

SENATE BILL NO. 115—SENATOR COFFIN

FEBRUARY 19, 2007

Referred to Committee on Human Resources and Education

SUMMARY—Revises provisions governing the rights of parents of pupils with disabilities. (BDR 34-737)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to education; providing that a parent of a pupil with a disability retains certain rights under the Individuals with Disabilities Education Act under certain circumstances even when the pupil attains the age of 18 years; providing a parent of a pupil with a disability the option to transfer those rights to the pupil when the pupil attains the age of 18 years; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Individuals with Disabilities Education Act (IDEA) authorizes, but does not require, a state to transfer the rights of a parent of a pupil with a disability under the IDEA to the pupil when the pupil attains the age of majority under state law. (20 U.S.C. § 1415(m)) If a court has appointed a guardian for a pupil with a disability, the rights that would otherwise transfer to the pupil must remain with or otherwise transfer to the guardian. The State Board of Education has adopted regulations which transfer the rights of a parent of a pupil with a disability to the pupil when the pupil attains the age of 18 years if a court has not appointed a guardian for the pupil. (NRS 388.520; NAC 388.195)

This bill provides that the rights of a parent of a pupil with a disability under the IDEA remain with the parent even when the pupil attains the age of 18 years until: (1) the pupil receives a diploma; (2) the pupil is no longer enrolled in a program of special education; or (3) the parent elects to transfer those rights to the pupil. The parent may elect to transfer the rights to the pupil on or after the date on which the pupil attains the age of 18 years.



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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, any right accorded to a parent of a pupil with a disability pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., or the regulations adopted pursuant thereto, remains the right of the parent and does not transfer to the pupil when the pupil attains the age of 18 years. The provisions of this subsection apply until:

(a) The pupil receives a standard high school diploma or an adjusted diploma;

(b) The pupil is no longer enrolled in a program of special education pursuant to NRS 388.440 to 388.5315, inclusive; or

(c) The parent elects to transfer his rights pursuant to subsection 2.

2. A parent may elect to transfer his rights to the pupil with a disability on or after the date on which the pupil attains the age of 18 years. The school district or charter school in which the pupil is enrolled shall provide notice to the parent of the option to transfer his rights pursuant to this subsection.

3. If a pupil with a disability attains the age of 18 years and the pupil is enrolled in a program of special education pursuant to NRS 388.440 to 388.5315, inclusive, the school district or charter school in which the pupil is enrolled shall provide any notice required pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations adopted pursuant thereto, or NRS 388.440 to 388.5315, inclusive, and the regulations adopted pursuant thereto, to the:

(a) Parent; and

(b) Pupil with a disability,

↪ regardless of whether the parent retains his rights or transfers his rights pursuant to this section.

4. If a court of competent jurisdiction adjudicates a pupil with a disability incompetent and appoints a guardian for the pupil, all rights pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations adopted pursuant thereto, remain with or otherwise transfer to the guardian.

Sec. 2. NRS 388.440 is hereby amended to read as follows:

388.440 As used in NRS 388.440 to 388.5315, inclusive **H**,
and section 1 of this act:



1 1. “Gifted and talented pupil” means a person under the age of
2 18 years who demonstrates such outstanding academic skills or
3 aptitudes that he cannot progress effectively in a regular school
4 program and therefore needs special instruction or special services.

5 2. “Pupil with a disability” means a person under the age of 22
6 years who deviates either educationally, physically, socially or
7 emotionally so markedly from normal patterns that he cannot
8 progress effectively in a regular school program and therefore needs
9 special instruction or special services.

10 **Sec. 3.** This act becomes effective on July 1, 2007.

