
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: AB 857 **Hearing Date:** June 20, 2023
Author: Ortega
Version: April 3, 2023
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Vocational services: formerly incarcerated persons*

HISTORY

Source: Author

Prior Legislation: None known

Support: California Chamber of Commerce; California Public Defenders Association;
Californians for Safety and Justice; Disability Rights California; Initiate Justice

Opposition: None known

Assembly Floor Vote: 76 - 0

PURPOSE

The purpose of this bill to require the Department of Corrections and Rehabilitation (CDCR) to provide each incarcerated individual, upon release and regardless of speculative eligibility, with informational written materials for vocational rehabilitation services and independent living programs, and an application for vocational rehabilitation services.

Existing law establishes the Department of Rehabilitation (DOR) within the California Health and Human Services Agency. (Welf. & Inst. Code, § 19001.)

Existing law provides that DOR is responsible for operating comprehensive, coordinated, effective, efficient, and accountable programs of vocational rehabilitation and independent living that are designed to assess, plan, develop, and provide services for individuals with disabilities, particularly individuals with the most significant disabilities, consistent with their strengths, resources, priorities, concerns, abilities, and capabilities, so that these individuals may prepare for and engage in gainful employment and live more independently. (Welf. & Inst. Code, § 19000, subd. (b).)

Existing law requires DOR to provide specified services to eligible individuals with physical or mental disabilities. (Welf. & Inst. Code, § 19100, subd. (a).)

Existing law defines “vocational rehabilitation services” to include an assessment for determining eligibility and vocational rehabilitation; counseling, guidance, and work-related

placement services for persons with disabilities; training services for persons with disabilities; auxiliary aide services; job coaching services; recruitment and training services; and physical and mental restoration services, among others. (Welf. & Inst. Code, § 19150, subd. (a).)

Existing law defines “individual with a disability” to any individual who has a physical or mental impairment which constitutes or results in a substantial impediment to employment and can benefit in terms of an employment outcome from vocational rehabilitation services. (Welf. & Inst. Code, § 19151, subd. (a).)

Existing law defines “individual with a significant disability” as having the same meaning as specified in the federal Rehabilitation Act of 1973. (Welf. & Inst. Code, § 19151, subd. (b).)

Existing law establishes a presumption that an individual can benefit in terms of an employment outcome from vocational rehabilitation services unless it can be demonstrated by clear and convincing evidence that the individual is incapable of doing so. (Welf. & Inst. Code, § 19103, subd. (b).)

Existing law authorizes DOR to cooperate with public and private entities to maximize resources to best serve individuals with disabilities through enhanced services. (Welf. & Inst. Code, § 19013.)

Existing law requires DOR to administer the Independent Living Services Program which provides services to individuals with significant disabilities. (Welf. & Inst. Code, § 19751.)

Existing law establishes CDCR to administer the state prison system under the direction of the Secretary. (Pen. Code, § 5000 et seq.)

Existing law vests the Secretary of the CDCR with the supervision, management and control of state prisons. Provides that the Secretary is also responsible for the care, custody, treatment, training, discipline and employment of a person confined in those prisons. (Pen. Code, § 5054.)

This bill requires CDCR to, upon release, provide each incarcerated person with informational written materials, in a format prescribed by the department, regarding vocational rehabilitation services and independent living programs offered by DOR, and an enrollment form for these vocational rehabilitation services.

This bill includes youth facilities in the above mandate.

This bill requires CDCR to provide the above described documents to any incarcerated person being released, whether or not the department believes the person to be eligible for these programs and services.

This bill adds “services to formerly incarcerated persons with disabilities, designed to promote rehabilitation and reduce the likelihood of recidivism” to the list of services and goods included in the definition of “vocational rehabilitation services.”

COMMENTS

1. Need For This Bill

According to the author:

AB 857 would ensure vocational rehabilitation services, along with living programs already provided by the DOR, are offered to those who need them the most, the formerly incarcerated. Offering these services will support this population in integrating back into society and reduce rates of recidivism. It is time our institutions do more than incarcerate people, but instead guide the formerly incarcerated to alternative paths that will steer them away from a life of crime once released from prison. One of the most challenging parts of integrating back into society for the formerly incarcerated is not knowing where to begin once released. AB 857 provides a step towards changing the trajectory of the lives of formerly incarcerated individuals, especially those with disabilities.

