

STUDY OF THE PROBLEMS AND
TREATMENT OF MENTALLY
RETARDED ADULTS



Bulletin No. 83-1

LEGISLATIVE COMMISSION
OF THE
LEGISLATIVE COUNSEL BUREAU
STATE OF NEVADA

October 1982

S T U D Y O F T H E P R O B L E M S A N D
T R E A T M E N T O F M E N T A L L Y
R E T A R D E D A D U L T S

BULLETIN NO. 83-1

LEGISLATIVE COMMISSION
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LEGISLATIVE COUNSEL BUREAU
STATE OF NEVADA

OCTOBER 1982

TABLE OF CONTENTS

	<u>Page</u>
1. Senate Concurrent Resolution No. 75, 61st Session of the Nevada Legislature (1981)	iii
2. Report of the Legislative Commission	iv
3. Summary of Recommendations	vi
4. Report to the Legislative Commission from the Subcommittee to Study the Problems and Treatment of Mentally Retarded Adults	
I. Introduction	1
II. Subcommittee Procedure	2
III. Overview of Mental Retardation	2
IV. Overview of the Services of the Mental Hygiene and Mental Retardation Division for Mentally Retarded Adults	3
V. Findings and Recommendations	6
VI. Public Education and Mentally Retarded Adults	14
5. Footnotes	16
6. Appendices:	
Appendix A Community Residential Care	18
Appendix B Family Preservation Program	23
Appendix C Memorandum on State Equal Rights Commission	28
Appendix D Memorandum on Guardians	31

	<u>Page</u>
Appendix E	
Correspondence on Mentally Retarded	
Adult Inmates	34
Appendix F	
Correspondence on Public Employees' Retirement	
and the State Group Insurance Plan	39
Appendix G	
Attorney General's Opinion and the State School	
Board's Decision Regarding Education of the	
Mentally Retarded Between the Ages of 18 and 21	
Years	42
Appendix H	
Suggested Legislation	55

Senate Concurrent Resolution No. 75—Committee on Legislative Affairs

FILE NUMBER 200

SENATE CONCURRENT RESOLUTION—Directing the legislative commission to study the problems and treatment of mentally retarded persons over 18 years old.

WHEREAS, In previous sessions, this legislature has directed that studies be conducted of the programs in this state for mentally retarded persons; and

WHEREAS, Those studies were mainly focused upon the problems of organization and administration, in an effort to improve the efficiency of the programs; and

WHEREAS, This legislature believes that an additional benefit would be obtained by a study particularly directed toward the problems and treatment of mentally retarded adults in this state; now, therefore, be it

Resolved by the Senate of the State of Nevada, the Assembly concurring, That the legislative commission is hereby directed to conduct a study of the special problems and the treatment of mentally retarded persons who are over 18 years of age; and be it further

Resolved, That the legislative commission report the results of its study and any recommended legislation to the 62d session of the Nevada legislature.

REPORT OF THE LEGISLATIVE COMMISSION

TO THE MEMBERS OF THE 62ND SESSION OF THE NEVADA LEGISLATURE:

This report is submitted in compliance with Senate Concurrent Resolution No. 75 of the 61st session which directed the legislative commission to study and make recommendations on the subject of adult mental retardation. Appointed by the legislative commission to conduct the study were:

Assemblyman David D. Nicholas, Chairman
Assemblyman Marion D. Bennett, Vice Chairman
Senator Gene V. Echols
Senator Joe Neal
Assemblyman Paul V. Prengaman
Assemblyman Danny L. Thompson
Assemblyman John M. Vergiels

This study focuses on the problems and treatment of mentally retarded persons over 18 years old. The state mental hygiene and mental retardation division, the state rehabilitation division, the state department of education, several nongovernment service providers, and parents of mentally retarded adults provided the subcommittee with suggestions and proposals regarding the treatment of mentally retarded adults. These suggestions and proposals served as the basis for the subcommittee's review and recommendations.

Subcommittee members wish to recognize and thank the many persons who attended and participated in meetings in Las Vegas, Elko, Tonopah, Sparks and Carson City. Special acknowledgment is given to Dr. Dan Payne and Dr. Brian Lahren of the state mental hygiene and mental retardation division, department of human resources, for their cooperation in providing the subcommittee with valuable information about adult mental retardation in Nevada.

This report is transmitted to the members of the 1983 legislature for its consideration and appropriate action.

Respectfully submitted,

Legislative Commission
Legislative Counsel Bureau
State of Nevada

Carson City, Nevada
October 1982

LEGISLATIVE COMMISSION

Assemblyman Robert R. Barengo, Chairman
Assemblyman Joseph E. Dini, Jr., Vice Chairman

Senator Keith Ashworth	Assemblyman Mike Malone
Senator Richard E. Blakemore	Assemblyman Paul W. May, Jr.
Senator Jean E. Ford	Assemblyman Kenneth K.
Senator Virgil M. Getto	Redelsperger
Senator Lawrence E. Jacobsen	Assemblyman Robert F. Rusk
Senator James N. Kosinski	

SUMMARY OF RECOMMENDATIONS

1. Amend the Nevada Revised Statutes to extend the responsibilities of the state equal rights commission to include protection for mentally retarded persons, including protection against discriminatory practices in housing, employment and public accommodations. (BDR 18-15)
2. Repeal the expiration date of legislation enacted by the 1981 Nevada legislature, which limits local control over the location of housing for mentally retarded persons. (BDR 22-16)
3. Increase funding of the family preservation program and expand the program to include profoundly and severely mentally retarded persons. (BDR 39-17)
4. Establish a program to allocate funds to community training centers for facilities and equipment. The program will be administered by the state mental hygiene and mental retardation division. The initial appropriation is \$150,000. (BDR 39-18)
5. Allow volunteers working in community training centers to drive state vehicles provided they meet other standards required to operate a state vehicle and they have received proper authorization.
6. Provide additional staff to the community training centers.
7. Increase the amount of state payments to group homes that provide care to mentally retarded and developmentally disabled adults. Support the mental hygiene and mental retardation division's actions to increase the number of clients in group homes whose care is provided for by Title XIX of the U.S. Social Security Act (Medicaid).
8. Establish a state guardianship program for mentally retarded persons over 18 years old. (BDR 39-19)
9. Provide speech therapy and physical therapy to the clients of the community training centers.

10. Support the proposal of the mental hygiene and mental retardation division to use a laboratory technique designed to detect chromosomal abnormalities in the unborn.
11. Strengthen enforcement of the current child support laws.
12. Provide appropriate funding to the mental hygiene and mental retardation division for the purposes of training and evaluating the personnel of the community training centers.
13. Request the Congress of the United States to amend the Social Security Act to allow recipients of supplementary security income (SSI) to accumulate annual savings up to a maximum of \$2,000 without becoming ineligible for SSI benefits. (BDR 20)
14. Prohibit the mental hygiene and mental retardation division from recovering the expenses of caring for mentally retarded adults from their estate for care provided prior to the inheritance of the estate. (BDR 39-21)
15. Provide respite care to parents who care for their mentally retarded children and to the operators of community residential centers for the mentally retarded.
16. Encourage the development of prevention and community education programs regarding mental retardation.
17. Recognize that the State of Nevada has a continuing responsibility to provide quality care to its mentally retarded residents.

REPORT TO THE LEGISLATIVE COMMISSION FROM THE SUBCOMMITTEE
TO STUDY THE PROBLEMS AND TREATMENT OF
MENTALLY RETARDED ADULTS

I. INTRODUCTION

The 1981 Nevada legislature adopted S.C.R. 75 which directs the legislative commission to study the problems and treatment of mentally retarded persons over 18 years old. Recent legislative interim studies of mental health and mental retardation focused on the administration of programs for the mentally ill and mentally retarded and the organizational structure of the mental hygiene and mental retardation (MH/MR) division.¹ Testimony during the 1981 legislative session before the committees on legislative functions and legislative affairs, which decide the fate of interim study resolutions, indicated a need for studying the problems of mentally retarded adults in Nevada and the current methods of treatment available to them.

Another legislative consideration was the cost of providing care to mentally retarded persons in state facilities. Currently, the average cost to care for a mentally retarded person in a state facility is approximately \$94 per day. The cost of caring for one person over a 10-year period at this rate, without accounting for inflation, is \$343,100. Through S.C.R. 75, the legislature felt that alternatives to expensive state facilities could be developed without jeopardizing the care of mentally retarded persons in Nevada.

