

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.

~

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.

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;

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

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

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

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

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



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

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

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

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

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

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

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

4. The Commission shall:

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

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

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

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

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

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

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



1 **Sec. 8.** NRS 427A.871 is hereby amended to read as follows:
2 427A.871 As used in NRS 427A.871 to 427A.880, inclusive,
3 ~~“early intervention services” has the meaning ascribed to it in 20~~
4 ~~U.S.C. § 1432.] and sections 3 to 7, inclusive, of this act, unless the~~
5 *context otherwise requires, the words and terms defined in*
6 *sections 3 and 4 of this act have the meaning ascribed to them in*
7 *those sections.*

8 **Sec. 9.** NRS 427A.872 is hereby amended to read as follows:
9 427A.872 1. The Division, in cooperation and guidance with
10 the Department of Education, representatives of the school districts
11 in this State and the ~~[Nevada Autism Task Force created by section~~
12 ~~40 of chapter 348, Statutes of Nevada 2007, or its successor~~
13 ~~organization,]~~ **Commission**, shall prescribe by regulation a statewide
14 standard for measuring outcomes and assessing and evaluating
15 persons with autism spectrum disorders through the age of 21 years
16 who receive services through the State or a local government or an
17 agency thereof. The regulations must designate a protocol based
18 upon accepted best practices guidelines which includes at least one
19 ~~[standardized]~~ assessment instrument that requires direct
20 observation by the professional conducting the assessment for
21 determining whether a person is a person with autism spectrum
22 disorder, which must be used by personnel employed by the State or
23 a local government or an agency thereof who provide assessments,
24 interventions and diagnoses of persons with autism spectrum
25 disorders through the age of 21 years and by the persons with whom
26 the State or a local government or an agency thereof contracts to
27 provide assessments, interventions and diagnoses of persons with
28 autism spectrum disorders through the age of 21 years. The protocol
29 must require that the direct observation conducted by a professional
30 pursuant to this subsection include, without limitation, an evaluation
31 to measure behaviors of the person which are consistent with autism
32 spectrum disorder, cognitive functioning, language functioning and
33 adaptive functioning.

34 2. The protocol designated pursuant to subsection 1 must be
35 used upon intake of a person suspected of having autism spectrum
36 disorder or at any later time if a person is suspected of having
37 autism spectrum disorder after intake. The results of an assessment
38 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
41 relating to persons with autism spectrum disorders through the age
42 of 21 years that must be reported to the Division pursuant to NRS
43 388.451 and 615.205. Except as otherwise provided in NRS
44 388.451, the Division shall ensure that the information is reported in
45 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 NRS 388.451 and 615.205 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. 10. NRS 427A.875 is hereby amended to read as follows:

427A.875 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 diagnosed or determined, including, without limitation, through the use of a standardized assessment, to have 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]~~ :

(1) *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 ~~[,]~~ ; and

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

(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.]~~ *Commission.*

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

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

232.320 1. The Director:

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

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

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

(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



1 and Behavioral Health or the professional line activities of the other
2 divisions.

3 (c) Shall administer any state program for persons with
4 developmental disabilities established pursuant to the
5 Developmental Disabilities Assistance and Bill of Rights Act of
6 2000, 42 U.S.C. §§ 15001 et seq.

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

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

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

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

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

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

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

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

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

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

42 **Sec. 12.** NRS 391A.265 is hereby amended to read as follows:
43 391A.265 To the extent money is available from the Grant
44 Fund, the board of trustees of each school district and the governing
45 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, ~~for~~ its successor organization ~~for~~ *or the Nevada Commission on Autism Spectrum Disorders created by section 5 of this act* 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. 13. As soon as practicable after the effective date of this act, the Governor shall appoint the members of the Nevada Commission on Autism Spectrum Disorders created by section 5 of this act as follows:

1. Three members to terms that expire on July 1, 2020;
2. Two members to terms that expire on July 1, 2021; and
3. Two members to terms that expire on July 1, 2022.

Sec. 14. This act becomes effective:

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

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

