Service Act, 42 U.S.C. s. 300x-3, and the board of directors of CareerSource Florida, Inc.

(g) Advise the department and division and provide for coordination and the establishment of working relationships among the department, the division, the Florida Independent Living Council, and centers for independent living in the state.

(h) Perform other functions that are consistent with the duties and responsibilities of the council under this section.

(10)(a) The council shall prepare, in conjunction with the division, a plan for the provision of such resources, including at least four staff persons, as may be necessary to carry out the functions of the council. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

(b) A disagreement between the council and the division regarding the amount of resources necessary to carry out the functions of the council as set forth in this section shall be resolved by the Governor.

(c) The council shall, consistent with law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions.

(d) While assisting the council in carrying out its duties, staff and other personnel may not be assigned duties by the division or any other state agency or office that would create a conflict of interest.

(11) The council shall convene at least four meetings each year in locations determined by the council to be necessary to conduct council business. The council may conduct such forums or hearings as the council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the public unless there is a valid reason for an executive session. The council shall make a report of each meeting which shall include a record of its discussions and recommendations, all of which reports shall be made available to the public.

(12) The council shall reimburse members of the council for reasonable and necessary expenses of attending council meetings and performing council duties, including child care and personal assistance services, as provided in and subject to the requirements of s. 112.061. The council may pay reasonable compensation to a member of the council if such member is not employed or must forfeit wages from other employment for each day the member is engaged in performing the duties of the council.

History.—ss. 8, 12, ch. 88-214; s. 5, ch. 91-429; s. 26, ch. 94-324; s. 16, ch. 2002-22; s. 7, ch. 2010-70; s. 16, ch. 2015-98.

413.407 Assistive Technology Advisory Council.—There is created the Assistive Technology Advisory Council, responsible for ensuring consumer involvement in the creation, application, and distribution of technology-related assistance to and for persons who have disabilities. The council shall fulfill its responsibilities through statewide policy development, both state and federal legislative initiatives, advocacy at both the state and federal level, planning of statewide resource allocations, policy-level management, reviews of both consumer responsiveness and the adequacy of program service delivery, and by performing the functions listed in this section.

(1)(a) The council shall be composed of:

1. Individuals who have disabilities and who are assistive technology consumers or family members or guardians of those individuals.
2. Representatives of consumer organizations concerned with assistive technology.
3. Representatives of business and industry, including the insurance industry, concerned with assistive technology.
4. A representative of the Division of Vocational Rehabilitation.

5. A representative of the Division of Blind Services.
6. A representative of the Florida Independent Living Council.
7. A representative of CareerSource Florida, Inc.
8. A representative of the Department of Education.
9. Representatives of other state agencies that provide or coordinate services for persons with disabilities.

Total membership on the council may not exceed 27 at any one time. A majority of the members shall be appointed in accordance with subparagraph 1.

(b) Members of the council shall be appointed by the Commissioner of Education from a list of candidates proposed by the division director.

(c) A majority of council members shall be persons who have disabilities as defined in s. 413.20(7) who are also consumers of assistive technology or family members of such persons.

(d) The members of the council shall select two co-chairs from among the membership of the council.

1. One co-chair may be selected from the group described in paragraph (c) and one co-chair shall be selected from the other council members.

2. No co-chair may be an elected member or an employee of a state agency or of any political subdivision of the state.

(e)1. Each member of the council shall serve for a term of not more than 3 years, except that a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of such term.

2. No member of the council may serve more than two consecutive terms; however, any appointment under subparagraph 1., if for less than 18 months, shall not be considered a term for the purposes of this section.

3. A member who has served two consecutive terms and has been retired from the council for at least 1 year may be reappointed to the council on the same basis as a new member.

(f) Any vacancy occurring in the membership of the council shall be filled in the same manner as the original appointment. A vacancy does not affect the power of the remaining members to execute the duties of the council.

(2) In addition to the other functions specified in this section, the council shall:

(a) Act as the board of directors of a not-for-profit corporation created by the division.