The legislative commission appointed a subcommittee to make the study composed of the following legislators:

Assemblyman David D. Nicholas (Washoe County), Chairman
Assemblyman Marion D. Bennett (Clark County),
Vice Chairman
Senator Gene V. Echols (Clark County)
Senator Joe Neal (Clark County)
Assemblyman Paul V. Prengaman (Washoe County)
Assemblyman Danny L. Thompson (Washoe County)
Assemblyman John M. Vergiels (Clark County)

II. SUBCOMMITTEE PROCEDURE

The subcommittee, following the mandate of S.C.R. 75, limited the focus of the study to mentally retarded persons over 18 years old. In addition to taking testimony, the subcommittee toured several public and private facilities that offer services to mentally retarded adults, including: Desert Developmental Center, Sierra Developmental Center, Washoe Association for Retarded Citizens Center, Elko County Association for Retarded Citizens Center, an Elko group home, Opportunity Village, Alpha Productions, and High Sierra (the latter three are community training centers).

One of the primary goals of the subcommittee was to examine current community residential care facilities and to develop methods of maintaining the current facilities and encouraging the development of new ones.

The subcommittee was allocated \$7,400 for the cost of meetings and printing the final report. It held an initial meeting in Las Vegas on October 27, 1981, public hearings in Elko on December 15, 1981, in Tonopah on December 16, 1981, and in Sparks on February 19, 1982. A work session was held in Carson City on March 26, 1982. All meeting announcements were posted in compliance with the open meeting law and an attempt was made to notify all interested parties in order for them to provide testimony to the subcommittee.

III. OVERVIEW OF MENTAL RETARDATION

Generally, mental retardation is characterized by subnormal intellectual functioning and impaired adaptive behavior which usually originate during infancy and early childhood. It is a major pediatric problem and is recognizable in about 0.5 percent of preschool children, and in certain school populations may be as high as 5 to 10 percent. Based on statistical probability, approximately 3 percent of the population is projected to be mentally retarded.

There are four levels of retardation which are primarily determined by measuring a person's intelligence quotient (IQ) through a standardized intelligence test. Mental retardation is determined only after carefully considering the test results and the individual's adaptive behavior. Generally, persons with IQ scores between 55 and 95 are considered mildly retarded; scores between 40 and 54 are moderate; scores

between 25 and 39 are severe; and scores below 25 are profound. It should be noted that there is little practical difference between severe and profound retardation and frequently programs are designed to treat both of these levels together.

Authorities in the field of mental retardation suggest that most mild cases of retardation are associated with inadequate learning opportunities, as a result of poverty, isolation or cultural deprivation during childhood. Neurological conditions and sometimes other physiological abnormalities are associated with profound, severe, and many moderate cases. These conditions may be produced by specific genes;² by partially gene-dependent mechanisms;³ by chromosomal aberrations;⁴ by isoimmunization;⁵ by infections, radiation, or from toxic substances prior to birth; by perinatal factors;⁶ or by pathological agents during infancy or early childhood.⁷ In advanced countries, according to experts, a small percentage (10 to 20 percent) of the total number of cases of mental retardation are associated with genetic or biological disorders. Most cases are associated with subtler social and cultural factors which may inhibit the expression of intellectual potential.

In the past, care and treatment of the mentally retarded was primarily custodial. More recently, however, improved medical treatment, parent education, special schooling, vocational training, sheltered workshops, and community residential living have been emphasized. Diagnosis and prevention of certain disorders have also improved. For instance, if phenylketonuria (PKU), the inability of the body to metabolize adequately a substance from protein foods called phenylalanine, can be diagnosed early it can be prevented by strict adherence to a diet low in phenylalanine.

Many retarded persons have become relatively independent and productive members of society, although special training and continuation of services are necessary to aid adjustment.

IV. OVERVIEW OF THE SERVICES OF THE MENTAL HYGIENE AND MENTAL RETARDATION DIVISION FOR MENTALLY RETARDED ADULTS

A. INSTITUTIONAL CARE

Institutional care for mentally retarded adults is provided through the Sierra Developmental Center in Sparks and the

Desert Developmental Center in Las Vegas. Services offered to clients include:

- (a) social services;
- (b) medical care and treatment;
- (c) speech, physical and occupational therapy;
- (d) vocational rehabilitation;
- (e) community education and information; and
- (f) referral services.

Clients are also placed in developmental homes, group homes or community apartments.

The capacity of the Sierra Developmental Center is 78 clients and the capacity of the Desert Developmental Center is 94 clients. The centers are licensed by the bureau of health facilities of the state department of human resources as intermediate care facilities/mental retardation and are eligible for federal funding under Title XIX of the U.S. Social Security Act (Medicaid).

B. COMMUNITY RESIDENTIAL CARE

Community residential care for mentally retarded adults is provided through privately managed homes. These homes receive monthly payments from the mental hygiene and mental retardation (MH/MR) division of the state department of human resources through the residential placement fund.

Currently, there are four types of community residential care offered, including: (1) developmental homes which have three beds or less and provide intensive training in social and life skills; (2) group homes in which a family provides services to four or more clients; (3) private, nonprofit group homes; and (4) independent living. In July 1981, there were 126 persons placed in 42 separate homes.

Community homes were recently authorized to receive federal funds under Title XIX. This requires, however, that state funds be available for initial operational costs until a community home is reimbursed with Title XIX funds. The 1981 legislature appropriated \$150,000 to the MH/MR division for this purpose for fiscal years 1981-82 and 1982-83.⁸

C. FAMILY PRESERVATION

The 1981 Nevada legislature enacted Assembly Bill No. 119 (chapter 441, Statutes of Nevada 1981), creating what is known

as the family preservation program. This program provides financial assistance to needy families who care for their profoundly mentally retarded relatives at home and is administered by the MH/MR division. The legislature appropriated \$100,000 for fiscal year 1981-82 and \$110,000 for 1982-83. The amount of the benefit a family receives depends on financial need. The maximum benefit is \$260 per month for fiscal year 1981-82 and \$286 per month for fiscal year 1982-83.⁹

D. COMMUNITY TRAINING CENTERS

The community training centers (CTC's) provide care and training primarily to mentally or functionally retarded persons who are not receiving services through existing programs. The centers are managed by the private sector and act as contractors to the state to provide services. CTC programs vary from location to location. Some centers offer sheltered workshop employment in assembly, manufacturing, or packaging. Others provide daily training in social skills, self-help, or prevocational activities, and others are primarily preschools providing infant stimulation or academic training to the handicapped ages 1 month to 6 years. The programs available reflect the presence of meaningful work opportunities, the needs, and the resources of the communities in which the programs are located. Currently, there are 15 centers which provide services to the following areas: Babbitt, Carson City, Churchill County, Clark County, Douglas County, Elko County, Ely, Washoe County, Winnemucca and Yerington. In July 1981, there were 463 adults and children enrolled in the program.

The 1981 legislature provided funds for a new category known as "pre-workshop." The purpose of this category is to assist severely and profoundly mentally retarded persons prior to enrolling in a regular center program. Several of the centers have contracts with private firms which may reduce dependence on state funds.

E. GENETICS PROGRAM

The genetics program emphasizes prevention. The program identifies genetic disorders and provides counseling to persons with a definable genetic disorder. Most referrals to the state genetics program are from residential mental retardation facilities.¹⁰

The genetics laboratory of the state mental hygiene and mental retardation division conducts over 200 laboratory tests annually. The lab performs chromosome analysis on blood cultures but does not perform more specialized tests, for instance biochemical, for genetic diseases, which are usually conducted at specialized laboratories in California. The most frequent genetic disorder analyzed by the state genetics laboratory in 1980 was Down's Syndrome.

V. FINDINGS AND RECOMMENDATIONS

1. Amend Nevada Revised Statutes (NRS) to extend the responsibility of the state equal rights commission to include protection for mentally retarded persons, including protection against discriminatory practices in housing, employment and public accommodations. (BDR 18-15, appendix H, page 56.)

Current state law does not give the state equal rights commission the authority to deal with discrimination against the mentally retarded (chapter 233 of NRS).¹¹

Testimony indicated a need for legal representation for the mentally retarded in the areas of employment, housing and public accommodations. Cases of discrimination against mentally retarded persons in these three areas have been referred to the Developmental Disabilities Advocate's Office, but that office has been unable to obtain legal representation from the equal rights commission because the commission lacks the statutory authority to intervene.

2. Repeal the expiration date of legislation enacted by the 1981 legislature which limits local control over the location of housing for mentally retarded persons. (BDR 22-16, appendix H, page 74.)

The 1981 Nevada legislature enacted S.B. 268 (chapter 154, Statutes of Nevada 1981), which limits local control over location of housing for mentally retarded persons. This legislation expires, however, on July 1, 1983. Testimony strongly recommended removing the expiration date of S.B. 268. This will encourage the development of community-based care for the mentally retarded, such as group homes, and will enable mentally retarded persons to live in an environment that is less restrictive of their personal liberty.

