

SENATE BILL NO. 222—SENATOR HARDY

FEBRUARY 18, 2019

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to persons with disabilities. (BDR 38-74)

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 the Aging and Disability Services Division of the Department of Health and Human Services to establish a program to provide hearing aids at no charge to certain children who reside in low-income households; requiring the use of the current surcharge imposed on access lines of customers of a telephone company to cover the cost of such hearing aids; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Aging and Disability Services Division of the Department of Health and Human Services and creates the Nevada Commission for Persons Who Are Deaf, Hard of Hearing or Speech Impaired within the Office of the Governor. (NRS 427A.027, 427A.040, 427A.750) Existing law requires the Division to develop and administer a program that: (1) provides devices for telecommunication to persons who are deaf and persons with impaired speech or hearing; (2) assists such persons in communicating by telephone or other means through a dual-party relay system or other assistive technology; and (3) makes available interpreters for certain situations. Existing law requires this program to establish centers for such persons and that such centers perform certain functions. Existing law imposes a surcharge of not more than 8 cents per month on each access line of each customer to the local exchange of any telephone company, the funds from which are used to cover the costs of the program, fund the centers established by the program and cover certain other costs. (NRS 427A.797)

Section 3 of this bill requires the Division to develop and administer a program whereby any child who is hard of hearing may apply to obtain a hearing aid at no charge if the child resides in a home with a household income that is at or below 205 percent of the federal poverty level. **Section 3** requires the Division to establish by regulation the manner in which to apply to receive a hearing aid from the



program and requires applications to be awarded to the extent money is available in the order in which the applications are received. **Section 3** additionally requires the Division to annually submit a report to the Commission that sets forth the number of applications received and approved during the previous calendar year. **Section 3** requires the existing surcharge to be used to provide the hearing aids to such children. Finally, **section 3** requires the Division, in consultation with the Commission, to designate annually an amount of money in the Account for Services for Persons With Impaired Speech or Hearing that the Division must use in that calendar year to provide hearing aids to such children and, after designating such money, authorizes the Division to use the remaining money in the Account for the other purposes. **Sections 1 and 2** of this bill make conforming changes.

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

Section 1. NRS 427A.040 is hereby amended to read as follows:

427A.040 1. The Division shall, consistent with the priorities established by the Commission pursuant to NRS 427A.038:

(a) Serve as a clearinghouse for information related to problems of the aged and aging.

(b) Assist the Director in all matters pertaining to problems of the aged and aging.

(c) Develop plans, conduct and arrange for research and demonstration programs in the field of aging.

(d) Provide technical assistance and consultation to political subdivisions with respect to programs for the aged and aging.

(e) Prepare, publish and disseminate educational materials dealing with the welfare of older persons.

(f) Gather statistics in the field of aging which other federal and state agencies are not collecting.

(g) Stimulate more effective use of existing resources and available services for the aged and aging.

(h) Develop and coordinate efforts to carry out a comprehensive State Plan for Providing Services to Meet the Needs of Older Persons. In developing and revising the State Plan, the Division shall consider, among other things, the amount of money available from the Federal Government for services to aging persons and the conditions attached to the acceptance of such money, and the limitations of legislative appropriations for services to aging persons.

(i) Coordinate all state and federal funding of service programs to the aging in the State.

2. The Division shall:

(a) Provide access to information about services or programs for persons with disabilities that are available in this State.



(b) Work with persons with disabilities, persons interested in matters relating to persons with disabilities and state and local governmental agencies in:

(1) Developing and improving policies of this State concerning programs or services for persons with disabilities, including, without limitation, policies concerning the manner in which complaints relating to services provided pursuant to specific programs should be addressed; and

(2) Making recommendations concerning new policies or services that may benefit persons with disabilities.

(c) Serve as a liaison between state governmental agencies that provide services or programs to persons with disabilities to facilitate communication and the coordination of information and any other matters relating to services or programs for persons with disabilities.

(d) Serve as a liaison between local governmental agencies in this State that provide services or programs to persons with disabilities to facilitate communication and the coordination of information and any other matters relating to services or programs for persons with disabilities. To inform local governmental agencies in this State of services and programs of other local governmental agencies in this State for persons with disabilities pursuant to this subsection, the Division shall:

(1) Provide technical assistance to local governmental agencies, including, without limitation, assistance in establishing an electronic network that connects the Division to each of the local governmental agencies that provides services or programs to persons with disabilities;

(2) Work with counties and other local governmental entities in this State that do not provide services or programs to persons with disabilities to establish such services or programs; and

(3) Assist local governmental agencies in this State to locate sources of funding from the Federal Government and other private and public sources to establish or enhance services or programs for persons with disabilities.