Through the corporation, the council shall provide direction to Florida's Alliance for Assistive Services and Technology, a project sponsored by the department for the coordination and delivery of appropriate, cost-effective, state-of-the-art assistive technology services and devices.

(b) Appoint committees made up of members of the council to focus on specific issues within the council's mandate. Committees may request and accept in-kind contributions of personnel from public or private entities to supply such staffing as the committees deem necessary to carry out their individual mandates. These committees shall include, but are not limited to:

1. An interagency committee composed of those members representing state agencies. The interagency committee shall work towards the development of cooperative agreements among government agencies and perform such other duties as the council deems appropriate. The interagency committee's members shall assign staff from their respective agencies to the alliance, as an in-kind contribution for a specified period of time, to review federal and state legislation and agency policies and practices and to identify both facilitators of, and barriers to, accessibility and utilization of assistive technology services, devices, and funding sources.

2. A technology-awareness committee to guide the council's public awareness, coordination, and collaboration activities.

3. A public policy and advocacy committee to review federal and state legislation and agency policies and practices and to identify facilitators of and barriers to access and utilization of assistive technology services, devices, and funding sources.

(c) Review and approve all reports, recommendations, and proposed actions of committee staff.

(d) Appoint the executive director of the alliance. The executive director shall be responsible for overall administration and day-to-day direction of the alliance, as well as supervision of all staff.

(e) Annually review and approve the strategic or business plan of the alliance, as submitted by the executive director.

(f) Submit an annual comprehensive report of the activities of the council, the corporation, and the alliance to the division director.

(g) Perform such other functions as the council determines to be appropriate which are comparable to functions performed by the council.

(h) Convene at least four meetings each year in such places as it determines to be necessary to conduct council business and may conduct such forums or hearings as the council considers appropriate. The council shall make a report of each meeting which shall include a record of its discussions and recommendations, all of which reports shall be made available to the public.

(3) In accordance with Pub. L. No. 108-364, the council shall:

(a) Investigate financing options that will increase access to and funding for assistive technology devices and assistive technology services.

(b) Develop assistive technology demonstrations, reutilization programs, and loan programs.

(c) Provide training and technical assistance in order to increase knowledge and awareness of the uses and benefits of assistive technology devices and assistive technology services.

(d) Promote public awareness activities designed to provide information relating to the benefits of assistive technology devices and assistive technology services.

(e) Promote coordination and collaboration among public and private entities that are responsible for policies, procedures, or funding for the provision of assistive technology devices and assistive technology services.

History.—s. 27, ch. 94-324; s. 1, ch. 2005-204; s. 8, ch. 2010-70; s. 17, ch. 2015-98.

413.41 Cooperation by division with state agencies.—The division is hereby authorized to cooperate with other agencies of state government or with any nonprofit, charitable corporations or foundations concerned with the problems of persons who have disabilities. The division may provide disability evaluation, work capacity appraisal, and appraisal of vocational rehabilitation potential of persons who have disabilities for other public agencies pursuant to agreements made with such agencies. The division may charge the agencies contracting for these services the actual cost thereof.

History.—s. 5, ch. 59-385; s. 13, ch. 65-239; ss. 19, 35, ch. 69-106; s. 319, ch. 77-147; s. 15, ch. 87-227; s. 9, ch. 88-214; s. 28, ch. 94-324.

Note.—Former ss. 229.45, 229.0125.

413.42 Cooperation with federal agencies.—The division is authorized to cooperate with any agency of the Federal Government charged with responsibility for administering laws relating to rehabilitation of persons who have disabilities or the evaluation of those persons for employment, for preparation for employment, or for independent living. The division shall further be authorized to accept and disburse any funds appropriated by Congress and made available to the state for the purpose of rehabilitating persons who have disabilities or for the evaluation of those persons for rehabilitation or for gainful activity, or for any other purpose related to the lawful function of the division, and the division is authorized to take such action as may be necessary to execute the purposes of any such federal grants.

History.—s. 6, ch. 59-385; s. 13, ch. 65-239; ss. 19, 35, ch. 69-106; s. 320, ch. 77-147; s. 16, ch. 87-227; s. 10, ch. 88-214; s. 29, ch. 94-324.

