

Amendment No. 106

Senate Amendment to Senate Bill No. 216

(BDR 38-33)

**Proposed by:** Senate Committee on Health and Human Services

**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

EWR/RBL



Date: 4/1/2019

S.B. No. 216—Revises provisions relating to autism spectrum disorders.  
 (BDR 38-33)





## SENATE BILL NO. 216—SENATOR OHRENSCHALL

FEBRUARY 18, 2019

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to autism spectrum disorders.  
(BDR 38-33)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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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 persons with disabilities; requiring agencies that oversee programs that provide services to persons with autism spectrum disorders to report certain information concerning such programs to the Commission; establishing the Nevada Commission on Autism Spectrum Disorders to review data and information and advise the Governor regarding the needs of persons with autism spectrum disorders and their families; ~~revising requirements concerning the assessment to determine whether a person has an autism spectrum disorder;~~ revising the required contents of a plan of treatment for a participant in the Autism Treatment Assistance Program; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

In 2007, the Legislature created the Nevada Autism Task Force to study and make recommendations to the Governor and the Legislature regarding the growing incidence of autism and ways to improve the delivery and coordination of autism services in this State. The Task Force was required to complete its review on or before August 1, 2008. (Section 40 of Assembly Bill No. 629, chapter 348, Statutes of Nevada 2007, at page 1674) Upon the expiration of the Task Force, the Governor issued an executive order establishing the Commission on Autism Spectrum Disorder to continue the work of the Task Force. (Executive Order Establishing the Commission on Autism Spectrum Disorder (11-19-2008)) The Governor has issued three additional executive orders extending the Commission through June 30, 2019. (Executive Orders 2011-21 (11-28-2011), 2015-26 (10-9-2015), 2018-29 (11-9-2018)) **Sections 5 and 6** of this bill establish the Nevada Commission on Autism Spectrum Disorders in statute. **Section 5** establishes the membership of the Commission and sets the terms of members at 3 years. Members serve without compensation. **Section 6** requires the Commission to perform certain duties relating to autism spectrum disorders, including: (1) advising the Governor concerning services for persons with autism spectrum disorders and their families in this State; and (2) monitoring programs operated by governmental agencies that serve such persons. **Sections 1 and 7** of this bill require the Division of Health Care Financing and Policy of the Department of Health and Human Services and the Aging and Disability Services Division of the Department to report to the Commission certain information relating to services for persons with autism spectrum disorders administered by those agencies.

~~[ Existing law requires the Aging and Disability Services Division to 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. Existing law requires those regulations to designate a protocol 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. (NRS 427A.872) Section 9 of this bill removes the requirement that such an assessment must be standardized.]~~

Existing law establishes the Autism Treatment Assistance Program within the Aging and Disability Services Division to serve as the primary autism program within the Department and to provide and coordinate services to persons under 20 years of age with autism spectrum disorders. The policies of the Program and any services provided by the Program must be developed in cooperation with and approved by the Task Force or its successor organization. (NRS 427A.875) **Section 10** of this bill instead requires such policies and services to be developed in cooperation with the Commission. **Sections 9 and 12** of this bill update certain other references to the Task Force to refer to the Commission. **Sections 2-4, 8 and 11** of this bill make other conforming changes.

Existing law requires the Autism Treatment Assistance Program to develop a plan of treatment for a person who participates in the program. (NRS 427A.875) **Section 10** of this bill requires such a plan to ensure that the person receives appropriate services after the person reaches 20 years of age and is thus no longer eligible to participate in the Program.

