MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON HEALTH AND HUMAN SERVICES

Eightieth Session
June 2, 2019

The Committee on Health and Human Services was called to order by Chairwoman Lesley E. Cohen at 12:57 p.m. on Sunday, June 2, 2019, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4404B of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Lesley E. Cohen, Chairwoman
Assemblyman Richard Carrillo, Vice Chairman
Assemblyman Alex Assefa
Assemblywoman Bea Duran
Assemblywoman Michelle Gorelow
Assemblyman Gregory T. Hafen II
Assemblyman John Hambrick
Assemblywoman Lisa Krasner
Assemblywoman Connie Munk
Assemblywoman Rochelle T. Nguyen
Assemblywoman Robin L. Titus

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Marsheilah Lyons, Committee Policy Analyst
Karly O'Krent, Committee Counsel
Terry Horgan, Committee Secretary
Alejandra Medina, Committee Assistant

OTHERS PRESENT:

Gwynne Partos, Vice Chair, Nevada Commission on Autism Spectrum Disorders, Aging and Disability Services Division, Department of Health and Human Services
Rique Robb, Deputy Administrator, Aging, Physical Disabilities, and Children's Services, Aging and Disability Services Division, Department of Health and Human Services
Julie Ostrovsky, Member, Nevada Commission on Autism Spectrum Disorders, Aging and Disability Services Division, Department of Health and Human Services
Steven Cohen, Private Citizen, Las Vegas, Nevada

Chairwoman Cohen:
[Roll was taken. Committee rules and protocol were explained.] We are going to get started and hope that our Senators join us, but we might have to take a bit of a break until they do because they are on the floor. It is that time of session.

We are going to go out of order and begin with Senate Bill 216 (1st Reprint). As Senator Ohrenschall [Senate District No. 21] is on the floor of the Senate, Ms. Gwynne Partos is going to be presenting for us.

Senate Bill 216 (1st Reprint): Revises provisions relating to autism spectrum disorders. (BDR 38-33)

Gwynne Partos, Vice Chair, Nevada Commission on Autism Spectrum Disorders, Aging and Disability Services Division, Department of Health and Human Services:
[Gwynne Partos provided a letter of support (Exhibit C).] Senate Bill 216 (1st reprint) will put the Nevada Commission on Autism Spectrum Disorders into statute, specifically into *Nevada Revised Statutes* (NRS) Chapter 427A. We have been operating under an executive order for over 11 years. We provide monitoring of important services provided to kids and adults in Nevada with autism spectrum disorder (ASD). Putting the Commission into statute would give us the authority needed to monitor the programs. The Commissioners all serve voluntarily. I am a parent of a child with autism. This level of involvement is a little new to me. One of the things I am keeping in mind right now is how hard children and adults with autism work every day to take care of school or whatever they are working on in their lives.

Rique Robb from the Aging and Disability Services Division (ADSD) within the Department of Health and Human Services (DHHS) is here, and she can talk about the fiscal note, which is related to the administrative support that we require.

Chairwoman Cohen:
Thank you, but this is merely a policy committee, so you do not have to worry about discussing the fiscal note.

Gwynne Partos:
Senate Bill 216 (1st Reprint) would also expand the Commission to seven members so we can have input from all parts of the state and from stakeholders.

Chairwoman Cohen:
Can you walk us through the bill section by section, please?

Gwynne Partos:
Section 1 relates to data that would be given to the Commission regarding services provided through Medicaid, the outcomes and expenditures by Medicaid, and the number of hours billed. Section 5 expands the Commission to seven members. Two are representatives of a school district, one is a behavior analyst, one is a parent of a child with autism who is over 12 years of age and one is the parent of a child under 5 years of age. One is the parent of a child who resides in a county with a population of less than 100,000, and one is a member of the public at large.