Note.—Former ss. 229.46, 229.0126.

413.43 Utilization of state and federal funds.—The division is authorized to utilize for purposes of this law, and for matching any federal funds which may be available for similar rehabilitation purposes, any funds appropriated or allotted to the division. The division is authorized to accept such gifts and refunds as may be made unconditionally or as are not burdened with conditions inconsistent with the purposes of this part.

History.—s. 8, ch. 59-385; s. 13, ch. 65-239; ss. 19, 35, ch. 69-106; s. 321, ch. 77-147; s. 17, ch. 87-227; s. 30, ch. 94-324.

Note.—Former ss. 229.47, 229.0127.

413.44 State Treasury depository.—The State Treasury shall be the depository of all funds appropriated by the state Legislature or received as federal grants or received as gifts from private individuals for the purposes of this program. Such funds shall be kept in a separate account distinct from all other state funds. Funds received by grant or gift, other than state appropriations, shall not lapse or be converted to the general fund at the end of any appropriations period.

History.—s. 9, ch. 59-385; s. 13, ch. 65-239.

Note.—Former ss. 229.48, 229.0128.

413.445 Recovery of third-party payments for vocational rehabilitation and related services.—

(1) As used in this section, “vocational rehabilitation and related services” means any services that are provided or paid for by the Division of Vocational Rehabilitation of the Department of Education.

(2) Third-party coverage for vocational rehabilitation and related services is primary coverage.

(3) An applicant for or recipient of any vocational rehabilitation and related services must inform the division of any rights she or he has to third-party payments for such services, and the division shall be subrogated to her or his rights to such third-party payments. The division may recover directly from:

(a) Any third party liable to make a benefit payment to the provider of the recipient’s vocational rehabilitation and related services or to the recipient under the terms of any contract, settlement, or award;

(b) The recipient, if she or he has received third-party payment for vocational rehabilitation and related services provided to her or him; or

(c) The provider of the recipient’s vocational rehabilitation and related services if third-party payment for such services has been recovered by the provider.

(4) An applicant for or a recipient of vocational rehabilitation and related services is deemed to have assigned to the division her or his rights to any payments for such services from a third party and to have authorized the division to release information with respect to such services for the sole purpose of obtaining reimbursement.

(5) The division may, in order to enforce its subrogation rights under this section, institute, intervene in, or join any legal proceeding against a third party against whom recovery rights arise. Action taken by the division does not preclude the recipient’s recovery for that portion of her or his damages not subrogated to the division, and action taken by the recipient does not prejudice the subrogation rights of the division.

(6) When the division provides, pays for, or becomes liable for vocational rehabilitation and related services, it has a lien for the amount of such services upon all causes of action which accrue to the recipient or to her or his legal representatives as a result of sickness, injury, disease, disability, or death, due to the liability of a third party which necessitated the services. To perfect such lien, a notice of lien must be filed with the clerk of the circuit court in the recipient’s county of residence. The notice of lien must contain the name and address of the person to whom vocational rehabilitation and related services were furnished and the name, address, and telephone number of a person at the division from whom information regarding the lien can be obtained. The division’s failure to file a notice of lien shall not affect the division’s other rights provided in this section. Any notice of lien filed as provided under this subsection shall be valid for a period of 5 years after filing, and may be extended for an additional period of 5 years by filing a new notice of lien at any time prior to the expiration of the original notice of lien.

(7) In recovering any payments in accordance with this section, the division may make appropriate settlements.

(8) The division shall adopt rules to implement this section.

History.—s. 1, ch. 87-320; s. 1, ch. 95-301; s. 61, ch. 97-103; s. 31, ch. 2002-22.

413.4455 Deposit and appropriation of funds recovered under s. 413.445.—Funds received under the provisions of s. 413.445 shall be deposited in the Federal Rehabilitation Trust Fund and shall be available for appropriation for programs contained in this part.

History.—s. 12, ch. 87-320.

