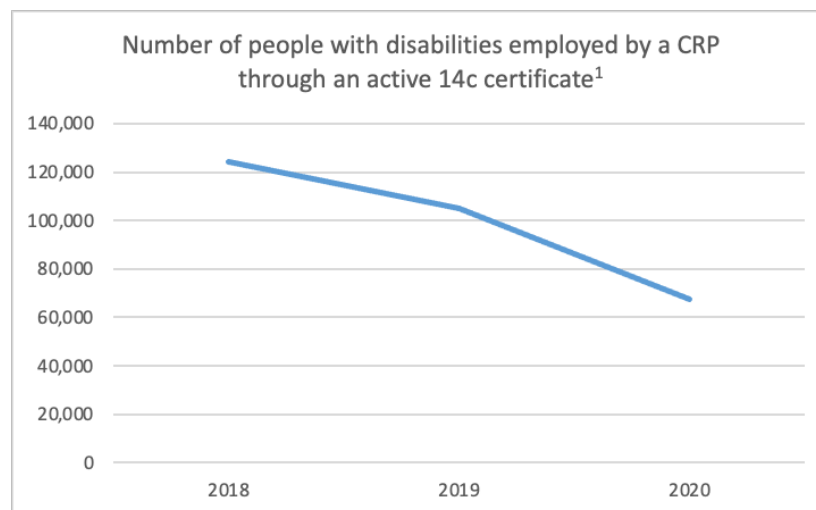


**LAST UPDATED: July 2021**

### Trends and Current Status of 14(c)

According to the US Department of Labor (USDOL) Wage and Hour July 2020 report on 14c data, 67,288 individuals were reported as earning a subminimum wage under active 14(c) certificates held by community rehabilitation providers (CRPs). This represents an 46% decrease since 2018 and speaks to the declining market demand for 14(c) under the Fair Labor Standards Act.



National Core Indicators data (NCI, 2017-2018) also supports the declining trend. As demonstrated in Table 1, there has been a steady increase in self-directed preference for competitive, integrated employment as youth with disabilities transition out of high school and into adult services and supports.

Table 1. *Percentage of respondents indicating a desire to have a paid job in the community compared by age group<sup>2</sup>*

|                 |     |
|-----------------|-----|
| 35-54 year-olds | 45% |
| 23-34 year-olds | 56% |
| 18-22 year-olds | 65% |

The number of individuals served in 14(c) settings with active certificates held by community rehabilitation providers (CRPs) has steadily decreased over the past three reporting periods. Additionally, there has been a steady decrease in the number of active certificates and the average number of individuals served per 14(c) setting.

Table 2. Comparison of the number of individuals served, number of active certificates, and the average number of individuals served per certificate over time<sup>1</sup>

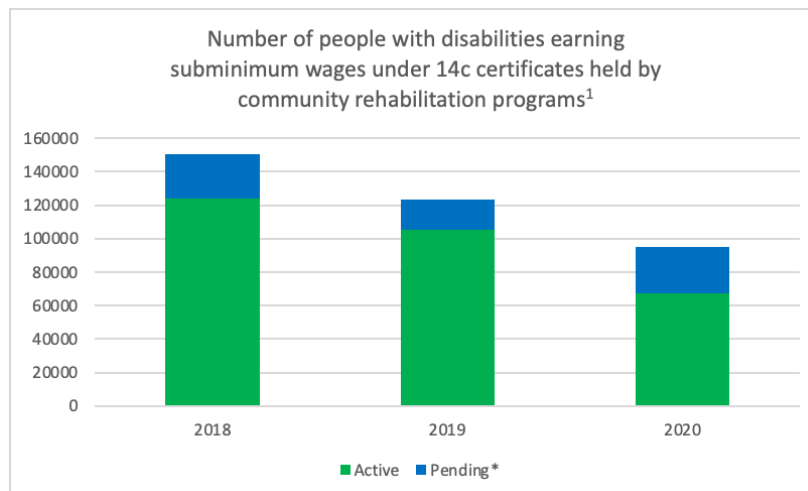
|                           | <u>2018</u> | <u>2019</u> | <u>2020</u> |
|---------------------------|-------------|-------------|-------------|
| # Served                  | 124,066     | 105,006     | 67,286      |
| # Active Certificates     | 1459        | 1316        | 873         |
| Avg. # served/certificate | 85          | 80          | 77          |

Additionally, the number of pending certificates has increased from an average of 310 certificates (July 2018) per reporting period to 383 pending certificates (July 2020). Certificates in pending status are not required to report the number of individuals served to the US DOL.