3. Increase funding of the family preservation program and expand the program to include profoundly and severely mentally retarded persons. (BDR 39-17, appendix H, page 75.)

The 1981 Nevada legislature enacted A.B. 119 (chapter 441, Statutes of Nevada 1981), creating what is known as the family preservation program. The purpose of this program is to provide financial assistance to needy families who want to care for their profoundly mentally retarded relatives at home. The maximum grant a family can receive is \$260 per month during fiscal year 1981-82 and \$286 per month during fiscal year 1982-83. This program is administered by the mental hygiene and mental retardation division of the state department of human resources. The 1981 legislature appropriated funds for the program for fiscal years 1981-82 and 1982-83.

Testimony strongly recommended continuation of, increased funding for, and inclusion of severely mentally retarded persons in the family preservation program. This program enables mentally retarded persons to live at home or with relatives, an environment that is less restrictive than the environment of institutional care. In addition to providing an alternative to institutional care, the family preservation program significantly reduces the financial burden of the state. As previously mentioned, the average cost of caring for a mentally retarded person in a state facility is approximately \$94 per day.

The MH/MR division informed the subcommittee that the response to this program has exceeded its expectations.¹² The MH/MR division is continuing to provide assistance to eligible families. The amount of assistance, however, has been reduced because the number of eligible families exceeds the amount of funds appropriated by the legislature. Consequently, the division requested an increase in the amount of funds for the program because, under A.B. 119, all eligible families must be accepted.

It was also recommended that severely mentally retarded persons be included in the family preservation program because families and relatives who want to care for a severely mentally retarded person at home frequently cannot because of the expense.

4. Establish a program to allocate funds to community training centers for facilities and equipment. The program will be administered by the mental hygiene and mental retardation division. The initial appropriation is \$150,000. (BDR 39-18, appendix H, page 77.)

Testimony indicated a need for further development of the community training centers (CTC's), particularly in the rural areas of the state. Long waiting lists have already been established and the CTC's must expand in order to provide services to the increasing number of clients who want them.

Because of current economic conditions, a recommendation was made to allocate state funds to responsible community training centers interested in expanding their current facilities. The state funds must be recovered through payments made by the CTC's within 20 years. The rate of interest will be determined when the funds are allocated. The MH/MR division is required to make an annual report to the legislative interim finance committee.

5. Allow volunteers working in community training centers to drive state vehicles provided they meet the other standards required to operate a state vehicle and they have received proper authorization.

The subcommittee learned that the state automobile insurance policy provides coverage of volunteers operating state vehicles provided they meet other state standards, such as possession of a valid Nevada driver's license, and they have authorization from the proper agency or state employee.

6. Provide additional staff to the community training centers.

The subcommittee recommended that the 1983 legislature should appropriate funds for additional staff for the CTC's. Additional staff will enable persons on waiting lists to enroll in a CTC program and will enable the CTC's to expand current services.

7. Increase the amount of state payments to group homes that provide care to mentally retarded and developmentally disabled adults. Support the mental hygiene and mental retardation division's actions to increase the number of

clients in group homes whose care is provided for by Title XIX of the U.S. Social Security Act (Medicaid).

Funds for group homes¹³ are appropriated by the legislature to the residential placement fund, a separate account within the budget of the mental hygiene and mental retardation division. Currently, operators of group homes for the mentally retarded receive approximately \$470 per month for each client. Clients receive \$93 for their personal needs, and the remainder is for room and board (approximately \$145) and for specialized services (approximately \$230).

Typically, group home operators provide care to the mentally retarded in their own homes and do so because of their personal desire to help mentally retarded persons. It is very difficult, however, to operate a group home under the current payment. In addition, there are 60 persons on waiting lists for group homes. Therefore, the subcommittee recommended that the current monthly payment per client be increased to:

(a) Continue the operation of group homes, which provide a unique environment for the mentally retarded; and

(b) Encourage placement of mentally retarded persons in group homes.

The subcommittee learned that the MH/MR division is attempting to refinance part of the residential placement fund through Title XIX. The 1981 legislature authorized the division to place some clients funded by the residential placement fund into a separate category which allows for reimbursement of group homes with Title XIX funds. The U.S. Department of Health and Human Services, which administers Medicaid, has allowed waivers of certain federal regulations in order to encourage alternatives to institutional care. The MH/MR division has submitted a request for a waiver which, if approved, will enable the state to pay for 50 residential placements with Medicaid funds and, in turn, reduce the number of persons on waiting lists. The subcommittee strongly supports the request of the MH/MR division.

8. Establish a state guardianship program for mentally retarded persons over 18 years old. (BDR 39-19, appendix H, page 80.)

Current state law already provides for general, special and public guardians. It does not, however, specifically provide for guardians for mentally retarded and developmentally disabled persons.14

The 1981 legislature enacted S.B. 674 (chapter 758, Statutes of Nevada, 1981) which provides for special guardianships for persons of "limited capacity." Persons of limited capacity are able to make some, but not all, independent decisions about their own care and the management of their property. Special guardians are given only those powers necessary in a particular case and they must exercise supervisory authority over wards that is least restrictive of their personal liberty.

Testimony indicated that there are some mentally retarded persons without a known relative concerned about their welfare. The MH/MR division occasionally requires a guardian to represent clients in situations which require a client's informed consent, for instance, medical surgery. The MH/MR division stated that it is becoming more and more difficult to find guardians for the mentally retarded and chronically mentally ill. This results in the dilemma of whether to provide treatment to mentally retarded persons without their consent or not to provide them with any treatment.

The subcommittee recommended establishment of a state guardianship program for mentally retarded persons and requested the MH/MR division to provide the subcommittee with a legislative proposal.15

9. Provide speech therapy and physical therapy to adult clients of the community training centers.

The subcommittee recommended providing speech and physical therapy to adult clients of the community training centers because they are no longer in the educational system, yet require this type of assistance.

10. Support the proposal of the mental hygiene and mental retardation division to use a laboratory technique designed to detect chromosomal abnormalities in the unborn.

Currently, the state genetics laboratory is limited in its chromosomal analysis of genetic disorders to tests of

blood samples. A more effective technique of detecting genetic disorders, according to the MH/MR division, is amniocentesis. This technique analyzes fluid from the amniotic sac in which the fetus lies.

The subcommittee recommended supporting the mental hygiene and mental retardation division's efforts to use this more effective technique of detecting genetic disorders.

11. Strengthen enforcement of the current child support laws.

Child support payments may enable single-parent families to provide care and treatment at home for mentally retarded persons over 18 years old, rather than placing them in institutional care.

The subcommittee recognized that strong child support laws have been enacted by the Nevada legislature and that Nevada has adopted the Revised Uniform Reciprocal Enforcement of Support Act. The subcommittee recommended that the current child support laws be strictly enforced.

12. Provide appropriate funding to the mental hygiene and mental retardation division for the purpose of training and evaluating personnel of the community training centers.

The current budget for training of CTC personnel is \$2,000 annually. The clients of a CTC require specialized services. This means that the personnel of the CTC's must have, or acquire, certain skills. Additional funding would help provide these skills.

13. Request the Congress of the United States to amend the Social Security Act to allow mentally retarded adult recipients of supplementary security income (SSI) to accumulate annual savings up to a maximum of \$2,000 without becoming ineligible for SSI benefits. (BDR 20, appendix H, page 82.)

Currently, the Social Security Act allows a recipient of supplementary security income to receive a maximum of \$1,500 annually in savings. Testimony indicated the need for increasing the amount of savings mentally retarded adult recipients of SSI can receive, particularly when their parents can no longer provide for them.

Consequently, the subcommittee recommended that Congress amend the Social Security Act to allow mentally retarded adult recipients of SSI to receive a maximum of \$2,000 annually in savings.

14. Prohibit the mental hygiene and mental retardation division from recovering the expenses of caring for mentally retarded adults from their estates for care provided prior to inheritance of the estates. (BDR 39-21, appendix E, page 86.)

Under current state law, mentally retarded adults or their estates, when able, may be required to contribute a reasonable amount toward the care and treatment they receive in a state facility. Relatives of mentally retarded adults are not responsible for their care and treatment within a MH/MR division facility (NRS 435.360).

Testimony indicated that in a few instances mentally retarded adults lose most, and in some cases all, of the estates which they inherit when the state recovers expenses for care and treatment. The purpose of the estates, according to testimony, is to enable the parents to provide for the financial future of their mentally retarded children.