413.615 Florida Endowment for Vocational Rehabilitation.—

(1) **SHORT TITLE.**—This section may be cited as the “Florida Endowment for Vocational Rehabilitation Act.”

(2) **DEFINITIONS.**—For the purposes of this section:

(a) “Board” means the board of directors of the Florida Endowment Foundation for Vocational Rehabilitation.

(b) “Endowment fund” means an account established within the Florida Endowment Foundation for Vocational Rehabilitation to provide a continuing and growing source of revenue for vocational rehabilitation efforts.

(c) “Foundation” means the Florida Endowment Foundation for Vocational Rehabilitation.

(d) “Operating account” means an account established under paragraph (4)(d) to carry out the purposes provided in subsection (10).

(3) LEGISLATIVE INTENT.—The Legislature recognizes that it is in the best interest of the citizens of this state that citizens with disabilities be afforded a fair opportunity to become self-supporting, productive members of society. However, there is a critical need for significant additional funding to achieve this goal. Accordingly, the Legislature further finds and declares that:

(a) With skilled evaluation procedures and proper rehabilitative treatment, plus employment, training, and supportive services consistent with the needs of the individual, persons who are disabled can assume the activities of daily living and join their communities with dignity and independence.

(b) The purpose of this section is to broaden the participation and funding potential for further significant support for the rehabilitation of Florida citizens who are disabled.

(c) It is appropriate to encourage individual and corporate support and involvement, as well as state support and involvement, to promote employment opportunities for disabled citizens.

(4) REVENUE FOR THE ENDOWMENT FUND.—

(a) The endowment fund of the Florida Endowment for Vocational Rehabilitation is created as a long-term, stable, and growing source of revenue to be administered, in accordance with rules promulgated by the division, by the foundation as a direct-support organization of the division.

(b) The principal of the endowment fund shall derive from the deposits made pursuant to s. 318.21(2)(e), together with any legislative appropriations which may be made to the endowment, and such bequests, gifts, grants, and donations as may be solicited for such purpose by the foundation from public or private sources.

(c) All funds remitted to the Department of Revenue pursuant to s. 318.21(2)(e) and (5) shall be transmitted monthly to the foundation for use as provided in subsection (10). All remaining liquid balances of funds held for investment and reinvestment by the State Board of Administration for the endowment fund on the effective date of this act shall be transmitted to the foundation within 60 days for use as provided in subsection (10).

(d) The board of directors of the foundation shall establish the operating account and shall deposit therein the moneys transmitted pursuant to paragraph (c). Moneys in the operating account shall be available to carry out the purposes of subsection (10).

(5) THE FLORIDA ENDOWMENT FOUNDATION FOR VOCATIONAL REHABILITATION.—The Florida Endowment Foundation for Vocational Rehabilitation is hereby created as a direct-support organization of the Division of Vocational Rehabilitation, to encourage public and private support to enhance vocational rehabilitation and employment of citizens who are disabled. As a direct-support organization, the foundation shall operate under contract with the division and shall:

(a) Be a Florida corporation not for profit incorporated under the provisions of chapter 617 and approved by the Department of State.

(b) Be organized and operated exclusively to raise funds; to submit requests and receive grants from the Federal Government, the state, private foundations, and individuals; to receive, hold, and administer property; and to make expenditures to or for the benefit of the rehabilitation programs approved by the board of directors of the foundation.

(c) Be approved by the division to be operating for the benefit and best interest of the state.

(6) DIRECT-SUPPORT ORGANIZATION CONTRACT.—The contract between the foundation and the division shall provide for:

(a) Approval of the articles of incorporation of the foundation by the division.

(b) Governance of the foundation by a board of directors appointed by the Governor.

(c) Submission of an annual budget of the foundation for approval by the division.

(d) Certification by the division, after an annual financial and performance review, that the foundation is operating in compliance with the terms of the contract and the rules of the division, and in a manner consistent with the goals of the Legislature in providing assistance to disabled citizens.

(e) The release and conditions of the expenditure of any state revenues.

(f) The reversion to the state of moneys in the foundation and in any other funds and accounts held in trust by the foundation if the contract is terminated.