The terms for Commission members would be three years, and the Governor appoints the members. Members of the Nevada Autism Commission are not compensated; however, language in section 5, subsection 3, states that if we are officers or employees of a local government, we would be able to leave our work to take care of necessary Commission duties without penalty. That would be incredibly helpful for me.

One of our functions is to make recommendations to the Governor regarding the needs of people with autism. It is a complex condition, so it is very important that there is a commission dedicated to autism that really understands the needs of this community. Section 7 talks about receiving reports from the Aging and Disability Services Division about early intervention services.

At one time we did not have administrative support, and I was told the vice chair took notes. I do not know how I could take notes and still participate at the same time, so administrative support is very important, and language in section 6, subsection 3, reads that "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."

Chairwoman Cohen:
Are there any questions?

Assemblyman Carrillo:
Thank you, Ms. Partos, for coming up to bat for our missing Senator. My question relates to section 5 and the Commission members. You mentioned one Commission member would be the parent of a child over the age of 12, then there would be a Commission member who has a child under the age of 5. Why is there not a parent of a child with ASD who is between the ages of 6 and 11? Does that population not receive services? It seems as though we would be ignoring children ages 6 to 11 and among them might be a child who was not diagnosed

before the age of 5. It seems as though you are missing a good portion of the population in that age group. Can you give me the rationale as to why?

Gwynne Partos:
A parent of a child who lives in a rural community could meet that need. I work in the school system as a school psychologist and initially, wearing two hats, I felt as though I did not encounter as many professionals and parents. It is quite likely that you would find people who would have a child with autism in that age range who would be either a member of the public or from a smaller community.

Assemblyman Carrillo:
When you say that there is a chance there might be somebody, why did you leave that age group out? Why would the age groups not be 11 and under and then age 12 and up?

Gwynne Partos:
I do think all ages should be represented. I think the intent was to have the parent of a child who was beginning the process of getting services, and then a child who is beginning the transition to adolescence. I can also contact Senator Ohrenschall for specific details about how the ages of 5 and 12 were derived.

Chairwoman Cohen:
It may just be following the language in the executive order that created the Commission. Of course, I am not sure why the executive order read that way.

Rique Robb, Deputy Administrator, Aging, Physical Disabilities, and Children's Services, Aging and Disability Services Division, Department of Health and Human Services:
I cannot speak on behalf of the Commission or the task force, but I can say that early intervention is key in that diagnosis. When they get over the ages of 10 to 12, there are specific behaviors and it can be a difficult challenge. I believe what they were looking at was trying to be specific to the challenge age but not necessarily excluding an age. I think that was just more of an oversight because they followed the language in the executive order. As I said, I cannot speak on behalf of them, but I can say I believe that is why it was specific when it first started.

Assemblywoman Titus:
Originally, the Commission had five members and I understand that now you want to solidify its existence, but what is the reason to expand it to seven members and what are the two slots you will be filling?

Gwynne Partos:
One of the requirements is having a parent of a child with autism who resides in a smaller community. That was not one of the original five requirements.

Assemblywoman Titus:
All right, so that would be rural representation, and what was the other one?

Gwynne Partos:
An additional member from a school district.

Assemblywoman Titus:
I am a physician who reviews all the individualized education programs (IEPs) for the Lyon County School District. In response to my fellow Assemblyman's question about what seems to be a void in representation by a certain age category, I, too have the same concern. Children are still being assessed and offered services at the age of 5 when they start school because early intervention is a critical need, so why are those particular ages being left out? Clearly, it is not as though they are not getting services, because they are. That is where we are capturing so many of these children. I understand your attempt to interpret this because you were not there at the table and you are just trying to help. I know there is a key component to when you intervene, and we recognize that early intervention is key—first recognition of the whole spectrum and then the intervention. When adolescence hits, the behavior and needs change, and that is important, but there is a void and I agree. I am not sure how that came about.

Gwynne Partos:
I believe it was just maintaining the ages set in the executive order.