### Estimated Numbers of Individuals Served in CRP 14(c) Settings

A prevailing unknown in the policy discussion regarding 14(c) is the total number of individuals with disabilities served currently in 14(c) settings, especially given the lack of understanding of how many individuals are being served in settings where the 14(c) certificate is listed as “pending” in US DOL reports, which is the only publicly available data on 14(c).

In an attempt to address this lack of available data, estimates have been calculated using the average number of individuals served per active CRP certificate multiplied by the number of pending CRP certificates reported by US DOL.



## Impact of Elimination of 14(c) restrictions on Employment Outcomes

Another prevailing question in the policy discussion around 14c relates to the potential impact on the employment rates of people with disabilities when a state eliminates subminimum wages and the use of 14c. There has been a steady decline in the number of active certificates and the number of individuals served. In 2016, there were 2,275 active certificates employing 241,265 individuals earning subminimum. In July 2019, these numbers have dropped to 1,316 certificates employing 105,006 individuals. This is a 56% decrease in certificates and 42% decrease in individuals served. Some of this decrease is accounted for by state-level initiatives.

Given how relatively recent these changes in policy were enacted, it is not possible to accurately assess the impact on the lives of people with disabilities. Nevertheless, analyzing trends is a useful exercise given the increased attention to this issue from a state and federal policy perspective. Despite the obvious limitations of available data, positive trends can be observed when comparing American Community Survey employment rates from the year a state enacted legislation to discontinue the use of 14(c) and subminimum wage against the most current data available (Table 3).

Table 3. *Comparisons of employment rates from the year legislation was enacted to the most currently available data (Ages 21-64)<sup>3</sup>*

|                        | <b>Employment Rate During Year Enacted</b> | <b>Most Recent Reported Employment Rate</b> |
|------------------------|--|---|
| <b>New Hampshire</b>   | <u>2015</u>                                | <u>2018</u>                                 |
| All disabilities       | 42.4%                                      | 43.5%                                       |
| Cognitive disabilities | 34.6%                                      | 39.0%                                       |
| <b>Maryland</b>        | <u>2016</u>                                | <u>2018</u>                                 |
| All disabilities       | 42.2%                                      | 44.4%                                       |
| Cognitive disabilities | 31.7%                                      | 33.7%                                       |
| <b>Vermont</b>         | <u>2016</u>                                | <u>2018</u>                                 |
| All disabilities       | 41.4%                                      | 41.3%                                       |
| Cognitive disabilities | 24.4%                                      | 35.4%                                       |
| <b>Alaska</b>          | <u>2018</u>                                | n/a   |
| All disabilities       | 45.9%                                      |   |
| Cognitive disabilities | 33.4%                                      |   |

*Note: Employment rates are the percentage of non-institutionalized, male or female, with a disability, ages 21-64, all races, regardless of ethnicity, with all educational levels in the U.S. who were employed).*

## States and municipalities with 14(c) restrictions

To date, nine states have enacted legislation to eliminate subminimum wage and 14(c). Additionally, the state of Delaware enrolled legislation in June 2021.

### **New Hampshire** (2015, SB47)

- <https://legiscan.com/NH/drafts/SB47/2015>
- Eliminated subminimum wage effective July 2015.
- New Hampshire reported no active 14(c) certificates in the state.

### **Maryland** (2016, HB 420/SB 417)

- <https://legiscan.com/MD/bill/HB420/2016>
- Phases out subminimum wage for people with disabilities by October 2020.
- Maryland reported 6 certificates serving 409 individuals.

### **Alaska** (2018, repeal of 8 AAC 15.120)

- <https://labor.alaska.gov/news/2018/news18-04.pdf>
- <https://aws.state.ak.us/OnlinePublicNotices/Notices/Attachment.aspx?id=110744>
- Repealed minimum wage exemption effective February 2018.
- Alaska reported 1 remaining certificate serving zero individuals.