(e) Administer the following programs in this State that provide services for persons with disabilities:

(1) The program established pursuant to NRS 427A.791, 427A.793 and 427A.795 to provide services for persons with physical disabilities;

(2) The programs established pursuant to NRS 427A.800, 427A.850 and 427A.860 to provide services to persons with traumatic brain injuries;

(3) *The program established pursuant to subsection 1 of NRS 427A.797 to provide hearing aids to children who are hard of hearing;*



(4) The program established pursuant to *subsection 4 of* NRS 427A.797 to provide devices for telecommunication to persons who are deaf and persons with impaired speech or hearing;

~~[(4)]~~ (5) Any state program for independent living established pursuant to 29 U.S.C. §§ 796 et seq., with the Rehabilitation Division of the Department of Employment, Training and Rehabilitation acting as the designated state ~~[unit,]~~ *entity*, as that term is defined in ~~[34]~~ 45 C.F.R. § ~~[364.4;]~~ 1329.4; and

~~[(5)]~~ (6) Any state program established pursuant to the Assistive Technology Act of 1998, 29 U.S.C. §§ 3001 et seq.

(f) Provide information to persons with disabilities on matters relating to the availability of housing for persons with disabilities and identify sources of funding for new housing opportunities for persons with disabilities.

(g) Before establishing policies or making decisions that will affect the lives of persons with disabilities, consult with persons with disabilities and members of the public in this State through the use of surveys, focus groups, hearings or councils of persons with disabilities to receive:

(1) Meaningful input from persons with disabilities regarding the extent to which such persons are receiving services, including, without limitation, services described in their individual service plans, and their satisfaction with those services; and

(2) Public input regarding the development, implementation and review of any programs or services for persons with disabilities.

(h) Publish and make available to governmental entities and the general public a biennial report which:

(1) Provides a strategy for the expanding or restructuring of services in the community for persons with disabilities that is consistent with the need for such expansion or restructuring;

(2) Reports the progress of the Division in carrying out the strategic planning goals for persons with disabilities identified pursuant to chapter 541, Statutes of Nevada 2001;

(3) Documents significant problems affecting persons with disabilities when accessing public services, if the Division is aware of any such problems;

(4) Provides a summary and analysis of the status of the practice of interpreting and the practice of realtime captioning, including, without limitation, the number of persons engaged in the practice of interpreting in an educational setting in each professional classification established pursuant to NRS 656A.100 and the number of persons engaged in the practice of realtime captioning in an educational setting; and



(5) Recommends strategies and, if determined necessary by the Division, legislation for improving the ability of the State to provide services to persons with disabilities and advocate for the rights of persons with disabilities.

3. The Division shall confer with the Department as the sole state agency in the State responsible for administering the provisions of this chapter and chapter 435 of NRS.

4. The Division shall administer the provisions of chapters 435, 437 and 656A of NRS.

5. The Division may contract with any appropriate public or private agency, organization or institution, in order to carry out the provisions of this chapter and chapter 435 of NRS.

Sec. 2. NRS 427A.750 is hereby amended to read as follows:

427A.750 1. The Nevada Commission for Persons Who Are Deaf, Hard of Hearing or Speech Impaired is hereby created within the Office of the Governor. The Commission consists of nine members appointed by the Governor. The Governor shall consider recommendations made by the Nevada Commission on Services for Persons with Disabilities and appoint to the Nevada Commission for Persons Who Are Deaf, Hard of Hearing or Speech Impaired:

(a) One nonvoting member who is employed by the State and who participates in the administration of the programs of this State that provide services to persons who are deaf, hard of hearing or speech impaired;

(b) One member who is a member of the Nevada Association of the Deaf, or, if it ceases to exist, one member who represents an organization which has a membership of persons who are deaf, hard of hearing or speech-impaired;

(c) One member who has experience with and knowledge of services for persons who are deaf, hard of hearing or speech-impaired;

(d) One nonvoting member who is the Executive Director of the Nevada Telecommunications Association or, in the event of its dissolution, who represents the telecommunications industry;

(e) Three members who are users of telecommunications relay services or the services of persons engaged in the practice of interpreting or the practice of realtime captioning;

(f) One member who is a parent of a child who is deaf, hard of hearing or speech-impaired; and

(g) One member who represents educators in this State and has knowledge concerning the provision of communication services to persons who are deaf, hard of hearing or speech impaired in elementary, secondary and postsecondary schools and the laws concerning the provision of those services.



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

3. 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.

4. The Commission shall:

(a) At its first meeting and annually thereafter, elect a Chair from among its voting members; and

(b) Meet at the call of the Governor or the Chair or a majority of its voting members as is necessary to carry out its responsibilities.