Chairwoman Cohen:
I have a question about section 6, subsection 4, paragraph (b), where it talks about use of the data. I am a layperson who does not work in the field and I do not have a child who is on the autism spectrum, but it is a spectrum—there is a wide range. We have some kids who are mainstreamed and receive few services because they do not need them, and then there are some who have severe autism. When you are collecting data, how are you accounting for the differences between the children and where they are located on the spectrum?

Gwynne Partos:
That is an excellent point about the variety of needs of persons affected with autism. At this point, data may not drill down that intensively; but that may be something we can, hopefully, parse out to some degree. Part of that can be based on the amount of services and the type of services an individual is receiving. That gives us some information about where they are functioning or how impacted they are.

Rique Robb:
I can speak on behalf of the Autism Treatment Assistance Program. We collect data based on provider need and statewide activities. We are also working with our sister agencies, Medicaid, and the Department of Education as well as with the school districts to collect that data, look at it, and be able to report it out. Part of our challenge is that we are data deficient, so we are working on trying to pull that information in. That is also where administrative

support will be able to help the Commission and be that liaison between those partners as well.

Assemblyman Hambrick:
Have you spoken or worked with Touro University on some of these issues?

Gwynne Partos:
Not that I am aware of.

Chairwoman Cohen:
I think Ms. Ostrovsky in Las Vegas has an answer to that.

Julie Ostrovsky, Member, Nevada Commission on Autism Spectrum Disorders, Aging and Disability Services Division, Department of Health and Human Services:
We do work with Touro University, and the autism community throughout the state is really working to improve our stakeholder outreach. In southern Nevada, we have the benefit of working with Touro University, which does an outstanding job of diagnosing and providing services. It is just one of many resources, but it happens to be an outstanding one. It would be wonderful if we could model that throughout the state.

Chairwoman Cohen:
As someone who lives near Touro University, I do know about the great work they do for many Nevadans, especially for children and families who have a child or children with autism.

Assemblyman Carrillo:
I know that the Aging and Disability Services Division is set to run this, but why would it not be handled under the Commission on Services for Persons with Disabilities?

Rique Robb:
When this [Autism Spectrum Disorder] Commission was begun under an executive order in 2007, my understanding is that they opted to be separate from the Disability Commission, even though they work collaboratively.

Assemblyman Carrillo:
Are they currently receiving data from the Disability Commission?

Rique Robb:
Yes, they are.

Gwynne Partos:
One other factor is that autism is such a complex condition that even in the 12 years the Commission has been operating, the rates of autism have increased from about 1 in 110 children to 1 in 59 children. So, it is important to have a commission that really understands the unique needs of the autism spectrum. The needs continue throughout the lifespan and

many times there are setbacks. Many persons with autism also have co-occurring conditions, so it is complicated and it is important to have a commission that is dedicated solely to that.

Julie Ostrovsky:
The reason the Commission was originally started was that in Nevada there were so many programs serving children with disabilities that we needed some way to figure out how to compile the data, organize the services, and watch our dollars being spent. Initially, the Commission was created to develop a five-year strategic plan, which we did. Then we did an updated five-year strategic plan. Now, working with the stakeholders and various government agencies, we monitor, look for resources, and try to provide the best and most applicable services to people with autism while at the same time being aware of the dollars we are in charge of keeping track of in working with ADSD and DHHS.

Assemblywoman Titus:
For clarification, you just mentioned that one of the reasons for this Commission is that there has been an expansion in the numbers of children diagnosed with autism spectrum disorder. You stated that there used to be 1 in 110 children diagnosed with autism and now the ratio is 1 in 59 children. That may not be an absolute number. The reality is that there has been an expansion in recognition of the umbrella of autism—the autism spectrum. We have expanded the definition of autism, and I just want to make sure we leave accurate information here. I do not want folks leaving this hearing thinking that we are having a crisis and a doubling of the number of kids with autism.

