

Amendment No. 121

Senate Amendment to Senate Bill No. 115 (BDR 34-737)

Proposed by: Senate Committee on Human Resources and Education**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold*** is newly added transitory language.

SLP/KCR



Date: 4/9/2007

S.B. No. 115—Revises provisions governing the rights of parents of pupils with disabilities. (BDR 34-737)



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.

~

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

AN ACT relating to education; providing that ~~if a parent of a pupil with a disability retains certain~~ the rights of a parent of a pupil with a disability under the Individuals with Disabilities Education Act ~~under certain circumstances even~~ transfer to the pupil when the pupil attains the age of 18 years; providing that a parent of a pupil with a disability ~~the option to transfer those rights~~ may request to represent the educational interests of 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)) **The IDEA also requires that, if a state transfers the rights of a parent to the pupil, the state must provide a special rule that would allow the parent of the pupil with a disability to be appointed to represent the educational interests of the pupil under certain circumstances. (20 U.S.C. § 1415(m)(2))** 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~~ **Section 2 of this bill** provides that the rights of a parent of a pupil with a disability under the IDEA ~~remain with the parent even when~~ transfer to the pupil **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.~~

Section 3 of this bill authorizes the parent of a pupil with a disability to submit a concise application to the school district or the charter school in which the pupil is enrolled for the appointment of the parent to represent the educational interests of the pupil when the pupil attains the age of 18 years.

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 ~~the new~~
~~section to read as follows:~~ the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. Except as otherwise provided in this section, ~~and~~ and section 3 of
this act, 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; transfers 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}~~ Not less than 45 days before the date on which ~~the~~ a pupil with a
disability attains the age of 18 years. ~~The~~, the school district or charter school
in which the pupil is enrolled shall provide notice to the ~~parent~~ :

(a) Parent of the ~~option to~~ transfer of his rights pursuant to ~~this~~
subsection, ~~and~~ 1 and of the process for submission of an application to the school
district or charter school pursuant to section 3 of this act.

(b) Pupil concerning the transfer of rights to the pupil.

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, ~~and~~ sections 2 and 3 of this act, 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~~
sections 2 and 3 of this act, and the regulations adopted pursuant thereto, to the:

(a) Parent; and

(b) Pupil with a disability,

↪ regardless of whether the parent ~~retains his rights~~ is appointed to represent
the educational interests of the pupil pursuant to section 3 of this act or ~~transfers~~
~~his~~ the rights transfer to the pupil pursuant to ~~this section,~~ subsection 1.

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. 3. 1. If a parent of a pupil with a disability believes that the pupil
does not have the ability to provide informed consent with respect to his own
educational program, the parent may, at least 30 days before the pupil attains 18
years of age, submit an application to the school district or the charter school in
which the pupil is enrolled to appoint the parent to represent the educational
interests of the pupil.

2. The application must be submitted on a concise form prescribed by the
school district or charter school. The application:

(a) Must not be unduly burdensome on the parent to fill out; and

(b) Must not require the pupil to sign the application or otherwise require the pupil to grant permission for the parent to represent the pupil's educational interests.

3. If the school district or charter school grants an application, the parent shall continue to represent the educational interests of the pupil 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, and sections 2 and 3 of this act; or

(c) The parent elects to transfer the right to represent educational interests to the pupil.

4. A parent whose application is denied may appeal that determination in the manner set forth for hearings in the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations adopted pursuant thereto.

~~[Sec. 2]~~ **Sec. 4.** NRS 388.440 is hereby amended to read as follows:

388.440 As used in NRS 388.440 to 388.5315, inclusive ~~[+]~~, and ~~[section 1]~~ **sections 2 and 3 of this act:**

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

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

~~[Sec. 3]~~ **Sec. 5.** This act becomes effective on July 1, 2007.