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

**Section 1.** Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:

*The Division shall submit to the Nevada Commission on Autism Spectrum Disorders created by section 5 of this act upon the request of the Commission a report containing the most current information available concerning:*

- 1. The number of persons receiving services for persons with autism spectrum disorders through the Medicaid program;*
- 2. The outcomes of persons with autism spectrum disorders who receive services through the Medicaid program;*
- 3. The expenditures made on behalf of the Medicaid program related to the provision of services for persons with autism spectrum disorders; and*
- 4. The number of hours billed to the Medicaid program per week for each service provided to persons with autism spectrum disorders through the Medicaid program and the number of hours per week that each such service was actually provided to recipients of Medicaid.*

**Sec. 2.** Chapter 427A of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 7, inclusive, of this act.

**Sec. 3.** *“Commission” means the Nevada Commission on Autism Spectrum Disorders created by section 5 of this act.*

**Sec. 4.** *“Early intervention services” has the meaning ascribed to it in 20 U.S.C. § 1432.*

**Sec. 5.** *1. The Nevada Commission on Autism Spectrum Disorders is hereby created within the Division. The Commission consists of seven members appointed by the Governor. The Governor shall appoint to the Commission:*

- (a) Two members who are representatives of school districts in this State;*
- (b) One member who is a behavior analyst;*
- (c) One member who is the parent of a person with an autism spectrum disorder who is over 12 years of age;*

1       (d) *One member who is the parent of a child with autism who is under 5*  
2 *years of age;*

3       (e) *One member who is the parent of a child with autism who resides in a*  
4 *county with a population of less than 100,000; and*

5       (f) *One member who is a representative of the public at large.*

6       2. *After the initial term, the term of each member is 3 years. A member may*  
7 *be reappointed.*

8       3. *Members of the Commission serve without compensation and are not*  
9 *entitled to the per diem and travel expenses provided for state officers and*  
10 *employees generally. Each member of the Commission who is an officer or*  
11 *employee of a local government must be relieved from his or her duties without*  
12 *loss of his or her regular compensation so that the member may prepare for and*  
13 *attend meetings of the Commission and perform any work necessary to carry out*  
14 *the duties of the Commission in the most timely manner practicable. A local*  
15 *government shall not require an officer or employee who is a member of the*  
16 *Commission to make up the time the member is absent from work to carry out his*  
17 *or her duties as a member, and shall not require the member to take annual*  
18 *vacation or compensatory time for the absence.*

19       4. *If a vacancy occurs during the term of a member, the Governor shall*  
20 *appoint a person similarly qualified to replace that member for the remainder of*  
21 *the unexpired term.*

22       5. *The Governor shall annually designate the Chair and Vice Chair of the*  
23 *Commission.*

24       6. *A majority of the members of the Commission constitutes a quorum for*  
25 *the transaction of business, and a majority of the members of a quorum present*  
26 *at any meeting is sufficient for any official action taken by the Commission.*

27       7. *As used in this section, "behavior analyst" has the meaning ascribed to it*  
28 *in NRS 437.010.*

29       **Sec. 6.** *1. The Commission shall meet at least eight times each year at the*  
30 *call of the Governor or the Chair or a majority of its members.*

31       2. *The Commission may establish subcommittees consisting of members of*  
32 *the Commission or other persons to assist the Commission in the performance of*  
33 *its duties.*

34       3. *The Division shall provide such administrative support to the*  
35 *Commission and any subcommittee thereof as is necessary to carry out the duties*  
36 *of the Commission.*

37       4. *The Commission shall:*

38       (a) *Advise and make recommendations to the Governor regarding the needs*  
39 *of persons with autism spectrum disorders and their families and the availability,*  
40 *delivery and coordination of services for such persons in this State;*

41       (b) *Review available data concerning autism spectrum disorders, including,*  
42 *without limitation, data concerning the ages of persons served by public*  
43 *programs for persons with autism spectrum disorders, the number of persons on*  
44 *waiting lists for such programs and the outcomes for persons receiving services*  
45 *through such programs, and monitor programs operated by state and local*  
46 *agencies that serve persons with autism spectrum disorders and their families;*  
47 *and*

48       (c) *Submit to the Governor an annual report concerning the activities of the*  
49 *Commission.*

50       **Sec. 7.** *The Division shall submit to the Commission upon request a report*  
51 *containing the most current information available relating to:*

1       ***1. The number of persons receiving early intervention services from the***  
2       ***Division and services from the Autism Treatment Assistance Program created by***  
3       ***NRS 427A.875;***

