

Assembly Bill No. 316—Assemblymen Woodbury, Ohrenschall, Carrillo, Sherwood, Carlton; Bobzien, Conklin, Daly, Diaz, Ellison, Flores, Grady, Hambrick, Hammond, Hansen, Hardy, Horne, Kirkpatrick, Livermore, Mastroluca, McArthur, Munford, Ocegüera, Pierce, Smith and Stewart

Joint Sponsors: Senators Leslie, Kieckhefer, Hardy, Manendo, Schneider; Breeden, Cegavske, Copenig, Gustavson, Halseth, Horsford, Kihuen, Parks, Rhoads and Settlemeyer

CHAPTER.....

AN ACT relating to persons with disabilities; requiring the Aging and Disability Services Division of the Department of Health and Human Services to designate a standard protocol for measuring outcomes and assessing and evaluating persons with autism spectrum disorders through the age of 21 years who receive services through certain public programs; establishing the Autism Treatment Assistance Program within the Division; requiring certain state and local governmental agencies that provide services to persons with autism spectrum disorders to submit reports to the Division; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.3 of this bill requires the Aging and Disability Services Division of the Department of Health and Human Services, in cooperation and guidance with the Department of Education, representatives of the school districts in this State and the Nevada Autism Task Force, to prescribe a statewide standard for measuring outcomes and assessing and evaluating persons with autism spectrum disorders through the age of 21 years for the purposes of receiving services through certain public programs in this State. **Section 1.3** also requires the Division to designate, as part of the statewide standard, a protocol for determining whether a person is a person with autism spectrum disorder. **Section 1.3** further requires the Division to collect certain information relating to persons with autism spectrum disorders and to document the services provided to and the progress of those persons.

The Department of Health and Human Services provides various programs for persons with disabilities, including, without limitation, mental health services, early intervention services and services for persons who are disabled. (NRS 232.300) **Section 1.5** of this bill establishes the Autism Treatment Assistance Program within the Aging and Disability Services Division of the Department to provide and coordinate the provision of services to persons with autism spectrum disorders. **Section 1.5** also requires the Program to coordinate with other governmental entities to develop policies and programs for the treatment of persons with autism spectrum disorders. **Section 12.5** of this bill requires the Health Division of the Department to refer certain children to the Program.

Section 3 of this bill requires the board of trustees of a school district or the governing body of a charter school to conduct an initial evaluation of each pupil with autism spectrum disorder and to conduct a reevaluation once every 3 years thereafter in accordance with the Individuals with Disabilities Education Act,



20 U.S.C. §§ 1400 et seq., and the regulations prescribed by the State Board of Education.

Section 13 of this bill requires: (1) the Health Division of the Department to use the statewide standard prescribed by the Aging and Disability Services Division pursuant to **section 1.3** to determine whether a person is a person with autism spectrum disorder; and (2) that certain evaluations be conducted to monitor the progress of persons with autism spectrum disorders receiving services through the Health Division.

Sections 4, 12 and 14 of this bill require the Department of Education, the Health Division and the Department of Employment, Training and Rehabilitation to submit to the Aging and Disability Services Division information relating to persons with autism spectrum disorders.

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

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

Section 1. Chapter 427A of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.5 of this act.

Sec. 1.3. 1. *The Division, in cooperation and guidance with the Department of Education, representatives of the school districts in this State and the Nevada Autism Task Force created by section 40 of chapter 348, Statutes of Nevada 2007, or its successor organization, shall prescribe by regulation a statewide standard for measuring outcomes and assessing and evaluating persons with autism spectrum disorders through the age of 21 years who receive services through the State or a local government or an agency thereof. The regulations must designate a protocol based upon accepted best practices guidelines which includes at least one standardized assessment instrument that requires direct observation by the professional conducting the assessment for determining whether a person is a person with autism spectrum disorder, which must be used by personnel employed by the State or a local government or an agency thereof who provide assessments, interventions and diagnoses of persons with autism spectrum disorders through the age of 21 years and by the persons with whom the State or a local government or an agency thereof contracts to provide assessments, interventions and diagnoses of persons with autism spectrum disorders through the age of 21 years. The protocol must require that the direct observation conducted by a professional pursuant to this subsection include, without limitation, an evaluation to measure behaviors of the person which are consistent with autism spectrum disorder,*



cognitive functioning, language functioning and adaptive functioning.