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

6. Members of the Commission serve without compensation, except that each member is entitled, while engaged in the business of the Commission, to the per diem allowance and travel expenses provided for state officers and employees generally if funding is available for this purpose.

7. A member of the Commission who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation so that the person 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 state agency or political subdivision of this State shall not require an officer or employee who is a member of the Commission to make up the time he or she is absent from work to carry out his or her duties as a member of the Commission or use annual vacation or compensatory time for the absence.

8. The Commission may:

(a) Make recommendations to any state agency, including, without limitation, the Division, concerning the establishment and operation of programs for persons who are deaf, hard of hearing or speech impaired to ensure equal access to state programs and activities.

(b) Recommend to the Governor any proposed legislation concerning persons who are deaf, hard of hearing or speech impaired.

(c) Collect information concerning persons who are deaf, hard of hearing or speech impaired.

(d) Create and annually review a 5-year strategic plan consisting of short-term and long-term goals for services provided by or on behalf of the Division. In creating and reviewing any such plan, the Commission must solicit input from various persons, including,



1 without limitation, persons who are deaf, hard of hearing or speech
2 impaired.

3 (e) Review the goals, policies, programs and services of state
4 agencies, including, without limitation, the Division, that serve
5 persons who are deaf, hard of hearing or speech impaired and advise
6 such agencies regarding such goals, policies, programs and services,
7 including, without limitation, the outcomes of services provided to
8 persons who are deaf, hard of hearing or speech impaired and the
9 requirements imposed on providers.

10 (f) Based on information collected by the Department of
11 Education, advise the Department of Education on research
12 and methods to ensure the availability of language and
13 communication services for children who are deaf, hard of hearing
14 or speech-impaired.

15 (g) Consult with the personnel of any state agency, including,
16 without limitation, the Division, concerning any matter relevant to
17 the duties of the Commission. A state agency shall make available
18 to the Commission any officer or employee of the agency with
19 which the Commission wishes to consult pursuant to this paragraph.

20 9. The Commission shall:

21 (a) Make recommendations to the Division concerning the
22 practice of interpreting and the practice of realtime captioning,
23 including, without limitation, the adoption of regulations to carry
24 out the provisions of chapter 656A of NRS.

25 (b) Make recommendations to the Division concerning all
26 programs and activities funded by the surcharge imposed pursuant
27 to subsection ~~33~~ 6 of NRS 427A.797.

28 (c) Provide persons who are deaf, hard of hearing or speech
29 impaired with information concerning services and resources that
30 promote equality for such persons in education, employment and
31 socialization and referrals for such services and resources;

32 (d) Review the procedures and practices of state and local
33 governmental entities to ensure that persons who are deaf, hard of
34 hearing or speech impaired have equal access to resources and
35 services provided by those governmental entities; and

36 (e) Make recommendations to state and local governmental
37 entities concerning:

38 (1) Compliance with laws and regulations concerning
39 persons who are deaf, hard of hearing or speech impaired, including,
40 without limitation, the Americans with Disabilities Act of 1990, 42
41 U.S.C. §§ 12101 et seq.;

42 (2) Improving the health, safety, welfare and comfort of
43 persons who are deaf, hard of hearing or speech impaired; and



(3) Integrating services and programs for persons who are deaf, hard of hearing or speech impaired and improving cooperation among state and local governmental entities that provide such services.

10. As used in this section:

(a) "Practice of interpreting" has the meaning ascribed to it in NRS 656A.060.

(b) "Practice of realtime captioning" has the meaning ascribed to it in NRS 656A.062.

(c) "Telecommunications relay services" has the meaning ascribed to it in 47 C.F.R. § 64.601.

Sec. 3. NRS 427A.797 is hereby amended to read as follows:

427A.797 1. *The Division shall develop and administer a program whereby any child whom the Division determines is hard of hearing may apply to obtain a hearing aid at no charge to the child if the child resides in a home in which the household income is at or below 205 percent of the federally designated level signifying poverty.*

2. *The Division shall establish by regulation the manner in which a person may apply to receive a hearing aid pursuant to subsection 1 and the manner in which hearing aids may be provided by the program. Applications must be approved to the extent money is available in the order in which the applications are received.*

3. *On or before February 15 of each year, the Division shall:*

(a) *Prepare a report setting forth the number of applications received by children pursuant to subsection 1 in the previous calendar year and the number of applications that were approved; and*

(b) *Submit a copy of the report to the Commission.*

4. The Division shall develop and administer a program whereby:

(a) Any person who is a customer of a telephone company which provides service through a local exchange or a customer of a company that provides wireless phone service and who is certified by the Division to be deaf or to have severely impaired speech or hearing may obtain a device for telecommunication or other assistive technology capable of serving the needs of such persons at no charge to the customer beyond the rate for basic service;

(b) Any person who is deaf or has severely impaired speech or hearing may communicate by telephone, including, without limitation, a wireless phone, or other means with other persons through a dual-party relay system or other assistive technology; and

(c) Interpreters are made available, when possible, to the Executive, Judicial and Legislative Departments of State



Government to assist those departments in providing access to persons who are deaf or hard of hearing. The Division shall, to the extent money is available, employ one or more interpreters in the unclassified service of the State for the purposes of this paragraph.