4       ***2. The outcomes of early intervention services and services provided by the***  
5       ***Program; and***

6       ***3. The expenditures of the Division related to early intervention services***  
7       ***and the Program.***

8       **Sec. 8.** NRS 427A.871 is hereby amended to read as follows:

9       427A.871 As used in NRS 427A.871 to 427A.880, inclusive, ~~["early~~  
10       ~~intervention services" has the meaning ascribed to it in 20 U.S.C. § 1432.] and~~  
11       ~~sections 3 to 7, inclusive, of this act, unless the context otherwise requires, the~~  
12       ~~words and terms defined in sections 3 and 4 of this act have the meaning ascribed~~  
13       ~~to them in those sections.~~

14       **Sec. 9.** NRS 427A.872 is hereby amended to read as follows:

15       427A.872 1. The Division, in cooperation and guidance with the  
16       Department of Education, representatives of the school districts in this State and the  
17       ~~["Nevada Autism Task Force created by section 40 of chapter 348, Statutes of~~  
18       ~~Nevada 2007, or its successor organization.] Commission,~~ shall prescribe by  
19       regulation a statewide standard for measuring outcomes and assessing and  
20       evaluating persons with autism spectrum disorders through the age of 21 years who  
21       receive services through the State or a local government or an agency thereof. The  
22       regulations must designate a protocol based upon accepted best practices guidelines  
23       which includes at least one standardized assessment instrument that requires direct  
24       observation by the professional conducting the assessment for determining whether  
25       a person is a person with autism spectrum disorder, which must be used by  
26       personnel employed by the State or a local government or an agency thereof who  
27       provide assessments, interventions and diagnoses of persons with autism spectrum  
28       disorders through the age of 21 years and by the persons with whom the State or a  
29       local government or an agency thereof contracts to provide assessments,  
30       interventions and diagnoses of persons with autism spectrum disorders through the  
31       age of 21 years. The protocol must require that the direct observation conducted by  
32       a professional pursuant to this subsection include, without limitation, an evaluation  
33       to measure behaviors of the person which are consistent with autism spectrum  
34       disorder, cognitive functioning, language functioning and adaptive functioning.

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

40       3. The Division shall prescribe the form and content of reports relating to  
41       persons with autism spectrum disorders through the age of 21 years that must be  
42       reported to the Division pursuant to NRS 388.451 and 615.205. Except as otherwise  
43       provided in NRS 388.451, the Division shall ensure that the information is reported  
44       in a manner which:

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

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

52       4. The Division shall prepare annually a summary of the reports submitted  
53       pursuant to NRS 388.451 and 615.205 and make the summary publicly available.

1 The Division shall ensure that information contained in the summary does not  
2 identify a person who received services.

3 **Sec. 10.** NRS 427A.875 is hereby amended to read as follows:

4 427A.875 1. There is hereby established the Autism Treatment Assistance  
5 Program within the Division to serve as the primary autism program within the  
6 Department and to provide and coordinate the provision of services to persons  
7 diagnosed or determined, including, without limitation, through the use of a  
8 standardized assessment, to have autism spectrum disorders through the age of 19  
9 years.

10 2. The Autism Treatment Assistance Program shall:

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

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

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

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

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

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

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

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

30 (b) Include, without limitation ~~[preparations]~~ :

31 *(1) Preparations* for transitioning the person from one provider of  
32 treatment to another or from one public program to another, as the needs of the  
33 person require through the age of 19 years ~~[ ]~~ ; and

34 *(2) Measures to ensure that, to the extent practicable, the person receives  
35 appropriate services from another entity after the person reaches 20 years of age.*

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

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

41 5. As used in this section, "autism spectrum disorder" means a condition that  
42 meets the diagnostic criteria for autism spectrum disorder published in the current  
43 edition of the Diagnostic and Statistical Manual of Mental Disorders published by  
44 the American Psychiatric Association or the edition thereof that was in effect at the  
45 time the condition was diagnosed or determined.