2. The protocol designated pursuant to subsection 1 must be used upon intake of a person suspected of having autism spectrum disorder or at any later time if a person is suspected of having autism spectrum disorder after intake. The results of an assessment must be provided to the parent or legal guardian of the person, if applicable.

3. The Division shall prescribe the form and content of reports relating to persons with autism spectrum disorders through the age of 21 years that must be reported to the Division pursuant to sections 4, 12 and 14 of this act. Except as otherwise provided in section 4 of this act, the Division shall ensure that the information is reported in a manner which:

(a) Allows the Division to document the services provided to and monitor the progress of each person with autism spectrum disorder through the age of 21 years who receives services from the State or an agency thereof; and

(b) Ensures that information reported for each person who receives services which identifies the person is kept confidential, consistent with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any other applicable state and federal privacy laws.

4. The Division shall prepare annually a summary of the reports submitted pursuant to sections 4, 12 and 14 of this act and make the summary publicly available. The Division shall ensure that information contained in the summary does not identify a person who received services.

Sec. 1.5. *1. There is hereby established the Autism Treatment Assistance Program within the Division to serve as the primary autism program within the Department and to provide and coordinate the provision of services to persons with autism spectrum disorders through the age of 19 years.*

2. The Autism Treatment Assistance Program shall:

(a) Prescribe an application process for parents and guardians of persons with autism spectrum disorders to participate in the Program.

(b) Provide for the development of a plan of treatment for persons who participate in the Program.

(c) Promote the use of evidence-based treatments which are cost effective and have been proven to improve treatment of autism spectrum disorders.



(d) Educate parents and guardians of persons with autism spectrum disorders on autism spectrum disorders and the assistance that may be provided by the parent or guardian to improve treatment outcomes.

(e) Establish and use a system for assessing persons with autism spectrum disorders to determine a baseline to measure the progress of and prepare a plan for the treatment of such persons.

(f) Assist parents and guardians of persons with autism spectrum disorders in obtaining public services that are available for the treatment of autism spectrum disorders.

3. A plan of treatment developed for a person who participates in the Program pursuant to paragraph (b) of subsection 2 must:

(a) Identify the specific behaviors of the person to be addressed and the expected outcomes.

(b) Include, without limitation, preparations for transitioning the person from one provider of treatment to another or from one public program to another, as the needs of the person require through the age of 19 years.

(c) Be revised to address any change in the needs of the person.

4. The policies of the Autism Treatment Assistance Program and any services provided by the Program must be developed in cooperation with and be approved by the Nevada Autism Task Force created by section 40 of chapter 348, Statutes of Nevada 2007, or its successor organization.

5. As used in this section, "autism spectrum disorder" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

Sec. 2. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. *1. The board of trustees of a school district or the governing body of a charter school shall conduct an initial evaluation of each pupil with autism spectrum disorder in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations prescribed by the State Board pursuant to NRS 388.520 and shall, once every 3 years thereafter, conduct a reevaluation in accordance with the Individuals with Disabilities Education Act and the regulations of the State Board. The individualized education program for the pupil must be reviewed, and amended as appropriate, in*



compliance with the Individuals with Disabilities Education Act and the regulations of the State Board.

2. The board of trustees of a school district or the governing body of a charter school shall ensure that each person who conducts an evaluation of a pupil with autism spectrum disorder is provided with technical assistance and training to improve the accuracy and efficiency in conducting such evaluations.

Sec. 4. *1. The Department of Education shall report annually to the Aging and Disability Services Division of the Department of Health and Human Services information relating to pupils with autism spectrum disorders. The information must:*


(a) Be submitted in the form required by the Aging and Disability Services Division; and

(b) Include the total number of pupils with autism spectrum disorders who are enrolled in public schools in this State, including all pupils with autism spectrum disorders who have an individualized education program.

2. A pupil with autism spectrum disorder who is designated as a pupil with more than one physical or mental impairment or disability must be included as a pupil with autism spectrum disorder for the purposes of reporting information pursuant to this section.

3. The reporting made pursuant to this section must comply with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any other applicable state and federal privacy laws.

Sec. 5. NRS 388.440 is hereby amended to read as follows:

388.440 As used in NRS 388.440 to 388.5317, inclusive  , *and sections 3 and 4 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 the person cannot progress effectively in a regular school program and therefore needs special instruction or special services.