(g) The fiscal year of the foundation, to begin on July 1 and end on June 30 of each year.

(7) CONFIDENTIALITY.—

(a) The identity of a donor or prospective donor to the Florida Endowment Foundation for Vocational Rehabilitation who desires to remain anonymous and all information identifying such donor or prospective donor are confidential and exempt from the provisions of s. 119.07(1) and

s. 24(a), Art. I of the State Constitution. Portions of meetings of the Florida Endowment Foundation for Vocational Rehabilitation during which the identity of donors or prospective donors is discussed are exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution.

(b) Records relating to clients of or applicants to the Division of Vocational Rehabilitation that come into the possession of the foundation and that are confidential by other provisions of law are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and may not be released by the foundation. Portions of meetings of the Florida Endowment Foundation for Vocational Rehabilitation during which the identities of such clients of or applicants to the Division of Vocational Rehabilitation are discussed are exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution.

(8) BOARD OF DIRECTORS.—The foundation shall be administered by a board of directors, as follows:

(a) *Membership.*—The board of directors shall consist of nine members who have an interest in service to persons with disabilities and who:

1. Have skills in foundation work or other fundraising activities, financial consulting, or investment banking or other related experience; or
2. Have experience in policymaking or management-level positions or have otherwise distinguished themselves in the field of business, industry, or rehabilitation.

Disabled individuals who meet the above criteria shall be given special consideration for appointment.

(b) *Appointment.*—The board members shall be appointed by the Governor.

(c) *Terms.*—Board members shall serve for 3-year terms or until resignation or removal for cause.

(d) *Filling of vacancies.*—In the event of a vacancy on the board caused by other than the expiration of a term, a new member shall be appointed.

(e) *Removal for cause.*—Each member is accountable to the Governor for the proper performance of the duties of office. The Governor may remove any member from office for malfeasance, misfeasance, neglect of duty, incompetence, or permanent inability to perform official duties or for pleading nolo contendere to, or being found guilty of, a crime.

(9) ORGANIZATION, POWERS, AND DUTIES.—Within the limits prescribed in this section or by rule of the division:

(a) Upon appointment, the board shall meet and organize. Thereafter, the board shall hold such meetings as are necessary to implement the provisions of this section and shall conduct its business in accordance with rules promulgated by the division.

(b) The board may solicit and receive bequests, gifts, grants, donations, goods, and services. Where gifts are restricted as to purpose, they may be used only for the purpose or purposes stated by the donor. The board may transmit monetary gifts to the State Board of Administration for deposit in the endowment fund principal.

(c) The board may enter into contracts with the Federal Government, state or local agencies, private entities, or individuals to carry out the purposes of this section.

(d) The board may identify, initiate, and fund new and creative programs to carry out the purposes of this section, utilizing existing organizations, associations, and agencies to carry out such rehabilitation programs and purposes wherever possible.

(e) The board may make gifts or grants:

1. To the State of Florida or any political subdivision thereof, or any public agency of state or local government.
2. To a corporation, trust, association, or foundation organized and operated exclusively for charitable, educational, or scientific purposes.
3. To any citizen who has a documented disability.
4. To the division for purposes of program recognition and marketing, public relations and education, professional development, and technical assistance and workshops for grant applicants and recipients, the business community, and individuals with disabilities or recognized groups organized on their behalf.

(f) The board may advertise and solicit applications for funding and shall evaluate applications and program proposals submitted thereto. Funding shall be awarded only where the evaluation is positive and the proposal meets both the guidelines for use established in subsection (10) and such evaluation criteria as the division may prescribe by rule.

(g) The board shall monitor, review, and annually evaluate funded programs to determine whether funding should be continued, terminated, reduced, or increased.

(h) The board shall establish an operating account as provided in paragraph (4)(d).

(i) The board may take such additional actions, including the hiring of necessary staff, as are deemed necessary and appropriate to administer this section, subject to rules of the division.

(10) DISTRIBUTION OF MONEYS.—The board shall use the moneys in the operating account, by whatever means, to provide for:

(a) Planning, research, and policy development for issues related to the employment and training of disabled citizens, and publication and dissemination of such information as may serve the objectives of this section.