46 **Sec. 11.** NRS 232.320 is hereby amended to read as follows:

47 232.320 1. The Director:

48 (a) Shall appoint, with the consent of the Governor, administrators of the  
49 divisions of the Department, who are respectively designated as follows:

50 (1) The Administrator of the Aging and Disability Services Division;

51 (2) The Administrator of the Division of Welfare and Supportive Services;

52 (3) The Administrator of the Division of Child and Family Services;

(4) The Administrator of the Division of Health Care Financing and Policy; and

(5) The Administrator of the Division of Public and Behavioral Health.

(b) Shall administer, through the divisions of the Department, the provisions of chapters 63, 424, 425, 427A, 432A to 442, inclusive, 446 to 450, inclusive, 458A and 656A of NRS, NRS 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive, *and section 1 of this act*, 422.580, 432.010 to 432.133, inclusive, 432B.621 to 432B.626, inclusive, 444.002 to 444.430, inclusive, and 445A.010 to 445A.055, inclusive, and all other provisions of law relating to the functions of the divisions of the Department, but is not responsible for the clinical activities of the Division of Public and Behavioral Health or the professional line activities of the other divisions.

(c) Shall administer any state program for persons with developmental disabilities established pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 et seq.

(d) Shall, after considering advice from agencies of local governments and nonprofit organizations which provide social services, adopt a master plan for the provision of human services in this State. The Director shall revise the plan biennially and deliver a copy of the plan to the Governor and the Legislature at the beginning of each regular session. The plan must:

(1) Identify and assess the plans and programs of the Department for the provision of human services, and any duplication of those services by federal, state and local agencies;

(2) Set forth priorities for the provision of those services;

(3) Provide for communication and the coordination of those services among nonprofit organizations, agencies of local government, the State and the Federal Government;

(4) Identify the sources of funding for services provided by the Department and the allocation of that funding;

(5) Set forth sufficient information to assist the Department in providing those services and in the planning and budgeting for the future provision of those services; and

(6) Contain any other information necessary for the Department to communicate effectively with the Federal Government concerning demographic trends, formulas for the distribution of federal money and any need for the modification of programs administered by the Department.

(e) May, by regulation, require nonprofit organizations and state and local governmental agencies to provide information regarding the programs of those organizations and agencies, excluding detailed information relating to their budgets and payrolls, which the Director deems necessary for the performance of the duties imposed upon him or her pursuant to this section.

(f) Has such other powers and duties as are provided by law.

2. Notwithstanding any other provision of law, the Director, or the Director's designee, is responsible for appointing and removing subordinate officers and employees of the Department, other than the State Public Defender of the Office of State Public Defender who is appointed pursuant to NRS 180.010.

**Sec. 12.** NRS 391A.265 is hereby amended to read as follows:

391A.265 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           1. On using the 2008 Report of the Nevada Autism Task Force and any  
2 subsequent report issued by the Nevada Autism Task Force created pursuant to  
3 chapter 348, Statutes of Nevada 2007, ~~{or}~~ its successor organization ~~{}~~ *or the*  
4 *Nevada Commission on Autism Spectrum Disorders created by section 5 of this*  
5 *act* to determine best practices in the development of programs for pupils with  
6 autism spectrum disorders; and

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

10       **Sec. 13.** As soon as practicable after the effective date of this act, the  
11 Governor shall appoint the members of the Nevada Commission on Autism  
12 Spectrum Disorders created by section 5 of this act as follows:

13           1. Three members to terms that expire on July 1, 2020;

14           2. Two members to terms that expire on July 1, 2021; and

15           3. Two members to terms that expire on July 1, 2022.

16       **Sec. 14.** This act becomes effective:

17           1. Upon passage and approval for the purpose of appointing members of the  
18 Nevada Commission on Autism Spectrum Disorders created by section 5 of this act  
19 and performing any other preparatory administrative tasks that are necessary to  
20 carry out the provisions of this act; and

21           2. On July 1, 2019, for all other purposes.