2. “Pupil who receives early intervening services” means a person enrolled in kindergarten or grades 1 to 12, inclusive, who is not a pupil with a disability but who needs additional academic and behavioral support to succeed in a regular school program.

3. “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 the person cannot progress effectively in a regular school program and therefore needs special instruction or special services.



Sec. 5.1. NRS 388.520 is hereby amended to read as follows:
388.520 1. The Department shall:

(a) Prescribe a form that contains the basic information necessary for the uniform development, review and revision of an individualized education program for a pupil with a disability in accordance with 20 U.S.C. § 1414(d); and

(b) Make the form available on a computer disc for use by school districts and, upon request, in any other manner deemed reasonable by the Department.

2. Except as otherwise provided in this subsection, each school district shall ensure that the form prescribed by the Department is used for the development, review and revision of an individualized education program for each pupil with a disability who receives special education in the school district. A school district may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

3. The State Board:

(a) Shall prescribe minimum standards for the special education of pupils with disabilities and gifted and talented pupils.

(b) May prescribe minimum standards for the provision of early intervening services.

4. The minimum standards prescribed by the State Board must include standards for programs of instruction or special services maintained for the purpose of serving pupils with:

- (a) Hearing impairments, including, but not limited to, deafness.
- (b) Visual impairments, including, but not limited to, blindness.
- (c) Orthopedic impairments.
- (d) Speech and language impairments.
- (e) Mental retardation.
- (f) Multiple impairments.
- (g) Serious emotional disturbances.
- (h) Other health impairments.
- (i) Specific learning disabilities.
- (j) Autism ~~[-]~~ *spectrum disorders*.
- (k) Traumatic brain injuries.
- (l) Developmental delays.
- (m) Gifted and talented abilities.

5. No apportionment of state money may be made to any school district or charter school for the instruction of pupils with disabilities and gifted and talented pupils until the program of instruction maintained therein for such pupils is approved by the




Superintendent of Public Instruction as meeting the minimum standards prescribed by the State Board.

6. The Department shall, upon the request of the board of trustees of a school district, provide information to the board of trustees concerning the identification and evaluation of pupils with disabilities in accordance with the standards prescribed by the State Board.

7. As used in this section, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

Sec. 5.3. NRS 391.400 is hereby amended to read as follows:

391.400 As used in NRS 391.400 to 391.420, inclusive, unless the context otherwise requires, "Grant Fund" means the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism  *Spectrum Disorders*.

Sec. 5.4. NRS 391.405 is hereby amended to read as follows:


391.405 1. There is hereby created the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism *Spectrum Disorders* to be administered by the Department. The Department may accept gifts, grants and donations from any source for deposit in the Grant Fund.

2. The money in the Grant Fund must be used only for the distribution of money to school districts and charter schools for programs of training as set forth in NRS 391.410, 391.415 and 391.420 and to provide assistance to licensed educational personnel who work with pupils with autism *spectrum disorders* in obtaining an appropriate endorsement to teach those pupils.

3. The board of trustees of a school district or the governing body of a charter school may apply to the Department on a form prescribed by the Department for a grant of money from the Grant Fund. The application must include a description of the program of training for which the grant of money will be used.

Sec. 5.5. NRS 391.410 is hereby amended to read as follows:

391.410 1. To the extent money is available from the Grant Fund, the board of trustees of each school district and the governing body of each charter school shall ensure that the licensed educational personnel employed by the school district or charter school who work with pupils with autism *spectrum disorders* receive the appropriate preparation and training necessary to serve those pupils. The training may include, without limitation:

(a) The characteristics of autism  *spectrum disorders*, including, without limitation, behavioral and communication characteristics;



(b) Methods for determining, on a regular and consistent basis, the specific needs of a pupil with autism *spectrum disorder* to ensure the pupil is meeting the objectives and goals described in the individualized education program of the pupil or other educational plan prepared for the pupil;

(c) The procedure for evaluating pupils who demonstrate behaviors which are consistent with autism *spectrum disorders*;

(d) Approaches for use in the classroom to assist a pupil with autism *spectrum disorder* with communication and social development; and

(e) Methods of providing support to pupils with autism *spectrum disorders* and their families.