(b) Promotion of initiatives for disabled citizens.

(c) Funding of programs which engage in, contract for, foster, finance, or aid in job training and counseling for disabled citizens or research, education, demonstration, or other activities related thereto.

(d) Funding of programs which engage in, contract for, foster, finance, or aid in activities designed to advance better public understanding and appreciation of the field of vocational rehabilitation.

(e) Funding of programs, property, or facilities which aid, strengthen, and extend in any proper and useful manner the objectives, work, services, and physical facilities of the division, in accordance with the purposes of this section.

(11) ANNUAL AUDIT.—The board shall provide for an annual financial audit of the foundation in accordance with s. 215.981. The identities of donors and prospective donors who desire to remain anonymous shall be protected, and that anonymity shall be maintained in the auditor's report.

(12) ANNUAL REPORT.—The board shall issue a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Commissioner of Education by February 1 each year, summarizing the performance of the endowment fund for the previous fiscal year, summarizing the foundation's fundraising activities and performance, and detailing those activities and programs supported by the endowment principal or earnings on the endowment principal or by bequests, gifts, grants, donations, and other valued goods and services received.

(13) RULES.—The division shall promulgate rules for the implementation of this section.

(14) REPEAL.—This section is repealed October 1, 2017, unless reviewed and saved from repeal by the Legislature.

History.—s. 9, ch. 90-330; s. 5, ch. 91-200; s. 1, ch. 94-150; s. 39, ch. 94-324; s. 1, ch. 95-128; s. 266, ch. 96-406; s. 71, ch. 96-418; s. 4, ch. 2000-122; s. 116, ch. 2001-266; s. 32, ch. 2002-22; s. 2, ch. 2011-118; s. 19, ch. 2014-96.

413.731 Legislative funding; contracting for services.—

(1) The services prescribed to be provided by the division pursuant to this part are required only to the extent they are funded by the Legislature.

(2) The division may also apply for funds and grants from private sources, the Federal Government, or any other source.

(3) The division may contract with other persons to provide the services which it is required to provide.

(4) Notwithstanding anything contained in this part to the contrary, the division is the payor of last resort regarding the provision of any services under this part.

History.—s. 15, ch. 90-330; s. 43, ch. 94-324.

413.74 Other agencies; cooperation and referral.—

(1) When an individual contacts any public agency requesting rehabilitation services, the agency shall determine whether the individual's needs can be met by that agency. If the agency determines that it cannot meet the individual's needs and it knows of no resources in the community that can meet the individual's needs, the agency shall refer the individual to the division via a toll-free telephone number.

(2) Every public agency shall cooperate with the division to ensure that rehabilitation services are available.

History.—s. 16, ch. 90-330; s. 44, ch. 94-324.

PART III

EMPLOYMENT FIRST; UNIQUE ABILITIES PARTNER PROGRAM

413.80 Employment First Act.

413.801 Florida Unique Abilities Partner Program.

413.80 Employment First Act.—

(1) **SHORT TITLE.**—This section may be cited as the “Employment First Act.”

(2) **LEGISLATIVE FINDINGS AND INTENT.**—The Legislature finds that employment is the most direct and cost-effective means to assist an individual in achieving independence and fulfillment; however, individuals with disabilities are confronted by unique barriers to employment which inhibit their opportunities to compete fairly in the labor force. It is the intent of the Legislature to provide a framework for a long-term commitment to improving employment outcomes for individuals with disabilities in this state through the implementation of this act.

(3) **PURPOSE.**—The purpose of this act is to prioritize employment of individuals with disabilities and to change the employment system to better integrate individuals with disabilities into the workforce. This act encourages a collaborative effort between state agencies and organizations to achieve better employment outcomes for individuals with disabilities.

(4) **INTERAGENCY COOPERATIVE AGREEMENT.**—The following state agencies and organizations, and others, as appropriate, shall develop an interagency cooperative agreement to implement this act:

(a) The Division of Vocational Rehabilitation of the Department of Education.