The subcommittee recommended that the MH/MR division be prohibited from recovering the expenses of caring for mentally retarded adults from their estates for care provided before the person inherited the estate. This ensures that mentally retarded persons in state facilities will receive the financial resources their parents have given them and may increase their financial independence.

15. Provide respite care to parents who care for their mentally retarded children and to the operators of community-residential centers for the mentally retarded.

Testimony indicated that caring for mentally retarded persons requires the complete attention of a parent or group home operator. This is physically and emotionally exhausting. Respite care would give a break to persons who already care for the mentally retarded and may encourage others, who might otherwise be reluctant to care for mentally retarded persons because of the demands they make, to care for the mentally retarded. Therefore, the subcommittee recommended that respite care be provided

to parents who care for their mentally retarded children and to the operators of community residential centers for the mentally retarded whenever possible.

16. Encourage the development of prevention and community education programs regarding mental retardation.

The subcommittee recommended encouraging the development of prevention and community education programs. Prevention programs will, of course, help reduce the incidence of mental retardation and community education programs will help identify young mentally retarded persons and ensure that they receive appropriate care and treatment.

17. Recognize the State of Nevada has a continuing responsibility to provide quality care to its mentally retarded residents.

The subcommittee stressed the need for the state to continue providing quality care to its mentally retarded residents. The subcommittee supports the increased use of community-based care facilities and emphasized the state's responsibility for providing quality care to residents of these facilities as well as to clients of state facilities.

The subcommittee considered providing appropriate programs for mentally retarded adult inmates in the state prison and in local correctional facilities. According to some persons who testified before the subcommittee, approximately 10 percent of the inmates at the state prison and in local correctional facilities were mentally retarded and were not receiving appropriate services. The subcommittee was told that mentally retarded adult inmates were placed in with the general prison population, which frequently resulted in their abuse, and that they were not receiving appropriate rehabilitation services.

The subcommittee learned that the MH/MR division had not received any complaints on this subject and had not been asked for assistance. The subcommittee also contacted the administrators of the state department of prisons, the Las Vegas Metropolitan Police Department and the Washoe County sheriff's department. They stated that the number of mentally retarded adult inmates was considerably less than 10 percent and that services and facilities for mentally retarded adult inmates were available.¹⁶ Consequently, the subcommittee did not act on this recommendation.

The subcommittee also considered allowing employees of the community training centers to join the public employees' retirement system and the state group insurance program. The subcommittee learned, however, that employees of the community training centers are employees of an independent contractor; not employees of a public employer. Therefore, they cannot join the public employees' retirement system. Because they cannot join this system, they are also ineligible to receive benefits under the state group insurance plan.¹⁷ Consequently, the subcommittee did not act on this recommendation.

VI. PUBLIC EDUCATION AND MENTALLY RETARDED ADULTS

The subcommittee was interested in the educational needs of and services provided to mentally retarded persons between the ages of 18 and 21 years.

Under current state law, children between the ages of 7 and 17 years are required to attend public school (NRS 392.040).¹⁸ Mentally retarded children may begin attending special education programs at the age of 3 years (NRS 388.490).¹⁹ A maximum age limit, however, has not been established for attendance in public schools in Nevada. In fact, nonhandicapped students, when appropriate, can attend school until they graduate from high school.

A "handicapped minor," as defined by the Nevada Revised Statutes, means any person under the age of 18 years who is educationally, academically, physically, socially or emotionally handicapped and needs special educational services (NRS 388.440). In practice, mentally retarded students in public schools are graduated at the age of 18 years. Testimony indicated that many of these students were graduated too early and that alternative programs could not accommodate them because they were full.

The subcommittee learned of an attorney general's opinion which reached the following conclusions:

- (1) The Education for All Handicapped Children Act of 1975 (Public Law 94-142) "requires school districts to provide handicapped students beyond the age of eighteen with appropriate educational services and instruction;"

(2) "Boards of trustees of school districts, not the Department of Education, are legally responsible for providing educational services to handicapped persons aged 18-21 where appropriate, unless the school district cannot provide such a program;" and

(3) School districts are required, under section 504 of the Rehabilitation Act of 1973, to "provide a free appropriate education to persons over the age of eighteen, where a free appropriate education is offered to non-handicapped persons."20

The subcommittee also learned of a decision made by the Nevada state board of education in December 1981, regarding an 18 year-old mentally retarded student in Clark County. The board decided that the student should be given additional education at no expense to her parents and that the Clark County school district and the student's parents should develop an individualized education plan for her.21

The subcommittee considered recommendations concerning the educational needs of mentally retarded persons between the ages of 18 and 21 years. During the subcommittee's final hearing, the state department of education informed the subcommittee of a department project which focused on the educational needs of the mentally retarded between the ages of 18 and 21 years. The department stated that it intended to present a report of its findings to the 1983 legislature.

The subcommittee recommended that further action regarding education for the mentally retarded between the ages of 18 and 21 years be considered during the 1983 legislative session.

FOOTNOTES

1. Mental Health Care Facilities and Programs (1974) and Administration of Mental Hygiene and Mental Retardation Programs in Nevada (1979). See also, J. S. Kakalik, et al., Mental Health and Mental Retardation Services in Nevada (Santa Monica, CA: Rand Corporation, 1976).
2. Galactosemia, gargoylism, phenylketonuria (PKU), and Tay-Sachs disease.
3. Cretinism, hydrocephaly, hypertelorism, and microcephaly.
4. Down's syndrome and Klinefelter's syndrome.
5. Erythroblastosis fetalis.
6. Prematurity, head injury and deprivation or oversupply of oxygen.
7. Meningitis, encephalitis, high fevers, hypercalcemia, hyperbilirubinemia and lead poisoning.
8. See Appendix A, p. 18.
9. A description of the program appears in Appendix B, p. 23.
10. For a general discussion of genetic disorders and for a description of the genetic needs of and services offered in Nevada, see Ayesha E. Gill, "The Role of Genetics in Community Health in Nevada," Nevada Public Affairs Review, No. 1 (1982), pp. 31-6.
11. See Appendix C, p. 28.
12. See Appendix B, p. 26.
13. See Appendix A, p. 18.
14. See Appendix D, p. 31.
15. See Appendix H, p. 80.

Footnotes (continued)

16. For correspondence, see Appendix E, p. 34.
17. For correspondence, see Appendix F, p. 39.
18. Exceptions to this statute, for instance attendance at private schools and physical and mental impairments, are listed in NRS 392.050 through 392.110.
19. Other "handicapped minors" may begin attending special education programs at different ages. See NRS 388.490, § 1 through § 4.
20. See Appendix G, p. 43.
21. Ibid., p. 49.

A P P E N D I X A

COMMUNITY RESIDENTIAL CARE

Memorandum
Dan Payne, Ph.D.
Associate Administrator
Division of Mental Hygiene and Mental Retardation
Department of Human Resources

	<u>Page</u>
Residential Placement Fund	19
Payment Schedule for Community Placements	21



ROBERT LIST
GOVERNOR

STATE OF NEVADA
DIVISION OF MENTAL HYGIENE
AND MENTAL RETARDATION

FRONTIER PLAZA, SUITE 244
1937 N. CARSON STREET
STATE CAPITOL COMPLEX
CARSON CITY, NEVADA 89710
(702) 885-5943

JEROME GRIEPENTROG
ADMINISTRATOR


KEN SHARIGIAN, PH.D.
MENTAL HEALTH

DAN PAYNE, PH.D.
MENTAL RETARDATION

March 12, 1982

MEMORANDUM

TO: Assemblyman David D. Nicholas, Subcommittee Chairman, and Members of the Legislative Commission's Subcommittee for the Study of Problems and Treatment of Mentally Retarded Adults (SCR 75)

FROM: Dan Payne, Ph.D., Associate Administrator for MR Services 

RE: Residential Placement Fund

The Division of Mental Hygiene and Mental Retardation provides multiple levels of community care. Our intent is to provide for the basic needs of each mentally retarded person to insure the success of the community placement. Such success is desired because it is both less costly and more humane than care provided in state operated facilities.

Generally, the levels of care provided are dictated by the degree of handicap experienced by the clients. The alternatives available (and planned), are listed below. The order of the alternatives reflects increasing requirements for care. Developmental Homes are often an exception. Some severely handicapped young children are placed in Developmental Homes.

Independent Placements. Independent placements are those which are made for mentally retarded clients who are capable of living in an apartment with minimal supervision. The Residential Placement Fund may be used to assist a client in the total cost of care as his earnings may not be sufficient to maintain himself in the community. The average cost ranges from a few dollars per month to \$500 per month. The number and location of such placements varies substantially from month to month, averaging 5 in the north and 5 in the south.