Julie Ostrovsky:
We do not know that is the reason for the increase in diagnosis and numbers. The Centers for Disease Control and Prevention (CDC) is studying that now. Those are the numbers Gwynne Partos referred to and that we work under.

Gwynne Partos:
Yes, I got those numbers from the CDC and their autism monitoring group.

Assemblywoman Titus:
I am curious about those numbers. Are they comparing McIntosh apples to Granny Smith apples? They are all apples, but there is a large subset of apples.

Chairwoman Cohen:
Ms. Ostrovsky, did you want to add anything or do you just want to speak in support?

Julie Ostrovsky:
I would definitely like to speak in support. The Autism Commission, as I mentioned, has been in existence for 11 years. One of the reasons we asked to put the Commission into statute is to change the status and the authority so that we do not have to go to the Governor every two years and ask for reauthorization. In addition, none of the commissioners take any money. There is no per diem. We do this voluntarily.

In this bill, we also requested that the number of people on the Commission be expanded. The reason we did that is because we realized that some of our stakeholders in the rural areas were not properly represented. In addition, we work closely with the school districts throughout the state, and we want to make sure there is representation there. It is our goal to be as inclusive as possible and get everyone's thoughts, opinions, and input. That way we will be most successful when we authorize these various programs and present to the Legislature.

Chairwoman Cohen:
Thank you very much. We will now continue with support.

Steven Cohen, Private Citizen, Las Vegas, Nevada:
I will make this very short. Ditto.

Chairwoman Cohen:
Is there anyone else for support in Carson City or Las Vegas?

Rique Robb:
I am here in support of S.B. 216 (R1).

Chairwoman Cohen:
Is there anyone else in support? [There was no reply.] Is there anyone in opposition? [There was no reply.] Seeing no one, is there anyone neutral? [There was no reply.] Seeing no one, because we have to wait for a presenter for the next bill, we will be in recess [at 1:25 p.m.] until the Senate is off the floor.

I am calling the Committee back to order [at 7:38 p.m.] We will start by closing out the hearing on S.B. 216 (R1), and we will go into a work session on that bill.

Marsheilah Lyons:
Earlier today, the Committee heard Senate Bill 216 (1st Reprint) which revises provisions relating to autism spectrum disorder. There were no amendments presented for consideration by the Committee today for that measure.

Chairwoman Cohen:
Are there any questions? [There was no reply.] I am looking for a motion to do pass.

> ASSEMBLYWOMAN NGUYEN MADE A MOTION TO DO PASS SENATE BILL 216 (1ST REPRINT).
>
> ASSEMBLYMAN HAFEN SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman Carrillo:
I have some concerns about the bill regarding the language concerning children ages 6 years through 11 years and the fact that age group is not addressed. They say it is because that was the language in the original executive order, but this bill would make that Commission permanent and I think they are leaving that population out, and I have concerns about that, so I just wanted to bring that up.

Chairwoman Cohen:
Thank you, I appreciate that. I do not think that age group is going to specifically be left out in as much as the fact that the whole Commission will discuss the issues for people in that age range. I believe there was testimony about a concern about hitting marks at certain ages and that is where targeted seats on the Commission came from. I am sure, however, that all people with autism will be addressed in the Commission.

THE MOTION PASSED UNANIMOUSLY.

I will take the floor statement.

I will now close the work session and open the hearing on Senate Bill 202 (1st Reprint). Ms. Rique Robb will be presenting for Senator Dondero Loop [Senate District No. 8], who is currently on the Senate floor. She very much wanted to present to us, but with the time running out, I want to make sure we get this bill heard.

Senate Bill 202 (1st Reprint): Revises provisions relating to children with disabilities. (BDR 34-685)

Rique Robb, Deputy Administrator, Aging, Physical Disabilities, and Children's Services, Aging and Disability Services Division, Department of Health and Human Services:
I am here to present Senate Bill 202 (1st Reprint) on behalf of Senator Marilyn Dondero Loop. There has been an amendment to the original bill, and it has significantly changed.