(b) The Division of Blind Services of the Department of Education.

(c) The Bureau of Exceptional Education and Student Services of the Department of Education.

(d) The Agency for Persons with Disabilities.

(e) The Substance Abuse and Mental Health Program Office of the Department of Children and Families.

(f) The Department of Economic Opportunity.

(g) CareerSource Florida, Inc.

(h) The Florida Developmental Disabilities Council.

(i) The Florida Association of Rehabilitation Facilities.

(j) Other appropriate organizations.

(5) **ROLES, RESPONSIBILITIES, AND OBJECTIVES.**—The interagency cooperative agreement must identify the roles and responsibilities of the state agencies and organizations identified in subsection (4) and the objectives of the interagency cooperative agreement, which must include all of the following:

(a) Establishing a commitment by leadership of the state agencies and organizations to maximize resources and coordination to improve employment outcomes for individuals with disabilities who seek publicly funded services.

(b) Developing strategic goals and benchmarks to assist the state agencies and organizations in the implementation of this agreement.

(c) Identifying financing and contracting methods that will help to prioritize employment for individuals with disabilities by state agencies and organizations.

(d) Establishing training methods to better integrate individuals with disabilities into the workforce.

(e) Ensuring collaborative efforts between multiple agencies to achieve the purposes of this act.

(f) Promoting service innovations to better assist individuals with disabilities in the workplace.

(g) Identifying accountability measures to ensure the sustainability of this agreement.

History.—s. 7, ch. 2016-3.

413.801 Florida Unique Abilities Partner Program.—

(1) **CREATION AND PURPOSE.**—The Department of Economic Opportunity shall establish the Florida Unique Abilities Partner Program to designate a business entity as a Florida Unique Abilities Partner if the business entity demonstrates commitment, through employment or support, to the independence of individuals who have a disability. The department shall consult with the Agency for Persons with Disabilities, the Division of Vocational Rehabilitation of the Department of Education, the Division of Blind Services of the Department of Education, and CareerSource Florida, Inc., in creating the program.

(2) **DEFINITIONS.**—As used in this section, the term:

(a) “Department” means the Department of Economic Opportunity.

(b) “Individuals who have a disability” means persons who have a physical or intellectual impairment that substantially limits one or more major life activities, persons who have a history or record of such an impairment, or persons who are perceived by others as having such an impairment.

(3) DESIGNATION.—

(a) A business entity may apply to the department to be designated as a Florida Unique Abilities Partner, based on the business entity's achievements in at least one of the following categories:

1. Employment of individuals who have a disability.
2. Contributions to local or national disability organizations.
3. Contributions to, or the establishment of, a program that contributes to the independence of individuals who have a disability.

(b) As an alternative to application by a business entity, the department must consider nominations from members of the community where the business entity is located. The nomination must identify the business entity's achievements in at least one of the categories provided in paragraph (a).

(c) The name, location, and contact information of the business entity must be included in the business entity's application or nomination.

(d) The department shall adopt procedures for the application, nomination, and designation processes for the Florida Unique Abilities Partner Program. Designation as a Florida Unique Abilities Partner does not establish or involve licensure, does not affect the substantial interests of a party, and does not constitute a final agency action. The Florida Unique Abilities Partner Program and designation are not subject to chapter 120.

(4) ELIGIBILITY AND AWARD.—In determining the eligibility for the designation of a business entity as a Florida Unique Abilities Partner, the department shall consider, at a minimum, the following criteria:

(a) For a designation based on an application by a business entity, the business entity must certify that:

1. It employs at least one individual who has a disability. Such employees must be residents of this state and must have been employed by the business entity for at least 9 months before the business entity's application for the designation. The department may not require the employer to provide personally identifiable information about its employees;
2. It has made contributions to local and national disability organizations or contributions in support of individuals who have a disability. Contributions may be accomplished through financial or in-kind contributions, including employee volunteer hours. Contributions must be documented by providing copies of written receipts or letters of acknowledgment from recipients or donees. A business entity with 100 or fewer employees must make a financial or in-kind contribution of at least \$1,000, and a business entity with more than 100 employees must make a financial or in-kind contribution of at least \$5,000; or
3. It has established, or has contributed to the establishment of, a program that contributes to the independence of individuals who have a disability. Contributions must be documented by providing copies of written receipts, a summary of the program, program materials, or letters of acknowledgment from program participants or volunteers. A business entity with 100 or fewer employees must make a financial or in-kind contribution of at least \$1,000 in the program, and a business entity with more than 100 employees must make a financial or in-kind contribution of at least \$5,000.