2. To the extent money is available from the Grant Fund, the board of trustees of a school district or the governing body of a charter school may enter into an agreement with a local corporation, business, organization or other entity to provide training for licensed educational personnel employed by the school district or charter school who work with pupils with autism *spectrum disorders* in accordance with this section.

Sec. 5.7. NRS 391.415 is hereby amended to read as follows:

391.415 To the extent money is available from the Grant Fund, the board of trustees of each school district and the governing body of each charter school shall ensure that the licensed educational personnel employed by the school district or charter school who are assigned to assist a parent or legal guardian of a pupil with autism *spectrum disorder* in making decisions about the services and programs available for the pupil receive the appropriate preparation and training:

1. On using the 2008 Report of the Nevada Autism Task Force and any subsequent report issued by the Nevada Autism Task Force created pursuant to chapter 348, Statutes of Nevada 2007, *or its successor organization*, to determine best practices in the development of programs for pupils with autism *spectrum disorders*; and

2. To provide the parent or legal guardian with information on all options for treatment and intervention that may assist the pupil in the pupil's development and advancement.

Sec. 5.9. NRS 391.420 is hereby amended to read as follows:

391.420 1. To the extent money is available from the Grant Fund, the board of trustees of each school district and the governing body of each charter school shall ensure that a paraprofessional who is employed by the school district or charter school to provide



assistance to pupils with autism *spectrum disorders* receives the appropriate preparation and training to acquire:

(a) Knowledge of autism *spectrum disorder*, including, without limitation:

(1) The characteristics of autism and the range of spectrum disorders within a diagnosis of autism;

(2) An understanding of the importance of building relationships between pupils with autism *spectrum disorders*, other pupils and teachers or adults to encourage the independence of a pupil with autism *spectrum disorder*; and

(3) The ability to determine the patterns of behavior of pupils with autism *spectrum disorders*;

(b) The ability to provide structure and predictability through the consistent use of methods that support prior learning and continued development;

(c) The ability to adapt, modify or structure the environment based upon an understanding of the auditory, visual or other sensory stimuli which may be reinforcing, calming or distracting to the pupil;

(d) The ability to use positive behavioral supports, including, without limitation, the use of discrete trial, structured teaching methods, reinforcement and generalized approaches to enhance the pupil's education and prevent behavioral problems, as directed by the pupil's teacher or other appropriate personnel;

(e) The ability to accurately collect and record data on the progress of a pupil with autism *spectrum disorder* and report to the pupil's teacher in a timely manner if a particular strategy or program is not producing the planned outcome for the pupil; and

(f) The ability to communicate effectively and consistently with pupils with autism *spectrum disorders* using communication techniques designed for those pupils.

2. To the extent money is available from the Grant Fund, the board of trustees of a school district or the governing body of a charter school may enter into an agreement with a local corporation, business, organization or other entity to provide training for a paraprofessional who provides assistance to pupils with autism *spectrum disorders* in accordance with this section.

Secs. 6-9. (Deleted by amendment.)

Sec. 10. Chapter 442 of NRS is hereby amended by adding thereto the provisions set forth as sections 11, 12 and 12.5 of this act.



Sec. 11. *As used in this section and NRS 442.750 and sections 12 and 12.5 of this act, “early intervention services” has the meaning ascribed to it in 20 U.S.C. § 1432.*

Sec. 12. *1. The Health Division shall report annually to the Aging and Disability Services Division of the Department information relating to children with autism spectrum disorders. The information must:*

(a) Be submitted in the form required by the Aging and Disability Services Division;

(b) Include the information required by the Aging and Disability Services Division pursuant to section 1.3 of this act;

(c) Include the total number of children with autism spectrum disorders and the total number of children who may have autism spectrum disorders who are enrolled in early intervention services through the Health Division; and


(d) Include the total number of hours and the type of early intervention services received by each child with autism spectrum disorder.

2. A child with autism spectrum disorder who is designated as a child with more than one physical or mental impairment or disability must be included as a child with autism spectrum disorder for the purposes of reporting information pursuant to this section.

3. The Health Division shall review the information submitted to the Aging and Disability Services Division pursuant to this section and any other data collected by the Health Division which demonstrates the ongoing outcomes of specific programs and treatments for children with autism spectrum disorders.