~~{2-}~~ 5. The program developed pursuant to subsection ~~{4}~~ 4 must include the establishment of centers for persons who are deaf or hard of hearing that provide services which must include, without limitation:

(a) Facilitating the provision and distribution of devices for telecommunication and other assistive technology to persons with impaired speech or hearing;

(b) Assisting persons who are deaf or have severely impaired speech or hearing in accessing assistive devices, including, without limitation, hearing aids, electrolarynxes and devices for telecommunication and other assistive technology;

(c) Expanding the capacity for service using devices for telecommunication and other assistive technology in areas where there is a need for such devices and technology and services for persons with impaired speech or hearing are not available;

(d) Providing instruction in language acquisition to persons determined by the center to be eligible for services; and

(e) Providing programs designed to increase access to education, employment and health and social services.

~~{3-}~~ 6. A surcharge of not more than 8 cents per month is hereby imposed on each access line of each customer to the local exchange of any telephone company providing such lines in this State and on each personal wireless access line of each customer of any company that provides wireless phone services in this State. The surcharge must be used to:

(a) *Cover the costs of the program developed pursuant to subsection 1;*

(b) Cover the costs of the program ~~{5}~~
~~{6-}~~ *developed pursuant to subsection 4;*

(c) Fund the centers for persons who are deaf or hard of hearing established pursuant to subsection ~~{2-}~~ 5; and

~~{(e)}~~ (d) Cover the costs incurred by the Division to carry out the provisions of chapter 656A of NRS that are not covered by the civil penalties received by the Division pursuant to NRS 656A.800.

↪ The Public Utilities Commission of Nevada shall establish by regulation the amount to be charged. Those companies shall collect the surcharge from their customers and transfer the money collected to the *Public Utilities Commission of Nevada* pursuant to regulations adopted by the *Public Utilities Commission* ~~{1}~~ of *Nevada*.



~~[4:]~~ 7. The Account for Services for Persons With Impaired Speech or Hearing is hereby created within the State General Fund and must be administered by the Division ~~[:]~~ , *pursuant to subsections 8 and 9*. Any money collected from the surcharge imposed pursuant to subsection ~~[3:]~~ 6 must be deposited in the State Treasury for credit to the Account.

8. *The Division shall, in consultation with the Commission, designate annually an amount of money in the Account to be used by the Division in that calendar year only to cover the costs of the program developed pursuant to subsection 1.*

9. *After designating the amount of money to use pursuant to subsection 8, the Division may use the remaining* money in the Account ~~[may be used]~~ only:

(a) For the purchase, maintenance, repair and distribution of the devices for telecommunication and other assistive technology, including the distribution of such devices and technology to state agencies and nonprofit organizations;

(b) To establish and maintain the dual-party relay system;

(c) To reimburse telephone companies and companies that provide wireless phone services for the expenses incurred in collecting and transferring to the Public Utilities Commission of Nevada the surcharge imposed by the Commission;

(d) For the general administration of the program developed and administered pursuant to subsection ~~[1:]~~ 4;

(e) To train persons in the use of the devices for telecommunication and other assistive technology;

(f) To fund the centers for persons who are deaf or hard of hearing established pursuant to subsection ~~[2:]~~ 5; and

(g) To cover the costs incurred by the Division to carry out the provisions of chapter 656A of NRS that are not covered by the civil penalties received by the Division pursuant to NRS 656A.800.

~~[5:]~~ 10. For the purposes of this section:

(a) *“Account” means the Account for Services for Persons With Impaired Speech or Hearing.*

(b) *“Commission” means the Nevada Commission for Persons Who Are Deaf, Hard of Hearing or Speech Impaired created by NRS 427A.750.*

(c) *“Device for telecommunication” means a device which is used to send messages through the telephone system, including, without limitation, the wireless phone system, which visually displays or prints messages received and which is compatible with the system of telecommunication with which it is being used.*

~~[(b)]~~ (d) *“Dual-party relay system” means a system whereby persons who have impaired speech or hearing, and who have been furnished with devices for telecommunication, may relay*



1 communications through third parties to persons who do not have
2 access to such devices.

3 **Sec. 4.** This act becomes effective on July 1, 2019.