2. Department of Rehabilitation

DOR administers the largest vocational rehabilitation and independent living programs in the country. The vocational rehabilitation services program delivers vocational rehabilitation services to individuals with disabilities through vocational rehabilitation professionals in district and branch offices located throughout the state so that individuals with disabilities may prepare for and engage in competitive integrated employment and achieve economic self-sufficiency. Vocational rehabilitation services include vocational assessment, assistive technology, vocational and educational training, job placement, supported employment, and independent living skills training, among others. DOR has cooperative agreements with state and local agencies to provide services to consumers, and priority is given to individuals with the most significant disabilities.

DOR also funds, administers, and supports 28 independent living centers in communities located throughout the state. Each independent living center is a consumer-controlled, community-based, cross-disability (i.e., any disability or multiple disabilities), nonresidential private nonprofit organization designed by and for the local community and operated by a majority of individuals with disabilities. Each center provides services necessary to assist consumers to live independently with full inclusion in their communities. Core services consist of information and referral, peer counseling, individual and systems change advocacy, independent living skills, housing assistance, personal assistance referral services, transition and diversion services to community-based living, and transition services to postsecondary life for youth.

In order to qualify for DOR services, an applicant must have a physical or mental impairment that substantially impedes their ability to secure employment; and vocational rehabilitation services are required to prepare for, secure, retain, or regain employment consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, interests, and informed choice; and be able to benefit from the DOR's services in terms of an employment outcome in an integrated setting. After applying for services, DOR conducts an interview to discuss the individual's goals and experience, and then an eligibility determination is made and a plan to find employment is developed.

3. Disabilities Within the Incarcerated Population

Data on the prevalence of disabilities within the incarcerated population indicate that individuals with disabilities are overrepresented in the jail and prison population. A 2016 Bureau of Justice Statistics survey on self-reported disabilities within state and federal inmate populations found the following:

- Nearly 2 in 5 (38%) state and federal inmates had at least one disability.
- The most commonly reported type of disability among both state and federal inmates was a cognitive disability (23%), followed by ambulatory (12%) and vision (11%) disabilities.
- Among all incarcerated individuals, 24% reported that a doctor, psychologist, or teacher had told them at some point in their life that they had an attention deficit disorder.
- Nearly a quarter of all incarcerated individuals reported participating in special education classes (24%).
- Incarcerated individuals in state and federal custody (38%) were about two-and-a-half times more likely to report a disability than adults in the U.S. general population (15%).

This bill requires CDCR to provide each incarcerated person with informational materials regarding vocational rehabilitation services and independent living programs offered by DOR. This bill also requires CDCR to provide an enrollment form for these vocational rehabilitation services. These documents would have to be provided to any incarcerated person being released regardless of whether CDCR believes the person is eligible for those programs and services.

Notably, this bill requires CDCR to provide the above documents to each incarcerated individual, including those incarcerated in youth facilities. As a result of SB 823 (Committee on Budget & Fiscal Review, Chapter 337, Statutes of 2020), the Division of Juvenile Justice (DJJ) is closing. With limited exceptions, DJJ stopped accepting new commitments after June 30, 2021. DJJ has a defined closure date of June 30, 2023. Under this realignment, the responsibility for managing all committed youth who would have been housed at DJJ has shifted from the state to local county jurisdictions. Given that CDCR will no longer be operating youth facilities, the author may wish to consider amending the bill to remove the reference to youth facilities. Alternatively, the author could amend the bill to create a mandate on the counties if the intent is to provide youth who would have been housed at DJJ with these documents.

4. Argument in Support

Disability Rights California writes:

The formerly incarcerated have been historically underserved, are often not aware of DOR services or their status as persons with disabilities and the right to DOR services, and providing them with applications on release helps with the following issues:

- They know they are entitled to DOR services regardless of having a criminal record.
- They know how to access DOR services and have the forms needed to apply right away.
- Employment reduces recidivism. ...

- Helping connect the formerly incarcerated with the already funded services DOR provides avoids the costs to society when the formerly incarcerated are not able to take advantage of these services. ...
- People coming out of incarceration are often behind in their skills. DRC has seen DOR clients who need technology training but also need different tools and trainings because their trades have changed since they last practiced them. ... They have to overcome those gaps as well as the criminal record stigma and the employment gap.

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