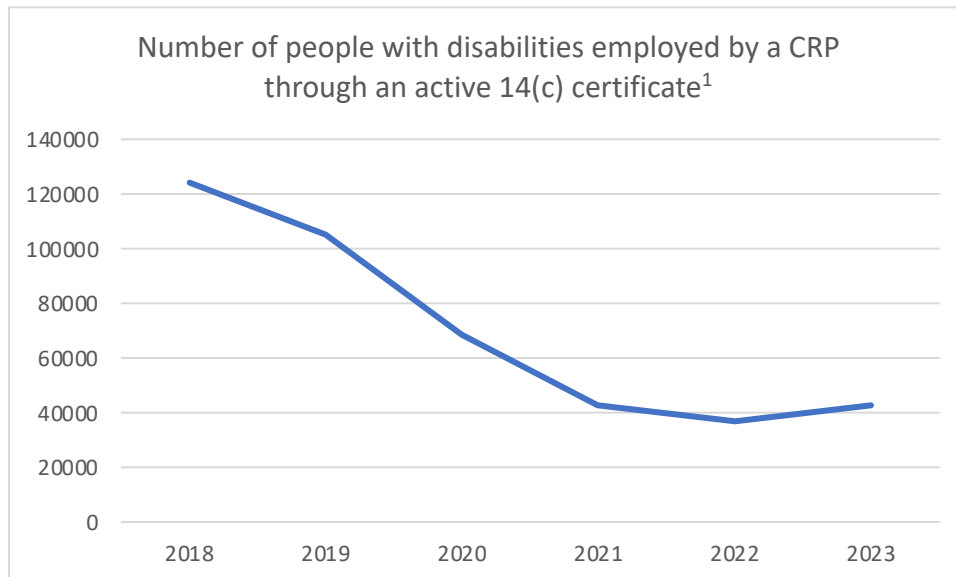


### Trends and Current Status of 14(c)

According to the US Department of Labor (USDOL) Wage and Hour July 2023 report on 14(c) data, 44,434 individuals were reported as earning a subminimum wage under active 14(c) certificates, with 42,792 of these employed by community rehabilitation providers (CRPs). This represents an 64% 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 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 (CRP issued certificates)<sup>1</sup>*

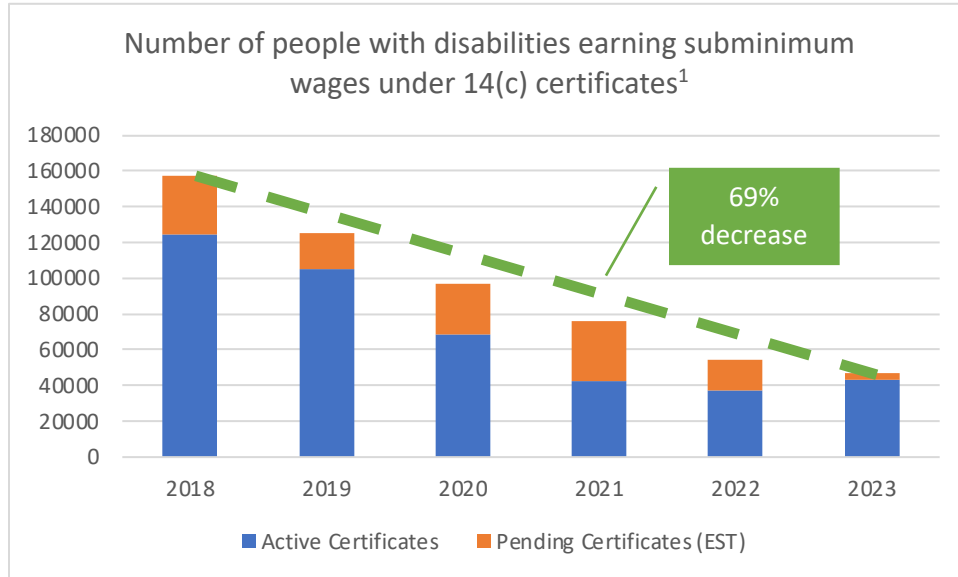
	2018	2019	2020	2021	2022	2023
# Served	124066	105006	68495	42494	36978	42792
# Active Certificates	1459	1316	873	659	690	773
Avg. # served/certificate	85	80	78	64	54	55

Additionally, the number of pending certificates has increased from 310 certificates (July 2018) to 83 pending certificates (July 2023). 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 14(c) relates to the potential impact on the employment rates of people with disabilities when a state eliminates subminimum wages and the use of 14(c). As demonstrated above, there has been a steady decline in the number of active certificates and the number of individuals served. Some of this decrease is accounted for by state-level initiatives, including passage of legislation, to phase out the use of 14(c) certificates.