Chairwoman Cohen:
Are you working from the first reprint of the bill?

Rique Robb:
Yes.

Chairwoman Cohen:
That means we have not seen the original bill language, so you do not need to discuss what was changed. Just go through what is in the first reprint.

Rique Robb:
Senate Bill 202 (1st Reprint) relates to children with autism spectrum disorder, making certain all children who have an individualized education program (IEP) are acknowledged

within the school districts as well as within the Department of Education. We will be able to calculate the number of pupils who are enrolled in the school districts who either have an IEP or a plan developed in accordance with Section 504 of the Rehabilitation Act of 1973 [29 United States Code, § 794]. The school districts and charter schools will also be reporting which disabilities the pupils are diagnosed with. They will be working in collaboration with the Aging and Disability Services Division (ADSD) within the Department of Health and Human Services (DHHS), the Department of Education, as well as the school districts to ensure that we are able to collect the data on behalf of the children.

The Department of Education will provide each school district and charter school information concerning services for children with disabilities provided by the Aging and Disability Services Division to ensure that we are meeting the needs of those children. We will also be providing a collective report to the Nevada Commission for Autism Spectrum Disorders to ensure that they have the data they need to make appropriate decisions for all populations with disabilities. This is now inclusive of all disabilities versus just autism spectrum disorder.

Assemblyman Carrillo:
My question is in regard to section 10, subsection 1, paragraph (b), which reads, "The disabilities with which those pupils were diagnosed." I want to be sure we are clear about what we are asking for. If we are asking for this information from the school districts, should we also be asking for diagnoses?

Rique Robb:
All we are asking for are the numbers. If you have ever seen an IEP, on the front of that plan are options to choose among, such as a health impairment or a learning disability. Autism spectrum disorder is among those options. I do not know the exact number of options, but there may be five of them. We are just asking for the collective number; not necessarily the diagnosis, but how the pupil falls within the IEP.

Assemblyman Carrillo:
To clarify, the IEPs do not have diagnoses, but I think they have eligibility.

Rique Robb:
Correct, it is an eligibility. For a child with autism, that is one of the eligibility criteria as is health impairment and a learning disability. There is a box that each child has to fit within on the IEP. We are just looking at having that broken down so that we will be able to find out how many children with autism spectrum disorder are in the school systems. There are many numbers around, but it is not confirmed.

Assemblyman Carrillo:
In section 10, subsection 1, paragraph (b), it specifically says "were diagnosed." It does not say what you are referring to, so I am a little confused.

Rique Robb:
Because this bill has been amended, I believe that word might have been left out because it was very specific to an autism diagnosis. I think we could still collect the data and the information as written because we are looking for the information that is within the IEP but we are not looking for a specific child. We are looking for the number of children within the IEP or the Section 504 criteria.

Assemblyman Carrillo:
It is my understanding that these assessments that are performed to determine whether a student is eligible for special education services are not medical diagnoses, nor are medical diagnoses necessary to determine that a student is eligible for special education services.

Rique Robb:
You are correct. The original bill was created for medical and educational diagnosis; the IEP itself is educational only.

Assemblyman Carrillo:
This leads to a concern that potentially there could be kids who do not have an eligibility under the diagnosis to match the diagnosis. I would like to consider an amendment to read "the eligibility category under which those pupils were found eligible for special education services" instead of "were diagnosed."

Rique Robb:
Unfortunately, without the Senator being here, I cannot answer to taking on an amendment. As the Aging and Disability Services Division, we could collect the information appropriately without the language change because the school districts do not necessarily have the diagnosis but they have the eligibility criteria. I do feel we could get that information as the bill is written without it being a diagnosis because it is not medical.

