

Committee Action:
Do Pass _____
Amend & Do Pass _____
Other _____

Senate Committee on Health and Human Services

This measure may be considered for action during today's work session.

SENATE BILL 315

Makes revisions relating to the rights of persons with disabilities and persons who are aged. (BDR 38-808)

Sponsored By: Senators Scheible and Spearman, et al.

Date Heard: April 4, 2023

Fiscal Notes: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

Senate Bill 315 prescribes for the Bill of Rights for an aged person with an intellectual, developmental, or physical disability who is receiving such services. Certain rights for pupils with disabilities who attend public school or who are receiving services from a provider of special education are also prescribed.

Amendments:

Erik Jimenez, Chief Policy Deputy, Nevada State Treasurer, proposed an amendment that is attached. The amendment does the following:

1. Clarifies that this Bill of Rights only applies to existing services provided through the home- and community-based services waiver.
2. Clarifies the extent to which certain ancillary services fall under the provisions of this bill.
3. Establishes the Transition Bill of Rights for persons with disabilities and applies to older children with disabilities who are receiving transition services through an Individualized Education Plan.
4. Outlines the rights afforded to persons with disabilities under the new Transition Bill of Rights.

EXHIBIT K Senate Committee on Health
and Human Services

Date: 4-11-2023

Exhibit begins with: K1

Total pages: 8

thru: K8

Senate Bill 315 – Proposed Amendment

Proposed By: Erik Jimenez
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Intent of the amendment:

- 1) Clarifies that the Bill of Rights for Persons with Intellectual, Developmental or Physical Disabilities or who are Aged, which is outlined in Section 1 of the bill, only applies to existing services provided through the home and community-based services waiver.
- 2) Revises Section 1 subsection 2(g) to clarify the extent that certain ancillary services would fall under the provisions of this bill.
- 3) Refines Section 3, thereby establishing the Transition Bill of Rights for Pupils with Disabilities. This would apply to older children with disabilities who are also receiving transition services through an Individualized Education Plan.
- 4) Makes various changes in Section 3 subsection 2 to outline the various rights afforded to individuals under the new Transition Bill of Rights for Pupils with Disabilities.

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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:

1. This section may be cited as the Bill of Rights for Persons with Intellectual, Developmental or Physical Disabilities or who are Aged.

2. Except as otherwise specifically provided by law, each person with an intellectual disability, developmental disability or physical disability and is receiving services pursuant to a home and community-based services waiver granted pursuant to 42 U.S.C. § 1396n, and each person who is aged and is receiving such services, has, to the extent applicable to the services received by the person and appropriate for the person pursuant to the waiver, the right to:

(a) Participate in decisions that affect the life of the person, including, without limitation, decisions relating to:

(1) The finances and personal property of the person;

(2) The location where the person resides; and

(3) The frequency, development and implementation of any plan for delivering services pursuant to the home and community-based services waiver.

(b) Be treated with respect and dignity.

- (c) An appropriate, safe and sanitary living environment that complies with all local, state and federal standards and recognizes the needs of the person for privacy and independence.*
- (d) Food that is adequate to meet the nutritional needs of the person.*
- (e) Practice the religion of his or her choice or abstain from the practice of any religion.*
- (f) Receive timely, effective and appropriate health care.*
- (g) Receive ancillary services ~~which may include, without limitation, personal care, occupational therapy, physical therapy, speech therapy, behavior modification and other psychological services,~~ to the extent necessary for the person.*
- (h) Maintain privacy and confidentiality in personal matters.*
- (i) Communicate freely with persons of his or her choice and in any reasonable manner he or she chooses.*
- (j) Own and use personal property.*
- (k) Have social interactions with persons of any sex or gender identity or expression.*
- (l) Pursue vocational opportunities to promote and enhance the economic independence of the person.*
- (m) Be treated as an equal citizen under the law.*
- (n) Be free from emotional, psychological, physical and financial abuse.*
- (o) Participate in appropriate programs of education, training, social development, habilitation and reasonable recreation, including, without limitation, a class at or other program administered by a university, college, community college or trade school.*
- (p) Select a parent, family member, advocate or other person to act on his or her behalf, including, without limitation, by entering into a supported decision-making agreement pursuant to NRS 162C.200.*
- (q) Manage his or her own personal finances.*
- (r) Have his or her personal and medical records kept confidential to the extent provided by state and federal law.*
- (s) Voice grievances and suggest changes in policies, services and providers of services without restraint, interference, coercion, discrimination or reprisal.*
- (t) Be free from unnecessary chemical, physical or mechanical restraints.*
- (u) Participate in the political process.*
- (v) Refuse to participate in any medical, psychological or other research or experiment.*
- 3. The rights set forth in subsection 2 do not abrogate any remedies provided by law.*
- 4. As used in this section:*
 - (a) "Developmental disability" has the meaning ascribed to it in NRS 435.007.*
 - (b) "Intellectual disability" has the meaning ascribed to it in NRS 435.007.*