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 labor participation rate 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>

	Employment Rate During Year Enacted	Most Recent Reported Employment Rate	% change
<b>New Hampshire</b>	<u>2015</u>	<u>2019</u>	
No disability	85.1%	85.0%	-0.1%
All disabilities	42.4%	44.4%	2.0%
Cognitive disabilities	34.6%	39.4%	4.8%
<b>Maryland</b>	<u>2016</u>	<u>2019</u>	
No disability	82.5%	83.2%	0.7%
All disabilities	42.2%	44.4%	2.2%
Cognitive disabilities	31.7%	34.6%	2.9%
<b>Vermont</b>	<u>2016</u>	<u>2019</u>	
No disability	85.0%	85.3%	0.3%
All disabilities	41.4%	43.2%	1.8%
Cognitive disabilities	24.4%	31.8%	7.4%
<b>Alaska</b>	<u>2018</u>	<u>2019</u>	
No disability	79.0%	76.5%	-2.5%
All disabilities	45.9%	40.5%	-5.4%
Cognitive disabilities	33.4%	33.7%	0.3%
<b>Oregon</b>	<u>2019</u>	<u>n/a</u>	
No disability	79.9%		
All disabilities	45.1%		
Cognitive disabilities	36.2%		

*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, fifteen states (listed below in order of date of passage) have enacted legislation to eliminate subminimum wage and 14(c). Additionally, the state of Minnesota passed a provision to develop a plan to phase out 14(c) via the state's budget bill. Data on current utilization is based on active certificate reporting to the U.S. Department of Labor, Wage & Hour Division (7/1/23).

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

- <https://legiscan.com/NH/drafts/SB47/2015>
- Repealed payment of subminimum wage for individuals with disabilities effective July 2015.
- New Hampshire reports no active or pending 14(c) certificates in the state.

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

- <https://legiscan.com/MD/bill/HB420/2016>
- Phased out payment of subminimum wage for individuals with disabilities by October 2020.
- Prevents approval of new certificates as of October 2016.
- Maryland reports no active or pending 14(c) certificates in the state.

### **Alaska** (2018, repeal of 8 AAC 15.120); (2022, SB185)

- (2018) <https://labor.alaska.gov/news/2018/news18-04.pdf>
- (2018) <https://aws.state.ak.us/OnlinePublicNotices/Notices/Attachment.aspx?id=110744>
- (2018) Repealed (by regulation) minimum wage exemption for individuals with disabilities effective February 2018.
- (2022) <https://legiscan.com/AK/bill/SB185/2021>
- (2022) Amended list of exceptions (maintains rule related to individuals with disabilities)
- Alaska reports 1 active 14(c) certificate serving 0 individuals, and 0 pending certificates.

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

- <https://legiscan.com/OR/bill/SB494/2019>
- Phased out subminimum wage for people with disabilities by June 2023.
- Oregon reports 1 active 14(c) certificate serving 17 individuals, and 0 pending certificates.

### **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 reports no active or pending 14(c) certificates in the state.

**Washington** (2021, SB5284)

- <https://legiscan.com/WA/bill/SB5284/2021>
- Prevents issuance of new 14(c) certificates and begins sunset of all existing certificates effective August 2023.
- Eliminated payment of subminimum wages by state agencies as of enactment.
- Washington reports 18 active 14(c) certificate serving 947 individuals, and 0 pending certificates.

**Hawaii** (2021, S793)

- <https://legiscan.com/HI/bill/SB793/2021>
- Ends use of 14c certificates as of January 2022.
- Hawaii reports no active or pending 14(c) certificates in the state.