Sec. 12.5. *For an infant or toddler with a disability who has autism spectrum disorder and is eligible for early intervention services, the Health Division shall refer the infant or toddler to the Autism Treatment Assistance Program established by section 1.5 of this act and coordinate with the Program to develop a plan of treatment for the infant or toddler pursuant to that section.*

Sec. 13. NRS 442.750 is hereby amended to read as follows:

442.750 1. The Health Division shall ensure that the personnel employed by the Health Division who provide early intervention services to children with autism *spectrum disorders* and the persons with whom the Health Division contracts to provide early intervention services to children with autism *spectrum disorders* possess the knowledge and skills necessary to serve children with autism  *spectrum disorders*, including, without limitation:



(a) The screening of a child for autism *spectrum disorder* at the age levels and frequency recommended by the American Academy of Pediatrics, or its successor organization;

(b) The procedure for evaluating children who demonstrate behaviors ~~[which]~~ *that* are consistent with autism ~~[:]~~ *spectrum disorders, which procedure must require the use of the statewide standard for measuring outcomes and assessing and evaluating persons with autism spectrum disorders through the age of 21 years prescribed pursuant to section 1.3 of this act;*

(c) The procedure for enrolling a child in early intervention services upon determining that the child has autism ~~[:]~~ *spectrum disorder;*

(d) Methods of providing support to children with autism *spectrum disorders* and their families; and

(e) The procedure for developing an individualized family service plan in accordance with Part C of the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1431 et seq., or other appropriate plan for the child.

2. The Health Division shall ensure that the personnel employed by the Health Division to provide early intervention services to children with autism *spectrum disorders* and the persons with whom the Health Division contracts to provide early intervention services to children with autism ~~[:]~~ *spectrum disorders:*

(a) Possess the knowledge and understanding of the scientific research and support for the methods and approaches for serving children with autism *spectrum disorders* and the ability to recognize the difference between an approach or method that is scientifically validated and one that is not;

(b) Possess the knowledge to accurately describe to parents and guardians the research supporting the methods and approaches, including, without limitation, the knowledge necessary to provide an explanation that a method or approach is experimental if it is not supported by scientific evidence;

(c) Immediately notify a parent or legal guardian if a child is identified as being at risk for a diagnosis of autism *spectrum disorder* and refer the parent or legal guardian to the appropriate professionals for further evaluation and simultaneously refer the parent or legal guardian to any appropriate early intervention services and strategies; and

(d) Provide the parent or legal guardian with information on evidence-based treatments and interventions that may assist the child in the child's development and advancement.



3. The Health Division shall ensure that the personnel employed by the Health Division who provide early intervention screenings to children and the persons with whom the Health Division contracts to provide early intervention screenings to children perform screenings of children for autism *spectrum disorders* at the age levels and frequency recommended by the American Academy of Pediatrics, or its successor organization.

4. *The Health Division shall ensure that:*

(a) For a child who may have autism spectrum disorder, the personnel employed by the Health Division who provide early intervention screenings to children and the persons with whom the Health Division contracts to provide early intervention screenings to children use the protocol designated pursuant to section 1.3 of this act for determining whether a child has autism spectrum disorder.

(b) An initial evaluation of the cognitive, communicative, social, emotional and behavioral condition and adaptive skill level of a child with autism spectrum disorder is conducted to determine the baseline of the child.

(c) A subsequent evaluation is conducted upon the child's conclusion of the early intervention services to determine the progress made by the child from the time of his or her initial screening.

Sec. 14. Chapter 615 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Department shall report annually to the Aging and Disability Services Division of the Department of Health and Human Services information relating to persons with autism spectrum disorders who receive vocational rehabilitation services. The information must:*

(a) Be submitted in the form required by the Aging and Disability Services Division;

(b) Include the information required by the Aging and Disability Services Division pursuant to section 1.3 of this act;

(c) Include the total number of persons with autism spectrum disorders who are receiving vocational rehabilitation services from the Division;

(d) Include information concerning the types of vocational rehabilitation services provided to persons with autism spectrum disorders, the effectiveness of those services and the reasons for the ineffectiveness of those services, if applicable; and

(e) Include information concerning the technical assistance and training provided to personnel of the Division who work with



persons with autism spectrum disorders to improve the effectiveness of vocational rehabilitation services.

2. A person with autism spectrum disorder who is designated as a person with more than one physical or mental impairment or disability must be included as a person with autism spectrum disorder for the purposes of reporting information pursuant to this section.

Sec. 15. This act becomes effective on July 1, 2011.