Sec. 2. NRS 232.320 is hereby amended to read as follows:

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.6201 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.

Sec. 3. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

1. This section may be cited as the Transition Bill of Rights for Pupils with Disabilities.

~~2. Except as otherwise specifically provided by law, each pupil with a disability who is enrolled in a public school or receiving services from a provider of special education has the right, to the same extent as pupils who are not pupils with disabilities and to the extent applicable to the services which the pupil is receiving, to:~~

~~(a) Participate in decisions concerning the education of the pupil, including, without limitation, decisions concerning the services the pupil will receive as part of an individualized education program.~~

~~(b) Be treated with respect and dignity.~~

~~(c) Receive ancillary services, which may include, without limitation, personal care, occupational therapy, physical therapy, speech therapy, behavior modification and other psychological services, to the extent necessary for the pupil.~~

~~(d) Receive timely, effective and appropriate treatment.~~

~~(e) Communicate freely with persons of his or her choice and in any reasonable manner chosen by the pupil.~~

~~(f) Have social interactions with persons of any sex or gender identity or expression.~~

~~(g) Pursue vocational opportunities to promote and enhance the economic independence of the pupil.~~

~~(h) Receive assistance and counseling concerning higher education, including, without limitation, universities, colleges, community colleges and trade schools.~~

~~(i) Be free from emotional, psychological and physical abuse.~~

~~(j) Participate in appropriate programs of education, training, social development, habilitation and reasonable recreation.~~

~~(k) Select a parent, family member, advocate or other person to act on his or her behalf, including, without limitation, as prescribed in NRS 388.459.~~

~~(l) Receive education in financial literacy, including, without limitation, information about the Nevada ABLE Savings Program established pursuant to NRS 427A.889, to assist the pupil in managing his or her financial affairs.~~

~~(m) Have the records of the pupil kept confidential to the extent provided by state and federal law.~~

~~(n) Voice grievances and suggest changes in policies, services and providers of services without restraint, interference, coercion, discrimination or reprisal.~~

~~(o) Be free from unnecessary physical or mechanical restraints.~~

~~(p) Participate in the political process.~~

~~(q) Practice the religion of his or her choice or abstain from the practice of any religion.~~

~~(r) Refuse to participate in any research or experiment.~~

2. Each pupil with a disability who is enrolled in a public school or receiving services from a provider of special education and is receiving transition services through their Individualized Education Program ("IEP") pursuant to 34 CFR 300.43, has the right to:

(a) Be provided prior notice of any IEP meeting to occur in which transition services will be discussed with an invitation to attend the IEP meeting.

(b) Attend all IEP meetings to represent their training/education, employment, and, as

appropriate, independent living interests.

(c) Be treated with respect and dignity by all educational staff and school support personnel.

(d) Assist in the development of realistic and specific measurable post-secondary goals in training/education, employment, and as appropriate, independent living.

(e) Receive coordinated secondary transition services and related supports to help prepare them to meet their measurable post-secondary goals in training/education, employment, and, as appropriate, independent living in the least restrictive environment, including but not limited to age-appropriate transition assessment, instruction, related services, community experiences, employment and other post-school living objectives, and, as appropriate, acquisition of daily living skills and functional vocational evaluation .

(f) Communicate freely, using individually accessible communication methods, their strengths, interests, preferences, and vision for the future for consideration in transition planning.

(g) Have access to participate in social interactions with persons of their choice and in school-based settings common to all pupils of similar age.

(h) Assist in developing annual goals and objectives reasonably calculated to progress the pupil toward achieving their measurable post-secondary goals in training/education, employment, and as appropriate, independent living.