A business entity that applies to the department to be designated as a Florida Unique Abilities Partner shall be awarded the designation upon meeting the requirements of this section.

(b) For a designation based upon receipt of a nomination of a business entity:

1. The department shall determine whether the nominee, based on the information provided by the nominating person or entity, meets the requirements of paragraph (a). The department may request additional information from the nominee.

2. If the nominee meets the requirements, the department shall provide notice, including the qualification criteria provided in the nomination, to the nominee regarding the nominee's eligibility to be awarded a designation as a Florida Unique Abilities Partner.

3. The nominee shall be provided 30 days after receipt of the notice to certify that the information in the notice is true and accurate and accept the nomination, to provide corrected information for consideration by the department and indicate an intention to accept the nomination, or to decline the nomination. If the nominee accepts the nomination, the department shall award the designation. The department may not award the designation if the nominee declines the nomination or has not accepted the nomination within 30 days after receiving notice.

(5) ANNUAL CERTIFICATION.—After an initial designation as a Florida Unique Abilities Partner, a business entity must certify each year that it continues to meet the criteria for the

designation. If the business entity does not submit the yearly certification of continued eligibility, the department shall remove the designation. The business entity may elect to discontinue its designation status at any time by notifying the department of such decision.

(6) LOGO DEVELOPMENT.—

(a) The department, in consultation with members of the disability community, shall develop a logo that identifies a business entity that is designated as a Florida Unique Abilities Partner.

(b) The department shall adopt guidelines and requirements for the use of the logo, including how the logo may be used in advertising. The department may allow a business entity to display a Florida Unique Abilities Partner logo upon designation. A business entity that has not been designated as a Florida Unique Abilities Partner or has elected to discontinue its designated status may not display the logo.

(7) WEBSITE.—The department shall maintain a website for the program. At a minimum, the website must provide a list of business entities, by county, which currently have the Florida Unique Abilities Partner designation, updated quarterly; information regarding the eligibility requirements for the designation and the method of application or nomination; and best practices for business entities to facilitate the inclusion of individuals who have a disability, updated annually. The website may provide links to the websites of organizations or other resources that will aid business entities to employ or support individuals who have a disability.

(8) INTERAGENCY COLLABORATION.—

(a) The Agency for Persons with Disabilities shall provide a link on its website to the department's website for the Florida Unique Abilities Partner Program.

(b) On a quarterly basis, the department shall provide the Florida Tourism Industry Marketing Corporation with a current list of all businesses that are designated as Florida Unique Abilities Partners. The Florida Tourism Industry Marketing Corporation must consider the Florida Unique Abilities Partner Program in the development of marketing campaigns, and specifically in any targeted marketing campaign for individuals who have a disability or their families.

(c) The department and CareerSource Florida, Inc., shall identify employment opportunities posted by business entities that currently have the Florida Unique Abilities Partner designation in the workforce information system under s. 445.011.

(9) REPORT.—

(a) By January 1, 2017, the department shall provide a report to the President of the Senate and the Speaker of the House of Representatives on the status of the implementation of this section, including the adoption of rules, development of the logo, and development of application procedures.

(b) Beginning in 2017 and each year thereafter, the department's annual report required under s. 20.60 must describe in detail the progress and use of the program. At a minimum, the report must include, for the most recent year: the number of applications and nominations received; the number of nominations accepted and declined; the number of designations awarded; annual certifications; the use of information provided under subsection (8); and any other information deemed necessary to evaluate the program.

(10) RULES.—The department shall adopt rules to administer this section.

History.—s. 8, ch. 2016-3.