I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.+A1:I1	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
219-36 (LS)	Amanda L. Shelton Tina Rose Muña Barnes Telena Cruz Nelson Mary Camacho Torres Telo T. Taitague Frank Blas Jr. Joanne Brown	AN ACT TO *AMEND* SUBSECTIONS (a) AND (b); AND TO *ADD* A NEW SUBSECTION (g), ALL OF § 41210, ARTICLE 2, CHAPTER 41, TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE CERTIFICATION OF DISABILITY AS AN IMPEDIMENT TO EMPLOYMENT FOR INDIVIDUALS WITH DISABILITIES.	10/28/21 3:01 p.m.						

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 219-36 (LS)

Introduced by: Amanda L. Shelton
Tina Rose Muña Barnes
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AN ACT TO *AMEND* SUBSECTIONS (a) AND (b); AND TO ADD A NEW SUBSECTION (g), ALL OF § 41210, ARTICLE 2, CHAPTER 41, TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE CERTIFICATION OF DISABILITY AS AN IMPEDIMENT TO EMPLOYMENT FOR INDIVIDUALS WITH DISABILITIES.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that 29,236 adults in Guam have a disability, equal to 31 percent (31%) of adults in Guam, according to the 2019 Behavioral Risk Factor Surveillance System report conducted by the U.S. Centers for Disease Control and Prevention. Individuals with disabilities in Guam experience mobility, cognition, independent living, hearing, vision and self-care issues throughout their lives.

I Liheslatura further finds that the Division of Vocational Rehabilitation (DVR) at the Department of Integrated Services for Individuals with Disabilities is

responsible for providing, planning, and supporting employment services and implementing a wide spectrum of services for persons with disabilities. These services provided by the DVR are designed to help individuals with disabilities prepare for and engage in gainful employment consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

I Liheslatura further finds that under Guam law, a counselor at the DVR is vested with the responsibility of assessing and determining eligibility and vocational rehabilitation needs. This responsibility includes determining whether an individual has a physical or mental impairment which for this individual constitutes or results in a substantial impediment to employment, and which this individual can benefit in terms of an employment outcome from vocational rehabilitation services. *I Liheslatura* finds that this responsibility requires a certain degree of medical experience and education, and thus, such responsibility should be given to a licensed medical professional in Guam.

I Liheslatura further finds that our community could better advocate for persons with disabilities by improving existing services that promote and ensure a full continuum of lifelong programs for employment, independence, productivity and inclusion into our community. It is the right of every individual on Guam, especially a person with a disability, to demand equality and be recognized as a contributing participant.

Therefore, it is the intent of *I Liheslaturan Guåhan* to improve services for individuals with disabilities by vesting the responsibility of certifying a disability as an impediment to employment with a Guam-licensed medical practitioner.

Section 2. Subsection (a) of § 41210, Article 2, Chapter 41, Title 17, Guam Code Annotated, is hereby *amended*, to read:

"§ 41210. Employment of Individuals with Severe Disabilities.

(a) Departments and agencies of the government of Guam shall adopt departmental rules and regulations for the hiring of individuals with severe disabilities. Such rules shall include the granting of preference credits allowed under 4 GCA § 4104.

(1) Eligibility Procedures. An individual with severe disability as defined in the Rehabilitation Act to mean an individual with severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community or to continue in employment, respectively. He/she is considered to meet the two percent (2%) employment program eligibility criteria when an appropriate certification is received from a ~~counselor from the Division of Vocational Rehabilitation ('DVR')~~Guam-licensed medical practitioner under 10 GCA Chapter 12 qualified to determine whether an individual has a physical or mental impairment which for this individual constitutes or results in a substantial impediment to employment, and which this individual can benefit in terms of an employment outcome from vocational rehabilitation services. This certification will be based on knowledge of the jobsite, job description, nature of work, knowledge, abilities and skills needed to perform the job by the ~~counselor~~medical practitioner and will relate to a specific position. The certification must state that in the ~~counselor's~~medical practitioner's judgment the proposed applicant for the position has the ability to perform the duties of the position with or without assistive technology

devices and is capable to perform the work without possible injury to himself/herself or to others.

(2) The Certification must be supported by a report of a medical examination that fully reflects the nature and extent of the disability and a narrative statement from a Guam-licensed medical provider that documents:

(A) ability of the proposed applicant to do the job, based on the recommended need for a job coach;

(B) recommendations of job modifications, if needed;

(C) recommendations for work-site modifications, if needed;

(D) limitations of the proposed applicant which would affect work in the job situation (modified work schedules, flexible leave policies, acquisition or modification of equipment and/or devices);

(E) other information concerning the proposed applicant which would be helpful in assuring a successful placement."

Section 2. Subsection (b) of § 41210, Article 2, Chapter 41, Title 17, Guam Code Annotated, is hereby *amended*, to read:

"(b) Government of Guam departments and/or agencies shall employ at least two percent (2%) of the workforce with severe disabilities, meeting the criteria as defined by local or Federal agencies and certified by a ~~counselor from the Division of Vocational Rehabilitation ('DVR')~~Guam-licensed medical practitioner under 10 GCA Chapter 12 qualified to determine whether an individual has a physical or mental impairment which for this individual constitutes or results in a substantial impediment to employment, and which

this individual can benefit in terms of an employment outcome from vocational rehabilitation services. Government of Guam departments and/or agencies may meet such requirement through direct employment, or by contract with non-profit organizations employing individuals with disabilities.

Non-profit organizations contracted under this Provision shall be required to have the contracted services performed by individuals with disabilities who meet the criteria contained herein. Such employment shall be on a temporary, limited-term employment not to exceed six (6) months. The immediate supervisor shall complete an evaluation of the individual's performance, and if the immediate supervisor, with the concurrence of the appointing authority, determines that the individual has performed satisfactorily either prior to or after the expiration of the six (6) month period, the position occupied by the individual shall be converted to permanent employment.

If the evaluation recommends that the individual may require an extension of the employment program, the immediate supervisor and the counselor at DVR shall develop a revised Individual Work Rehabilitation Plan ('IWRP') to assure successful placement not to exceed an additional six (6) months, which may include consideration of a department or agency acquisition, or modification of assistive technology devices or services, or placement to other positions in another agency/department within the government of Guam. DVR shall provide a work coach to assist the department and/or agency when necessary. ~~DVR shall be responsible to monitor compliance by the departments and/or agencies.~~"

Section 3. A new Subsection (g) is hereby *added* to § 41210 of Article 2, Chapter 41, Title 17, Guam Code Annotated, to read:

"(g) Annual Report on Disability Employment. Thirty (30) days after the end of Fiscal Year 2023 and annually thereafter, the Department of Administration shall prepare and submit a report on the compliance of government of Guam departments and/or agencies with employing at least two percent (2%) of their respective workforce with severe disabilities to *I Maga'hågan Guåhan* and the Speaker of *I Liheslaturan Guåhan*. The report shall be prepared in consultation with the Department of Integrated Services for Individuals with Disabilities, and shall also be posted on the DOA and DISID websites. The report shall include, but not limited to:

(1) the total number of individuals with severe disabilities employed by each department and/or agency;

(2) the total number of individuals employed by each department and/or agency;

(3) the percent of the workforce in each department and/or agency with severe disabilities;

(4) the number of individuals with severe disabilities hired by each department and/or agency within the year;

(5) the types of jobs under which individuals with severe disabilities were employed in each department and/or agency; and

(6) the length of employment of individuals with severe disabilities were employed in each department and/or agency."

Section 4. Effective Date. This Act *shall* be effective upon enactment.