### **Oregon** (2019, SB 494)

- <https://legiscan.com/OR/bill/SB494/2019>
- Phases out subminimum wage for people with disabilities by June 2023.
- Oregon reported 7 certificates serving 409 individuals.

### **Maine** (2020, LD1874/HP1340)

- [http://www.mainelegislature.org/legis/bills/bills\\_129th/chapters/PUBLIC632.asp](http://www.mainelegislature.org/legis/bills/bills_129th/chapters/PUBLIC632.asp)
- Ended subminimum wage as of December 2019.
- Maine reported no active 14(c) certificates in the state.

### **Washington** (2021, SB5284)

- <https://legiscan.com/WA/bill/SB5284/2021>
- Prevents issue of new 14(c) certificates and phases out existing certificates in place as of August 2023.
- Washington reported 10 certificates serving 287 individuals.

**Hawaii** (2021, S793)

- <https://legiscan.com/CO/drafts/SB039/2021>
- Ends use of 14c certificates as of January 2022.
- Hawaii reported 4 certificates serving 7 individuals.

**Colorado** (2021, SB39)

- <https://legiscan.com/CO/bill/SB039/2021>
- Prevents issue of new 14(c) certificates and phases out existing certificates in place as of July 2025.
- Colorado reported 10 certificates serving 408 individuals.

**Minnesota** (2021, HF33, Article 17, Sections 14-15)

- <https://www.revisor.mn.gov/laws/2021/1/Session+Law/Chapter/7/>
- Establishes a task force to develop a plan to phase out subminimum wages by August 2025.
- Provides \$14.1 million in grants to help disability service providers transform their business models and boost work options in the community.

**Delaware** (2021, HB122 – Enrolled)

- <https://legiscan.com/DE/bill/HB122/2021>
- The Act requires that authorization to pay individuals with disabilities less than the minimum wage required to be paid to other employees will be phased out by July 1, 2023.
- Delaware reported 1 certificate serving 223 individuals.

**Rhode Island and the District of Columbia** currently report no active or pending 14(c) certificates (Source: DOL W&H, 7/1/20).

**Vermont** does not have any formal policy specifically to eliminate 14(c). However, the Vermont Division of Disability and Aging Services does not support center-based or group supported employment services, and as of January 2016 there were no active 14(c) certificates in the state. Vermont policy on the use of subminimum wage for people with disabilities is clear, and the state implemented a systematic process of change between 1999 and 2005.

**Texas** passed a partial subminimum wage bill during the 2019 legislative session.

**Texas (2019, SB 753)**

- <https://legiscan.com/TX/bill/SB753/2019>
- <https://www.expressnews.com/opinion/commentary/article/Texas-ending-subminimum-wage-for-disabled-workers-14059931.php>



- Requires that organizations that operate state use contracts to employ people with disabilities must pay at least minimum wage

At the local level, **Reno (2019) and Chicago (2019)** have passed city-specific bans on subminimum wage. (Previously, **Seattle (2018) and Denver (2019)** passed similar city-specific bans, and **King County, WA (2019)** barred sub-minimum wage for employees and contractors. However, locales are now subject to statewide legislation eliminating 14c.)

As of July 1, 2021, the following states have legislation in progress to phase out 14(c): **California, Illinois, New York, Rhode Island, South Carolina**. Additionally, legislation was introduced in **Minnesota, New Mexico, Kentucky, West Virginia** but died in committee of chamber.

### Minimum Wage Laws in States

<https://www.dol.gov/whd/minwage/america.htm#stateDetails>

|                                      |           |
|--------------------------------------|-----------|
| Higher than federal                  | 30 states |
| Same as federal                      | 13 states |
| No state minimum (federal applies)   | 5 states  |
| Lower than federal (federal applies) | 2 states  |

### Read APSE's full statement on the phase out of 14(c):

[https://apse.org/final-14c-statement-3\\_26\\_19/](https://apse.org/final-14c-statement-3_26_19/)

### For more information, contact:

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### Source Data:

<sup>1</sup>U.S. Department of Labor Wage and Hour Division (USDOL, 14(c) Certificate Holders, 7/1/20; *pre-pandemic data*)

<sup>2</sup>National Core Indicators (NCI, 2017-2018)

<sup>3</sup>American Community Survey (ACS, Employment Data, 2018)