Developmental Home. A developmental home is similar to a foster home; it is three beds or less and primarily serves children and young adults. Developmental homes provide for home/family living. As of January, there were 25 clients in the north and 21 in the south placed in this level of care.

Group Home. A group home provides for four or more mentally retarded persons and does not differ much from a developmental home, however serves primarily young adults. As of January, 24 clients in the north and 16 in the south were in this level of care.

A Private Non-Profit Home is four or more mentally retarded adults living in a housing situation with employed staff. The home is owned by a private non-profit

Members of the Legislative Commission's Subcommittee for the Study of
Problems and Treatment of Mentally Retarded Adults

Page 2

March 12, 1982

corporation who then staffs it with live-in personnel. As of January, 12 clients in the North and 19 in the South were in this level of care.

Community Habilitation Facilities. (Not yet operational). A Community Habilitation Facility is a leased or owned piece of property which is staffed 24 hours per day with a live-in couple as well as support personnel. A Community Habilitation Facility requires Health Division licensure and provides many required types of care which has increased costs associated with it. The Community Habilitation Regulations are attached for your information; also attached is the 1982 fee schedule for the developmental, group, and private, non-profit group home. This alternative will be supported by Medicaid funds appropriated to the Welfare Division for this specific purpose.

As of March 1, 1982, the Medicaid agency and Deciple Residential Centers, Inc., a non-profit corporation in Las Vegas, entered into an agreement whereby Medicaid funds may be used to reimburse the corporation for providing community based personal care to 26 mentally retarded clients.

DP:ck

Attachments (2)

COMMUNITY PLACEMENT PROGRAMS

Payment Schedule for Community Placement

(effective July 1, 1982)

I. Developmental Home Payment (3 or less clients in formalized placements)

	<u>Per Month</u>	<u>Per Day</u>
Maximum Room and Board per client	\$145.00	\$ 4.83
Specialized Services per client	232.00	7.73
Subtotal	377.00	12.56
Personal Needs per client	93.00	3.10
TOTAL	\$470.00	\$15.66

Maximum relief care allotment for:

First placement	\$ 35.00
Second placement	\$ 30.00
Third placement	\$ 25.00

II. Group Home Payment (4 or more clients in formalized placements)

Maximum Room and Board per client	\$145.00	\$ 4.83
Specialized services per client	277.00	9.23
Subtotal	422.00	14.06
Personal Needs per client	93.00	3.10
TOTAL	\$515.00	\$17.16

Maximum relief care allotment for:

First placement	\$ 35.00
Second placement	\$ 30.00
Third placement	\$ 25.00
Fourth placement	\$ 25.00
Fifth placement	\$ 25.00
Sixth placement	\$ 25.00

A group home with less than four clients in residence will continue to receive \$515.00 per remaining client per month for the balance of that calendar month. Rate reverts to \$470.00 per client per month the first day of the following month when less than four clients are in residence. \$515.00 per month rate begins the day the fourth client is placed in a home for 30-day evaluation or regular residence for that client. The group rate shall not apply to the other three residents until the next billing period.

Trial visits or respite visits of a fourth person do not constitute group home rates. Trial visits will be paid at the rate the home is currently receiving developmental home rate for three. The fourth person on a trial visit will be charged at the developmental home rate. If the trial visit is made to a home receiving the group home rate for other residents, the group home rate will be paid for the extra person or persons.

III. <u>Temporary Care Home Payment</u>	<u>Per Month</u>	<u>Bi-weekly</u>
Standard payment to providers, regardless of whether or not home is occupied	\$90.00	\$45.00
When the home is occupied, providers are to receive \$13.50 per day per client in addition to the standard payment	\$14.50 per client per day	

IV. Private Non-profit Group Home

Due to the costs of renting a home (usually a large house), payment utilities (higher than smaller group or developmental homes in which the provider's family is contributing to the total cost), and hiring staff, a private non-profit group home is allowed:

	<u>Per Month</u>	<u>Per Day</u>
Maximum Room and Board per client	\$225.00	
Specialized Services per client	331.00	
Subtotal	\$556.00	18.53
Personal Needs per client	93.00	3.10
TOTAL	\$649.00	\$ 21.63

Maximum relief care allotment is the same as for group and developmental homes.

(1/14/82)

A P P E N D I X B

FAMILY PRESERVATION PROGRAM

Memorandum
Dan Payne, Ph.D.
Associate Administrator
Division of Mental Hygiene and Mental Retardation
Department of Human Resources

	<u>Page</u>
Family Preservation Program	24
Update on Family Preservation Program	26



ROBERT L. ST
GOVERNOR

STATE OF NEVADA
DIVISION OF MENTAL HYGIENE
AND MENTAL RETARDATION
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JEROME GRIEPEKTROG
ADMINISTRATOR

KEN SHARIGIAN, PH.D.
MENTAL HEALTH

DAN PAYNE, PH.D.
MENTAL RETARDATION

November 23, 1981

MEMORANDUM

TO: Members of the Legislative Commission's Sub-Committee for the Study of Problems and Treatment of Mentally Retarded Adults (SCR 75)

FROM: Dan Payne, Ph.D., Associate Administrator for MR Services

RE: AB 119 (Chapter 441) Family Preservation Program

At the first Sub-Committee meeting in Las Vegas on October 27, 1981, a request was made for more detailed information about the Family Preservation Program and its operation. An account of how the program operates is presented, followed by data available as of November 19, 1981.

The advent, and nature, of the program was advertised throughout the state. Public service announcements and news releases were sent to the media, advocacy groups, including the Association for Retarded Citizens and relevant state agencies were notified.

Requests from the public are received in the Division Office, and responded to by pre-printed information, including an application form (Attachment A). Application forms are also received in the Division Office. These are responded to by pre-printed information which includes a referral to a person at the appropriate regional center. A staff member at a regional center makes a home visit and completes the eligibility information required (Attachment B).

If the family is found to be not eligible for the program, they are notified, given specific reasons for the finding, and informed of their right to appeal (Attachment C). Families found eligible are also notified of the fact, the amount of the assistance, and the effective date assistance commences (Attachment D). Normally, the effective date is the first of the month following the month in which the application was received.

Although the case work and management are done by regional staff, the fiscal aspect of the program is handled by the Division's Accounting Office. Recipients are obligated to inform us if their situation or circumstances change. Regional staff will verify and re-certify each case for continuing support annually.

As of November 19, 1981, 124 requests for information had been received by the Division, 72% from southern Nevada and 28% from northern Nevada. Of these, 72 (58%) resulted in completed applications for services. Our assumption is that the remaining 52 screened themselves out of the program on the basis of eligibility criteria.

Page 2
November 23, 1981

Of those applications received, 30 have been accepted for assistance, 17 have been denied, and 25 are still awaiting eligibility determination. Normal time to process an application is about two weeks. Exceptions to this are cases located in distant rural areas, and when applicants delay contacting the regional centers or fail to keep appointments.

The maximum benefit under the program is \$260 per month. Of the 30 eligible families, 19 are receiving the maximum, 2 are at 90%, 2 at 80%, 1 at 70%, 1 at 60%, 2 at 50%, 2 at 30%, and 1 at 20%. Seven individuals commenced benefits effective August 1, 1981, 9 began in September, 2 in October, and 12 in November.

The appropriation for the program for the current year was \$100,000. Current recipients will receive \$62,218 by the year's end.

I will be happy to provide any additional information you may require.

DP:ck

cc: Assemblyman Dave Nicholas
Assemblyman John Vergie's
Assemblyman Paul Prengaman
Assemblyman Marion Bennett
Assemblyman Danny Thompson
Senator Joe Neal
Senator Gene Echols



ROBERT LIST
GOVERNOR

STATE OF NEVADA
DIVISION OF MENTAL HYGIENE
AND MENTAL RETARDATION

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JEROME GRIEPENTROG
ADMINISTRATOR


KEN SHARIGIAN, PH.D.
MENTAL HEALTH

DAN PAYNE, PH.D.
MENTAL RETARDATION

March 15, 1982

MEMORANDUM

TO: Assemblyman David D. Nicholas, Chairman, Legislative Commission's
Subcommittee for the Study of Problems and Treatment of Mentally
Retarded Adults

FROM:  Dan Payne, Ph.D., Associate Administrator for MR Services

RE: Update on Family Preservation Program (A.B. 119)

This program has been far more successful than anticipated. The number of inquiries about the program, 151, the number of subsequent applicants, 93, and the number meeting criteria for acceptance, 49, have all exceeded our estimates. This is so even though the Division did not attempt an organized publicity campaign concerning the new authority. However, the Special Education Division of Clark County Public Schools did provide information regarding the program to all parents. This led to a large and rapid increase in activity.