**Colorado** (2021, SB39)

- <https://legiscan.com/CO/bill/SB039/2021>
- Prevents issuance of new 14(c) certificates and phases out existing certificates in place as of July 2025.
- Colorado reports 2 active 14(c) certificate serving 52 individuals, and 0 pending certificates.

**California** (2021, SB639)

- <https://legiscan.com/CA/bill/SB639/2021>
- The Act prohibits new special licenses from being issued after January 1, 2022, permits a license to only be renewed for existing license holders who meet requisite benchmarks, and prohibit an employee with a disability from being paid less than the legal minimum wage by January 1, 2024.
- California reports 44 active 14(c) certificate serving 3,004 individuals, and 2 pending certificates.

**Delaware** (2021, HB122)

- <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 reports no active or pending 14(c) certificates in the state.

**Rhode Island** (2022, S2242)

- <https://legiscan.com/RI/bill/S2242/2022>
- Repeals § 28-12-9 of the general laws which provides that the director of labor and training may approve of wages below the minimum wage for those persons whose earning capacity is impaired due to physical or mental disability.
- Rhode Island reports no active or pending 14(c) certificates in the state.

**South Carolina** (2022, S533)

- <https://legiscan.com/SC/bill/S0533/2021>
- Prohibit The Use of Section 14(c) Of The Fair Labor Standards Act Of 1938 To Pay Subminimum Wages To Individuals With Disabilities.
- South Carolina reports 16 active 14(c) certificates serving 1,021 individuals, and 1 pending certificate.

**Tennessee** (2022, SB2042)

- <https://legiscan.com/TN/bill/SB2042/2021>
- As enacted, requires employers to pay employees no less than the minimum wage, regardless of the subminimum wage for an employee whose earning or productive capacity is impaired by age, physical, or mental deficiency or injury.
- Tennessee reports 1 active 14(c) certificate serving 26 individuals, and 0 pending certificates.

**Virginia** (2023, HB1924)

- <https://legiscan.com/VA/bill/HB1924/2023>
- Prevents issuance of new 14(c) certificates and phases out existing certificates in place as of July 2030.
- Virginia reports 7 active 14(c) certificates serving 349 individuals, and 2 pending certificates.

**Nevada** (2023, AB259)

- <https://legiscan.com/NV/bill/AB259/2023>
- Prevents issuance of new 14(c) certificates as of January 2025 and phases out existing certificates in place as of January 2028.
- Nevada reports 4 active 14(c) certificates serving 135 individuals, and 1 pending certificates.

While no legislation prohibiting the use of 14(c) certificates is in place, the **District of Columbia**, **Vermont** and **Wyoming** report no active or pending 14(c) certificates at this time.

**Vermont** does not have any formal policy specifically to eliminate 14(c). However, Vermont implemented a statewide systematic process of change within disability services between 1999 and 2005. Additionally, the Vermont Division of Disability and Aging Services ceased supporting center-based or group supported employment services, and as of January 2016. Vermont has had no reported active 14(c) certificates since that time.

**Minnesota** passed legislation (2021, HF33, Article 17, Sections 14-15) establishing a task force to develop a plan to phase out subminimum wages by August 2025. Additionally, \$14.1 million in grants were appropriated to help disability service providers transform their business models and boost work options in the community.

- <https://www.revisor.mn.gov/laws/2021/1/Session+Law/Chapter/7/>
- Minnesota reported 60 certificates serving 5,877 individuals.

**Texas** and **Illinois** have eliminated subminimum wage related to state use contracts.

**Texas** (2019, SB753)

- <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

**Illinois** (2021, EO 2021-6)

- <https://www.illinois.gov/government/executive-orders/executive-order-executive-order-number-26.2021.html>
- Eliminates subminimum wage in state contracting for people with disabilities.

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

As of July 1, 2023, **Connecticut and New York** have legislation in progress to phase out 14(c). Additionally, legislation was introduced in **Kentucky, Minnesota, and West Virginia** during the 2023 legislative session, but died in committee or 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, 7/2023)

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

<sup>3</sup>American Community Survey (ACS, Employment Data, 2019)