Assemblywoman Titus:
I, too, was going to address what Assemblyman Carrillo mentioned—the disability that pupils were diagnosed with. That is a little confusing for folks. The purpose for which you do an IEP is to identify a program for a child, whatever that child's needs are. Some are just learning disabilities, but that is not necessarily a medical diagnosis. As I said, I do all the IEPs in the Lyon County schools, and, as you can imagine, there are quite a few. The reason Lyon County has a medical provider look at them is that some of the identifiable programs under the IEP—speech pathology, occupational or physical therapy, psychological help—are reimbursable through Medicaid. If a physician recognizes the need and concurs, that program is reimbursable and can be billed for, whereas other needs under the IEP are not medical diagnoses and not reimbursable by Medicaid.

So the IEP is a very broad evaluation of an individual student and that student's needs. It can be something as simple as being an English language learner, which is not a medical diagnosis. It is a learning issue. You mention that you need this information because you need to be able to assimilate all the different numbers. I think you are looking at how many of these students there are so we will know the assessment needs of the state based on diagnoses. My concern is that you can get that fairly easily by Medicaid billing or the number of IEPs, so this information is already there. Can you just not find it?

Rique Robb:
An educational diagnosis and a medical diagnosis are two different things. You need a medical diagnosis to be able to bill for any type of insurance coverage—Medicaid or private insurance. Educational is strictly for the education that child is receiving and the services that he or she would receive within the school district. So, they are very different pieces, but a child with an autism diagnosis has both. That child is going to receive services within the school setting specific to learning needs, but will also receive medical services for the medical diagnosis of autism.

When the bill was in the process of being amended, it was looking at multiple disabilities throughout any spectrum—autism, a learning disability, et cetera. But we wanted a link so that when we have the identifying information, we can ensure that the schools, at any level, have information in regard to what services are provided through ADSD—whether that would be an early intervention piece or an autism treatment assistance program. If a child is diagnosed with autism while in the school district and the family does not know about any resources, then we can help them receive those resources through the school district. That is where the two work together. The original language was to only have one diagnosis, which is where the diagnosis language comes in. Unfortunately, that is not possible on either a federal or state level because the Department of Education is not going to take a medical diagnosis and Medicaid is not going to take an educational diagnosis.

In this bill we want to make sure that the school districts, the Department of Education, and ADSD are working well so we can make sure they have developmental services. If there is a 12-year-old who is just now being diagnosed with a medical diagnosis, that child may qualify for developmental services. We are really trying to make sure that all children who have IEPs are able to have services, whether in the school district or outside the school district, and can be within our Division.

Assemblyman Carrillo:
Because you mentioned it, is there such a thing as an educational diagnosis?

Rique Robb:
Let me make a correction—that would be an educational eligibility criteria and not a diagnosis.

Chairwoman Cohen:
Seeing no other questions, we will go to testimony from anyone in support in Carson City or in Las Vegas. [There was no response.] Seeing no one in support, do we have anyone in opposition? [There was no response.] Seeing no one in opposition, do we have anyone in neutral?

Steven Cohen, Private Citizen, Las Vegas, Nevada:
I will keep this brief. Hopefully, the original section 7 can make it into the bill before *sine die*.

Chairwoman Cohen:
We have a couple of questions for Senator Dondero Loop, so instead of going into a work session on this bill now, we will try to get those answers. It may be possible to get her back into this hearing so she can make concluding remarks and possibly clarify some things for us, so I am not going to adjourn right now. We are in recess [at 7:56 p.m.]. [The meeting was adjourned via email at 9:15 p.m.]

RESPECTFULLY SUBMITTED:

Terry Horgan
Committee Secretary

APPROVED BY:

Assemblywoman Lesley E. Cohen, Chairwoman

DATE:

EXHIBITS

Exhibit A is the Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is a letter dated June 2, 2019, addressed to Chairwoman Cohen, Vice Chairman Carrillo, and Members of the Assembly Committee on Health and Human Services, submitted by Gwynne Partos, Vice Chair, Nevada Commission for Autism Spectrum Disorders, Aging and Disability Services Division, Department of Health and Human Services, in support of Senate Bill 216 (1st Reprint).