As of March 1, there were 47 recipients in the program. (Two families who had been recipients were terminated; one person was admitted to a state facility, one family left the state). As indicated earlier, families may receive no more than \$260 per month, but may receive less depending upon financial need. The number of families at each level of payment is indicated below.

<u>Number of Families</u>	<u>% of Payment</u>	<u>Current Payment</u>
30	100%	\$260/mo.
4	90%	234/mo.
3	80%	208/mo.
3	70%	182/mo.
1	60%	156/mo.
2	50%	130/mo.
2	30%	78/mo.
2	20%	52/mo.

In addition to the 47 current recipients, there are 14 families with pending applications. Our experience indicates that at least 7-10 of these will be approved.

Even without the additional pending cases, there is not enough money budgeted for next fiscal year to meet our current obligation. The 47 current recipients, with no increase in benefits, will require an expenditure of \$126,984 for next year, while the budget authority is \$110,000. Since some of the pending cases will be approved and further new cases will inevitably apply, the Division must take decisive action in the very near future.

The enabling legislation imposed a ceiling on the budget, but prevented a ceiling on the number of recipients. Therefore, we see no alternative but to reduce the monetary benefit to all participants in the program.

The magnitude of the reduction must be estimated since we cannot forecast with precision how many pending cases will be approved nor how many new cases will surface in the future. It does seem to us prudent to avoid making reductions to all recipients every time a new family is approved.

Our current plan is to assume that all 14 cases currently pending will be accepted, and that 6 new cases will be accepted in the next year. We further assume that our current actual average payment, 85%, will hold for all new cases as well. The reduction in benefits required by this strategy is indicated below for current recipients.

<u># of Families</u>	<u>Actual 81-82 Payment</u>	<u>Proposed 82-83 Payment</u>	<u>Amount of Reduction</u>
30	\$260/mo.	\$160/mo.	\$100/mo.
4	234/mo.	144/mo.	90/mo.
3	208/mo.	128/mo.	80/mo.
3	182/mo.	112/mo.	70/mo.
1	156/mo.	96/mo.	60/mo.
2	130/mo.	80/mo.	50/mo.
2	78/mo.	48/mo.	30/mo.
2	52/mo.	32/mo.	20/mo.

Granting the assumptions above, our expected total payment for next fiscal year would be \$110,784 with a budget of \$110,000. We expect inevitable delays and rounding errors to make up the small overage.

It should be pointed out that the estimated number of recipients of this program was.. based on cases known to social service agenices. We have been surprised at the number of previously unknown cases that have come to light as a consequence of this program. The identification of these new cases, and the support provided by this program, provides added impetus to the major thrust of preventing escalating demands for more costly modes of care.

DP:ck

A P P E N D I X C

EQUAL RIGHTS COMMISSION AND THE MENTALLY RETARDED

Memorandum
Janet Wilson
Principal Deputy Legislative Counsel
Legislative Counsel Bureau

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU
LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710



LEGISLATIVE COMMISSION (702) 885-5627
ROBERT R. BARENGO, *Assemblyman, Chairman*
Arthur J. Palmer, *Director, Secretary*
INTERIM FINANCE COMMITTEE (702) 885-5640
FLOYD R. LAMB, *Senator, Chairman*
William A. Bible, *Fiscal Analyst*
Daniel G. Miles, *Fiscal Analyst*

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(702) 885-5627

FRANK W. DAYKIN, *Legislative Counsel* (702) 885-5627
JOHN R. CROSSLEY, *Legislative Auditor* (702) 885-5622
ANDREW P. GROSE, *Research Director* (702) 885-5637

March 25, 1982

MEMORANDUM

TO: Subcommittee on Problems and Treatment of
Mentally Retarded Adults

FROM: Janet Wilson, Principal Deputy Legislative Counsel

SUBJECT: Equal Rights Commission and the Mentally Retarded

You have asked whether under current statutes the Nevada equal rights commission may pursue cases involving discrimination against mentally retarded persons.

In none of the relevant statutes is mention made of discrimination based on mental retardation, mental disability or mental handicap. (See chapter 233 of NRS, relating to the equal rights commission generally; NRS 118.010 to 118.120, relating to housing; NRS 613.310 to 613.420, relating to employment; and NRS 651.050 to 651.120, relating to public accommodations.) In chapters 233, 613 and 651, however, there are references to discrimination based on "physical" handicap. We have considered whether that term includes "mental" handicap.

Webster's New International Dictionary, Second Edition, defines the term "physical" as "[o]f or pertaining to the body (as contrasted with the mind)." Under this definition, a mentally retarded person would not be classified as physically handicapped (except insofar as his motor abilities and other bodily functions are affected), even though the retardation might be traced to physiological causes. Where it is his mind, not his body, which is affected by the handicap or disability, he is mentally handicapped rather than physically handicapped.

Therefore it is our opinion that current law does not contain authority for the equal rights commission to deal with discrimination against the mentally retarded and that legislation would be required to bring that group within the commission's jurisdiction.

Subcommittee on Problems and Treatment of
Mentally Retarded Adults
March 25, 1982
Page Two

If the committee is interested in recommending legislation to give the equal rights commission such authority, it should consider each of the major categories of cases, i.e., housing, employment and public accommodations, to see whether coverage of mentally retarded persons would be appropriate in that context. Further, the committee may wish to consider whether to include all mental handicaps or only mental retardation.

A P P E N D I X D

APPOINTMENT OF GUARDIANS FOR MENTALLY RETARDED ADULTS

Memorandum
Janet Wilson
Principal Deputy Legislative Counsel
Legislative Counsel Bureau

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU
LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710



LEGISLATIVE COMMISSION (702) 885-5627
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ANDREW P. GROSE, *Research Director* (702) 885-5637

March 25, 1982

MEMORANDUM

TO: Subcommittee on Problems and Treatment of
Mentally Retarded Adults

FROM: Janet Wilson, Principal Deputy Legislative Counsel

SUBJECT: Appointment of Guardians for Mentally Retarded Adults

You have asked for information relating to the appointment of guardians for mentally retarded adults in connection with your consideration of a possible recommendation for a state program for guardianship of such persons.

Special guardians. Chapter 159 of NRS, relating to guardianships, was amended in 1981 to authorize "special" guardianships for persons of "limited capacity" as well as general guardianships for minors and incompetent persons. A person is of limited capacity if he is able to make independently some but not all of the decisions necessary for his own care and the management of his property. This would include any mentally retarded adult who does not require a general guardianship based upon an adjudication of incompetency. The special guardian is given only those powers and duties which are necessary in the particular case and he must exercise his supervisory authority over the ward in a manner which is least restrictive of the ward's personal freedom consistent with the need for supervision and protection.

Public guardians. Under the provisions of NRS 253.150 to 253.250, any board of county commissioners may appoint, and provide compensation for, a public guardian who will serve as individual guardian for any person 60 years of age or older who has no one willing to serve as his guardian or lacks sufficient assets to provide the requisite compensation to a private guardian. The board may designate an elected or appointed county officer to serve as ex officio public guardian, in which case the officer receives no additional compensation. The administrative costs of the public guardian's services and the costs incurred in the appointment

Subcommittee on Problems and Treatment of
Mentally Retarded Adults
March 25, 1982
Page Two

proceedings are not chargeable against the income or estate of the ward unless the court determines that the ward is financially able to pay all or part of those costs. The reasonable value of the public guardian's services rendered without cost to the ward are allowed as a claim against the estate upon the death of the ward.

State program for guardianship of mentally retarded adults. If the committee considers recommending some sort of state program for guardianship of mentally retarded adults, it may benefit from a review of the statutes described above. The recent inclusion of special guardians in the basic chapter on guardianships should facilitate the preparation of proposed legislation establishing an office of state guardian because the needed flexibility in extent of services is already built into the law. The committee could therefore concentrate on the organizational and financial aspects of any such proposal.

The law on public guardians at the county level may provide something of a pattern for the establishment of an office of state guardian. Further, the committee may wish to consider whether it would be desirable to recommend broadening the law on public guardians to include mentally retarded adults as well as persons 60 years of age and over.

