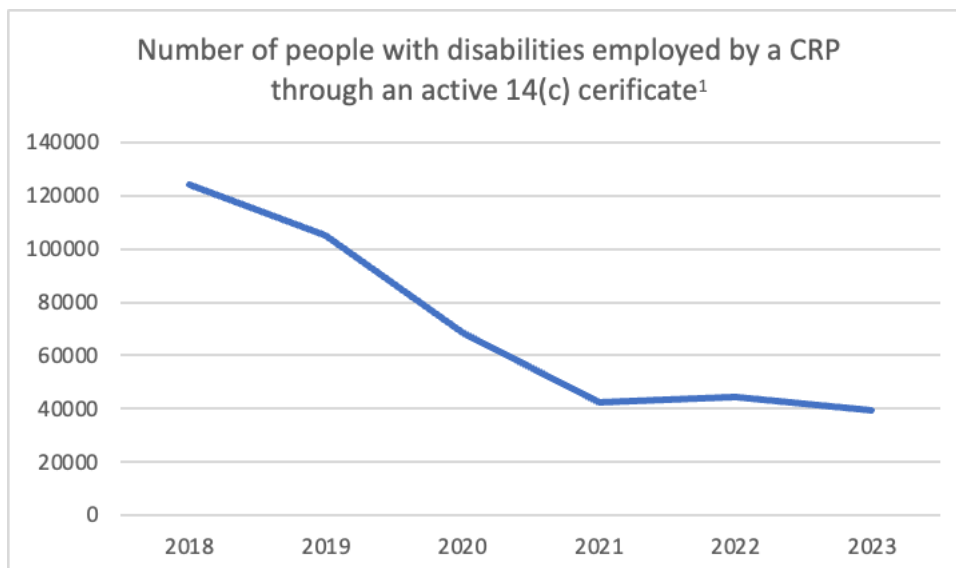


UPDATED July 2024

Trends and Current Status of 14(c)

According to the US Department of Labor (USDOL) Wage and Hour July 2024 report on 14(c) data, 38,524 individuals were reported as earning a subminimum wage under active 14(c) certificates held by community rehabilitation providers (CRPs). This represents an 68% decrease since 2018 and speaks to the declining market demand for 14(c) under the Fair Labor Standards Act.



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 1. 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)¹

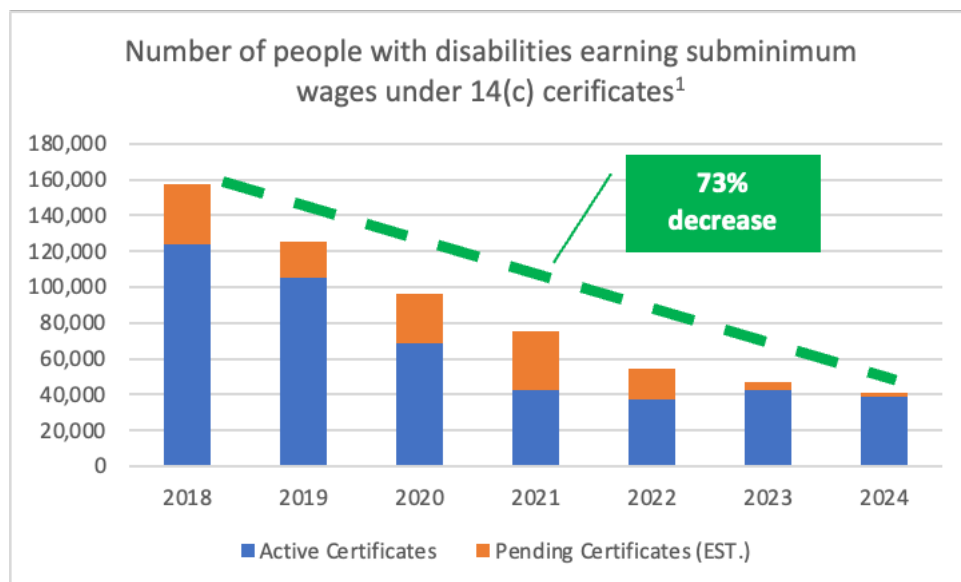
	2018	2019	2020	2021	2022	2023	2024
# Employees	124,066	105,006	68,495	42,494	36,978	42,792	38,524
# Active Certificates	1,459	1,316	873	659	690	773	700
Avg. # employees/certificate	85	80	78	64	54	55	55

Additionally, the number of pending certificates has decreased from 310 certificates (July 2018) to 39 pending certificates (July 2024). Of the pending certificates reported in July 2024, only one is an application for a new certificate. The remaining 38 pending certificates are renewals but are not required to report the number of individuals served to the US DOL while in pending status.