(i) Invite, or have assistance inviting, appropriate outside agencies to their IEP meetings whenever transition services will be discussed.

(j) Information necessary to identify, explore, and connect with outside agencies as appropriate, including but not limited to the following adult service agencies: Vocational Rehabilitation and Aging and Disability Services Division of the Department of Health and Human Services.

(k) As appropriate, receive information on potential support programs, including but not limited to the Nevada Work Incentives Planning and Assistance Program and Supplemental Security Income.

(l) Select a parent, family member, advocate or other person to act on his or her behalf, including, without limitation, as prescribed in NRS 388.459.

(m) As appropriate to the student's IEP, receive education in financial literacy, including, without limitation, information about the Nevada ABLE Savings Program established pursuant to NRS 427A.889, to assist the pupil in managing his or her financial affairs.

(n) Receive, as appropriate and pursuant to 34 CFR 361.48, the five required pre-employment transition services:

(1) Job exploration counseling;

(2) Work-Based Learning experiences, which may include in-school or after school opportunities, or experiences outside of the traditional school setting including internships, that is provided in an integrated environment in the community to the maximum extent possible;

(3) Counseling on Opportunities for Enrollment in Comprehensive Transition or Postsecondary Education Programs at institutions of higher education

(4) Workplace Readiness Training to develop social skills and independent living; and

(5) Instruction in self-advocacy, including instruction in person-centered planning and include peer mentoring.

(o) Voice concerns/disagreement with educational or transition services and suggest changes to those services without restraint, discrimination or reprisal.

(p) Assist in the development of a course of study that will reasonably allow the student to achieve their measurable post-secondary goals and attain one of Nevada's available diploma options.

(q) Receive information regarding potential consequences of attaining Nevada's diploma options accessible to students with disabilities.

(r) As appropriate to the student's IEP, receive instruction on civic participation, including but not limited to instruction on participating in the political process.

(s) Be notified that any right accorded to a parent of a pupil with a disability pursuant to Part B of the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1411 et seq., and the regulations adopted pursuant thereto, transfers to the pupil when the pupil attains the age of 18 years. This notification must occur at least one year before the student turns 18.

3. The rights of a pupil with a disability set forth in subsection 2 do not abrogate any remedies provided by law.

Sec. 4. NRS 388.417 is hereby amended to read as follows:

As used in NRS 388.417 to 388.515, inclusive ~~§ 3~~, *and section 3 of this act:*

1. "Communication mode" means any system or method of communication used by a person with a disability, including, without limitation, a person who is deaf or whose hearing is impaired, to facilitate communication which may include, without limitation:

- (a) American Sign Language;
- (b) English-based manual or sign systems;
- (c) Oral and aural communication;
- (d) Spoken and written English, including speech reading or lip reading; and
- (e) Communication with assistive technology devices.

2. "Dyslexia" means a neurological learning disability characterized by difficulties with accurate and fluent word recognition and poor spelling and decoding abilities that typically result from a deficit in the phonological component of language.

3. "Dyslexia intervention" means systematic, multisensory intervention offered in an appropriate setting that is derived from evidence-based research.

4. "Individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

5. "Individualized education program team" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(B).

6. "Provider of special education" means a school within a school district or charter school that provides education or services to pupils with disabilities or any other entity that is responsible for providing education or services to a pupil with a disability for a school district or charter school.

7. "Pupil who receives early intervening services" means a person enrolled in kindergarten or grades 1 to 12, inclusive, who is not a pupil with a disability but who needs additional academic and behavioral support to succeed in a regular school program.
8. "Pupil with a disability" means a "child with a disability," as that term is defined in 20 U.S.C. § 1401(3)(A), who is under 22 years of age.
9. "Response to scientific, research-based intervention" means a collaborative process which assesses a pupil's response to scientific, research-based intervention that is matched to the needs of a pupil and that systematically monitors the level of performance and rate of learning of the pupil over time for the purpose of making data-based decisions concerning the need of the pupil for increasingly intensified services.
10. "Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or using spoken or written language which is not primarily the result of a visual, hearing or motor impairment, intellectual disability, serious emotional disturbance, or an environmental, cultural or economic disadvantage. Such a disorder may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or perform mathematical calculations. The term includes, without limitation, perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia.

Sec. 5. This act becomes effective on July 1, 2023.