JW:ct

A P P E N D I X E

CORRESPONDENCE CONCERNING MENTALLY RETARDED INMATES

	Page
Nevada Department of Prisons	35
Las Vegas Metropolitan Police Department	37
Washoe County Sheriff's Department	38

STATE OF NEVADA
DEPARTMENT OF PRISONS

BOARD OF PRISON COMMISSIONERS
ROBERT LIST, GOVERNOR
RICHARD BRYAN, ATTORNEY GENERAL
WM. D. SWACKHAMER, SECRETARY OF STATE



VERNON G. HOUSEWRIGHT
DIRECTOR
ADMINISTRATIVE OFFICE
P.O. BOX 607
CARSON CITY, NEVADA 89701
PHONE (702) 882-9202

April 27, 1982

Ken Creighton
Legislative Counsel Bureau
Legislative Building
Capitol Complex
Carson City, Nevada 89710

Dear Mr. Creighton:

In reply to Chairman Nicholas' request of April 9, 1982, enclosed is a copy of the statistical sampling prepared by my staff for use by the interim legislative subcommittee studying the problems and treatment of mentally retarded adults.

Presently, although psychological/psychiatric consultation is available on a "need" basis to all inmates, the Department of Prisons is not staffed or budgeted to provide remedial education or training services to mentally retarded prisoners. While I do not consider the lack of such services a "severe" problem -- in terms of the percentage this category of offender represents of our total inmate population -- I certainly think it would be desirable to have an appropriate program available, particularly for use with those inmates whose criminal behavior can reasonably be linked to their retardation.

Please express my thanks to Chairman Nicholas for allowing us to have input into the subcommittee's study of this issue and feel free to call on me at your convenience if we might be of additional assistance.

Sincerely,

A handwritten signature in cursive script, reading "Vernon G. Housewright".

Vernon G. Housewright
Director

Enclosure

NEVADA DEPARTMENT OF PRISONS
CORRECTIONAL SERVICES OFFICE

The Statistical Research Section sampled 75% of the total in-house population as of March 1, 1982.

As a result of that sampling it has been determined that 2.9% of the indicated population was considered mentally retarded.*

Total Population	2,248
Sample	1,688
Total Mentally Retarded	49
Percentage	2.9%

* A score of 70 or below on the non-verbal I.Q. of the Culture Fair Intelligence Test



Las Vegas Metropolitan Police Department

400 EAST STEWART AVENUE
LAS VEGAS, NEVADA 89101
PHONE 702/386-3111

April 28, 1982

Mr. Ken Creighton
Legislative Counsel Bureau
Capitol Complex
Carson City, NV 89710

Dear Mr. Creighton:

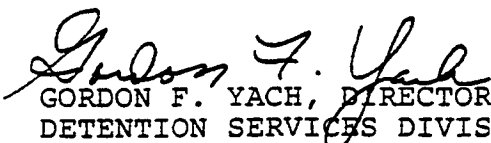
In response to an inquiry by Assemblyman David D. Nicholas, I have discussed these concerns with Mr. Joseph Evers, Program Director of this facility, whose responsibilities include classification and medical screening, and with Dr. Robert Sheldon, staff psychiatrist, and it has been determined that, at any one time, there is only 3 to 5% of the inmate population which can be considered mentally retarded. None of these inmates would be considered more than a borderline case and because of this, they remain controllable in this detention setting. Neither Dr. Sheldon nor our staff psychologist, Mr. Dale Ogle, believes there is any lack of facilities for their care, per se, because of the services available through the Las Vegas Mental Health Center.

Because we are a short-term detention facility under a federal mandate which limits our population to less than 300, this issue has not caused any great impact on us at present. In December, 1983, when the new facility is completed, we will be faced with daily populations between 650 and 850 which will possibly cause a greater impact. That is an unknown factor at this time, however, I will study the category of inmate in the new facility and keep you posted on what we experience.

Your concern is appreciated and we will be pleased to provide further information on any aspect of the Clark County Detention system as required.

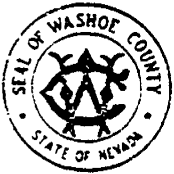
Very truly yours,

JOHN MC CARTHY, SHERIFF

By: 
GORDON F. YACH, DIRECTOR
DETENTION SERVICES DIVISION

JMc:GFY/mlp





WASHOE COUNTY SHERIFF'S DEPARTMENT

P.O. Box 2915
RENO, NEVADA 89505 — 2915
Phone: (Area 702) 785-6220

ROBERT J. GALLI
SHERIFF

VINCENT G. SWINNEY
UNDERSHERIFF

April 12, 1982

LORNE E. BUTNER
CHIEF OPERATIONAL SERVICE BUREAU

BERNARD R. DEHL
CHIEF ADMINISTRATIVE SERVICE BUREAU

MILLS B. LANE
CHIEF INVESTIGATIVE SERVICE BUREAU

Mr. Ken Creighton
Legislative Counsel Bureau
Legislative Building
Capitol Complex
Carson City, Nevada 89710

Dear Mr. Creighton:


In response to your request for information regarding mentally retarded adults in the Washoe County Correctional Facility, please be advised we do not have any mentally retarded adults in our custody. We have probably had one or two through our correctional system in the past twelve years.

We have not experienced any problems or lack of service since we have not had a sufficient number of mentally retarded adults over the past twelve years.

I hope this information may be of value to you in your study.

Yours truly,

ROBERT J. GALLI, Sheriff

By 
Lorne Butner, Chief
Operational Service Bureau

LB:mab

A P P E N D I X F

CORRESPONDENCE ON PUBLIC EMPLOYEES' RETIREMENT
AND THE STATE GROUP INSURANCE PLAN

	<u>Page</u>
Public Employees' Retirement System	40
Mutual Administrators, Inc.	41

WILL KEATING
EXECUTIVE OFFICER

STATE OF NEVADA



PUBLIC EMPLOYEES RETIREMENT SYSTEM

693 W. NYE LANE
CARSON CITY, NEVADA 89701
TELEPHONE (702) 885-4200
April 23, 1982

RETIREMENT BOARD
DARREL R. DAINES
CHAIRMAN
SAM A. PALAZZOLO
VICE CHAIRMAN
MEMBERS
JULIUS CONIGLIARO
PEGGY GLOVER
ARTHUR MARSHALL
MARGIE MEYERS
TOM WIESNER

Mr. Ken Creighton
Interim Legislative Subcommittee
Legislative Building
Capitol Complex
Carson City, Nevada 89710

Dear Mr. Creighton:

We are in receipt of the letter from Assemblyman David D. Nicholas, Chairman of the Interim Legislative Subcommittee to study the problems and treatment of mentally retarded adults.

In Mr. Nicholas' letter, he has requested the Retirement System to determine if members of the staff of community training centers could become members of the Public Employees Retirement System.

Pursuant to our conversation with you on Wednesday, April 21, it is our understanding that community training center staff members are independent contractors or employees of an independent contractor. Thus, NRS 286.045 would preclude these individuals from being members of PERS, as they are not "employees" of a public employer, as defined in NRS 286.040.

If you have any questions, please contact John Bibee of this office.

Sincerely,

A handwritten signature in cursive script that reads "Will Keating".

Will Keating
Executive Officer

JB:bn



MUTUAL ADMINISTRATORS, INC.

April 19, 1982

Mr. Ken Creighton
Legislative Counsel Bureau
Legislative Building
Capitol Complex
Carson City, Nevada 89710

Re: Insurance Coverage for Community Training Center Employees


Dear Ken:

This letter is a follow up to our conversation today regarding the request for insurance coverage for CTC employees. The State of Nevada Statutory Insurance Committee has established a policy that contract employees are not entitle to insurance benefits unless they are eligible for other employee benefits given to permanent state employees. In fact most employees under contract with the State have these benefits excluded in their contracts.

If you receive additional information regarding CTC employee benefits under their present contracts contact me and we can take the matter to the State Insurance Committee for consideration.

If you have any questions please contact me.

Sincerely,


Mike Phillips
Vice-President

Las Vegas

1820 E. Desert Inn Road Suite Two 89109

(702) 737-1588

Reno

P.O. Box 11590 89510

1135 Terminal Way Suite 202A

(702) 329-4461

A P P E N D I X G

ATTORNEY GENERAL'S OPINION AND THE STATE SCHOOL
BOARD'S DECISION REGARDING EDUCATION OF THE MENTALLY
RETARDED BETWEEN THE AGES OF 18 and 21

	<u>Page</u>
Attorney General's Opinion	43
Nevada State School Board's Decision	50

March 13, 1981

Robert L. Petroni, Esq.
Legal Counsel
Clark County School District
2832 East Flamingo Road
Las Vegas, NV 89121

Dear Mr. Petroni:

You have requested clarification of a letter opinion issued by this office June 15, 1978, to James Costa, Department of Education, regarding education of the handicapped. That opinion reviewed NRS 388.440, chapter 395 of NRS, the Education for all Handicapped Children Act (Public Law 94-142), rules and regulations in support of that act, and Section 504 of the Federal Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.) as they relate to the necessity of providing educational services for persons aged 18-21. The opinion concerned only that period of time from June 15, 1978, until September 1, 1980. However, it did state that after September 1, 1980, the local school districts must provide a free appropriate education to handicapped persons aged 18-21.