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 2. *Comparisons of employment rates from the year legislation was enacted to the most currently available data (Ages 21-64)²*

	Employment Rate During Year Enacted	Most Recent Reported Employment Rate	+/- difference
New Hampshire	<u>2015</u>	<u>2022</u>	
No disability	85.1%	84.4%	-0.7%
All disabilities	42.4%	46.5%	4.1%
Cognitive disabilities	34.6%	41.2%	6.6%
Maryland	<u>2016</u>	<u>2022</u>	
No disability	82.5%	83.8%	1.3%
All disabilities	42.2%	49.9%	7.7%
Cognitive disabilities	31.7%	43.6%	11.9%
Vermont	<u>2016</u>	<u>2022</u>	
No disability	85.0%	84.9%	0.01%
All disabilities	41.4%	53.0%	11.6%
Cognitive disabilities	24.4%	48.9%	24.5%
Alaska	<u>2018</u>	<u>2022</u>	
No disability	79.0%	80.1%	1.1%
All disabilities	45.9%	48.1%	2.2%
Cognitive disabilities	33.4%	38.8%	5.4%
Oregon	<u>2019</u>	<u>2022</u>	
No disability	79.9%	81.7%	1.8%
All disabilities	45.1%	46.1%	1.0%
Cognitive disabilities	36.2%	40.1%	3.9%

Maine	<u>2020*</u>	<u>2022</u>	
No disability	83.6%	83.2%	-0.4%
All disabilities	36.2%	41.0%	4.8%
Cognitive disabilities	28.2%	39.7%	11.5%
Washington	<u>2021</u>	<u>2022</u>	
No disability	78.8%	81.2%	2.4%
All disabilities	42.8%	48.4%	5.6%
Cognitive disabilities	35.2%	43.2%	8.0%
Colorado	<u>2021</u>	<u>2022</u>	
No disability	81.6%	84.3%	2.7%
All disabilities	50.8%	55.5%	4.7%
Cognitive disabilities	43.0%	52.2%	9.2%
California	<u>2021</u>	<u>2022</u>	
No disability	75.6%	78.7%	3.1%
All disabilities	40.0%	44.3%	4.3%
Cognitive disabilities	32.2%	36.5%	4.3%
Delaware	<u>2021</u>	<u>2022</u>	
No disability	79.1%	82.3%	3.2%
All disabilities	46.8%	45.3%	-1.5%
Cognitive disabilities	37.6%	46.9%	9.3%
Rhode Island	<u>2021</u>	<u>2022</u>	
No disability	80.4%	82.6%	2.2%
All disabilities	41.6%	46.5%	4.9%
Cognitive disabilities	36.9%	39.6%	2.7%

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).

**Due to the COVID pandemic, 2020 data is not available. 2019 pre-pandemic data was as the baseline for comparison.*

States and municipalities with 14(c) restrictions

To date, fifteen (15) states have enacted legislation to eliminate subminimum wage and 14(c). These are listed below in order of the date of passage. Of these, eleven (11) statutes have successfully phased out the use of 14(c) certificates while four (4) states are in the process of phase out. Data on current utilization is based on active certificate reporting to the U.S. Department of Labor, Wage & Hour Division (7/1/24).

New Hampshire (2015, SB47)

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

Oregon (2019, SB 494)

- <https://legiscan.com/OR/bill/SB494/2019>
- Phased out subminimum wage for people with disabilities by June 2023.
- Current Status: Phased out
 - Oregon reports no active or pending 14(c) certificates in the state.

Maine (2020, LD1874/HP1340)

- http://www.mainelegislature.org/legis/bills/bills_129th/chapters/PUBLIC632.asp
- Ended subminimum wage as of December 2019.
- Current Status: Phased out
 - 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.
- Current Status: Phased out
 - Washington reports no active or pending 14(c) certificates in the state.

Hawaii (2021, S793)

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

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.
- Current Status: Phase out in progress
 - California reports 31 active 14(c) certificate serving 2,235 individuals, and no 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.
- Current Status: Phased out
 - 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.
- Current Status: Phased out
 - 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.
- Current Status: Phase out in progress
 - South Carolina reports 6 active 14(c) certificates serving 378 individuals, and no pending certificates.

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.
- Current Status: Phased out
 - Tennessee reports no active or pending 14(c) certificates in the state.

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.
- Current Status: Phase out in progress
 - Virginia reports 5 active 14(c) certificates serving 129 individuals, and no 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.
- Current status: In progress
 - Nevada reports 4 active 14(c) certificates serving 154 individuals, and no pending certificates.

As of July 2024, there are a total of thirteen (13) states that do not currently utilize 14(c) 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.

Other recent state activities:

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/>

Kansas passed legislation (2024, SB15) expanding an income tax credit for goods and services purchased from qualified businesses that employ disabled workers and that pay those workers at least the minimum wage. The law also creates a matching grant program to assist employers to voluntary transition away from and relinquish their 14(c) certificate.

- https://www.kslegislature.org/li/b2023_24/measures/sb15/

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

Minimum Wage Laws in States

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

Higher than federal	30 states, plus DC
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/

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Source Data:

¹U.S. Department of Labor Wage and Hour Division (USDOL, 14(c) Certificate Holders, 7/2024)

²American Community Survey (ACS, Employment Data, 2022)