

SECOND REGULAR SESSION

# HOUSE BILL NO. 2130

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE UNSICKER.

4158H.02I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

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

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

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

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

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

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

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

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

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

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

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

17 self-employed in similar occupations or on similar tasks and who have similar training,  
18 experience, and skills; and

19 d. Is eligible for the level of benefits provided to other employees;

20 (b) Is at a location:

21 a. Typically found in the community; and

22 b. Where the employee with a disability interacts for the purpose of performing the  
23 duties of the position with other employees within the particular work unit and the entire  
24 work site and, as appropriate to the work performed, other persons, such as customers and  
25 vendors, who are not persons with disabilities, other than supervisory personnel or persons  
26 who are providing services to such employee, to the same extent that employees who are  
27 not persons with disabilities and who are in comparable positions interact with these  
28 persons; and

29 (c) Presents, as appropriate, opportunities for advancement that are similar to  
30 those for other employees who are not persons with disabilities and who have similar  
31 positions;

32 (2) "Customized employment", competitive integrated employment, for a person  
33 with a significant disability, that is:

34 (a) Based on an individualized determination of the unique strengths, needs, and  
35 interests of the person with a significant disability;

36 (b) Designed to meet the specific abilities of the person with a significant disability  
37 and the business needs of the employer; and

38 (c) Carried out through flexible strategies, such as:

39 a. Job exploration by the person; and

40 b. Working with an employer to facilitate placement, including:

41 (i) Customizing a job description based on current employer needs or on previously  
42 unidentified and unmet employer needs;

43 (ii) Developing a set of job duties, a work schedule and job arrangement, and  
44 specifics of supervision, including performance evaluation and review, and determining  
45 a job location;

46 (iii) Using a professional representative chosen by the person or self-representation,  
47 if elected, to work with an employer to facilitate placement; and

48 (iv) Providing services and supports at the job location;

49 (3) "Disability", a physical or mental impairment that substantially limits one or  
50 more major life activities of a person, as defined in the Americans with Disabilities Act of  
51 1990, as amended. The term "disability" does not include brief periods of intoxication  
52 caused by alcohol or drugs or dependence upon or addiction to any alcohol or drug;

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

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

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

62           (a) Typically found in the community; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

158           **10. State agencies may promulgate rules to implement the provisions of this section.**  
159   **Any rule or portion of a rule, as that term is defined in section 536.010, that is created**  
160   **under the authority delegated in this section shall become effective only if it complies with**  
161   **and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.**  
162   **This section and chapter 536 are nonseverable, and if any of the powers vested with the**  
163   **general assembly pursuant to chapter 536 to review, to delay the effective date, or to**  
164   **disapprove and annul a rule are subsequently held unconstitutional, then the grant of**  
165   **rulemaking authority and any rule proposed or adopted after August 28, 2018, shall be**  
166   **invalid and void.**

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