The opinion issued June 15, 1978, is not a published opinion but is the official opinion of the Attorney General until such time as it is amended or overruled by a subsequent Attorney General's Opinion.

The questions you have asked are as follows:

QUESTION I

Do school districts have an obligation to provide handicapped students beyond the age of eighteen with appropriate educational services?

Robert L. Petroni, Esq.
March 13, 1981
Page Two

ANALYSIS

Section 121a.122(a) of the Rules and Regulations in support of the Education for all Handicapped Children Act (Public Law 94-142) provides as follows:

"Each annual program plan must include in detail the policies and procedures which the State will undertake or has undertaken in order to insure that a free appropriate public education is available for all handicapped children aged three through eighteen within the State not later than September 1, 1978, and for all handicapped children aged three through twenty-one within the State not later than September 1, 1980. (Emphasis added).

Section 121a.122(c) sets forth an exception to the requirement that a free appropriate public education be provided to all handicapped children aged three through twenty-one not later than September 1, 1980. This exception is as follows:

"The requirement in paragraph (a) of this section does not apply to a State with respect to handicapped children aged three, four, five, eighteen, nineteen, twenty, or twenty-one to the extent that the requirement would be inconsistent with State law or practice, or the order of any court, respecting public education for one or more of those age groups in the State."

The exception set forth in Section 121a.122(c) applies after September 1, 1980, but is inapplicable to Nevada schools for the reason that it is the practice in Nevada to provide educational services to non-handicapped persons beyond the age of 18 where appropriate. The Legislature has not imposed a maximum age for school attendance. The school house doors remain open until such time as the person has accumulated the necessary credits and has exhibited the requisite competence to graduate from high school.

CONCLUSION

Section 121a.122(a) requires school districts to provide handicapped students beyond the age of eighteen with appropriate educational services and instruction.

QUESTION II

Are the boards of trustees of school districts or is the Department of Education legally responsible to make special provisions for the education of handicapped persons aged 18-21?

ANALYSIS

NRS 388.440 to 388.520, inclusive, set forth procedures whereby local school districts make special provisions as may be necessary for the education of handicapped minors. A handicapped minor is defined as a person under the age of 18 years. The statutes do not prohibit the school districts from making special provisions for persons aged 18-21; however, they do not specifically provide that the school districts must offer such services.

Chapter 395 provides for the education of handicapped persons. Pursuant to NRS 395.020 a handicapped person is eligible to receive benefits of the chapter if a) he is a Nevada resident, b) he is under 21 years of age, but when the enrollment period for the school year is before his 21st birthday, he remains eligible to complete the school year, c) the department of education has prescribed minimum standards for the education of persons with such handicap and d) a special education program for his particular handicap and grade or level of education is not available within his school district. The benefits provided for in chapter 395 are set forth in NRS 395.010 as follows:

"The superintendent of public instruction may provide for the education and care of any handicapped person who is eligible for such benefits by:

(a) Making arrangements with the governing body of any institution for the handicapped in any state having any such institution.

(b) Placing the handicapped person in a foster home or other residential facility in a county in this state having an appropriate special education program for his particular handicap."

To apply for such benefits, the handicapped person or person having the care, custody or control of the handicapped person files an application with the board of trustees of the county school district where the handicapped person is a resident. The application must contain, inter alia, a sworn

Robert L. Petroni, Esq.
March 13, 1981
Page Four

statement that a special education program for his particular handicap and grade or level of education is not available within his school district. The local board of trustees must then "certify that an appropriate special education program is not available in the county school district in which the handicapped person is a resident and transmit the application to the superintendent of public instruction." NRS 395.030. Upon receipt and review of an application for benefits, the superintendent makes the necessary arrangements for the education and care of the handicapped person pursuant to NRS 395.010(1).

Chapter 388 only speaks in terms of special education programs for handicapped minors furnished by the local school districts, and chapter 395 provides for education of handicapped persons up to age 21 through the office of the superintendent of public instruction if there is no appropriate special education program available in the local school district. Based on these statutes it could be implied that the superintendent has the responsibility for all handicapped persons aged 18 to 21 if the school district chooses not to provide services to those persons. In other words, the school district would have the discretionary power to discontinue services to handicapped persons who reach 18. However, such a conclusion is not consistent with the Nevada statutes and applicable Federal law and regulations on the education of the handicapped.

The benefits of chapter 395, by definition, require placing the handicapped person in an institution of another state having an appropriate institution or placing the person in a foster home or other residential facility in a county in this state having an appropriate special education program. The benefits involve removing the person from his home and school district and moving him to some other county or state. The detailed procedures set forth in the chapter indicate a legislative intent the person should not be removed from his local school district unless absolutely necessary to provide appropriate educational services. If a school district has the discretion to discontinue an appropriate program because a person turns 18, it would become necessary for the handicapped person to apply to the superintendent for benefits. Assuming the benefits are granted, the person would then be required to leave his local school district and move to an out of state institution or another Nevada

Robert L. Petroni
March 13, 1981
Page Five

school district which has determined to continue appropriate programs to persons aged 18-21. This office cannot conclude that the legislature intended school districts to have the discretion to arbitrarily discontinue appropriate programs at age 18. The school districts must offer appropriate educational programs to handicapped persons aged 18-21 in the same manner as those offered to non-handicapped persons over the age of 18.

The above conclusion is consistent with the requirements of Public Law 94-142, the "Education of Handicapped Children Act of 1975." Section 121a.122(a) of the Rules and Regulations in support of the Act requires the state to provide a free appropriate education to persons over the age of 18 within the State not later than September 1, 1980. The only exception to this is set forth in Section 121a.122(c), and as discussed in Question I this exception does not apply to persons aged 18-21 in Nevada. In addition 45 CFR § 121a.300(b) (2) sets forth the rule for applying the Section 121a.122(a) requirement as follows:

"If a public agency provides education to non-handicapped children in any of these age groups, it must make a free appropriate public education available to at least a proportionate number of handicapped children of the same age."

Pursuant to Section 121a.111 "public agency" includes the local educational agencies. Therefore, pursuant to the regulations local school districts must provide a free appropriate education to handicapped persons aged 18-21 in conformity with individualized education programs. Chapter 395 of NRS does not require the Superintendent of Public Instruction to provide this service to any greater extent than it requires him to provide services to handicapped persons below the age of 18. The local school district may not discontinue providing special education services to handicapped persons 18-21. It is under an affirmative duty to provide special education to those persons so long as it provides education to non-handicapped persons in the same age groups. The provisions of chapter 395 apply only to those cases where the school district cannot provide such a program.

This opinion does not intend to require school districts to provide a free public education to persons aged 18-21 where it is not appropriate or necessary to comply with the handicapped person's individualized education program. Handicapped persons aged 18-21 may not need

Robert L. Petroni
March 13, 1981
Page Six

further educational programs any more than non-handicapped persons of those ages. Each handicapped person must be reviewed on an individual basis and be provided educational services where appropriate.

CONCLUSION

Based on the foregoing, it must be concluded that boards of trustees of school districts, not the Department of Education, are legally responsible for providing educational services to handicapped persons aged 18-21 where appropriate, unless the school district cannot provide such a program.

QUESTION III

What effect does Section 504 of the Federal Rehabilitation Act of 1973, 29 U.S.C. § 794, et seq., and Public Law 94-142 have on the local school district's responsibility to make services for special education available to persons beyond the age of 18 years.

ANALYSIS

For a discussion of Public Law 94-142's effect on the local school district's responsibility for special education beyond the age of 18 years see our discussion in the analysis of Question II.

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, as amended, prohibits discrimination against the handicapped. 29 U.S.C. § 794 provides as follows:

"No otherwise qualified handicapped individual in the United States, as defined in section 706(6) of this title, shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. . . ."

The local school districts as recipients of Federal financial assistance are required to comply with Section 504 and its implementing regulation, 34 CFR Part 104, 34 CFR 104.33(a) provides as follows:

"A recipient that operates a public elementary or secondary education program shall provide a free appropriate public education to each qualified handicapped person who is in the recipient's

Robert L. Petroni
March 13, 1981
Page Seven

jurisdiction regardless of the nature or severity
of the person's handicap."

From the above, it must be concluded that if a school district offers educational services to non-handicapped persons 18-21, it must also offer a free appropriate public education to handicapped persons which is designed to meet individual educational needs of handicapped persons as adequately as the needs of non-handicapped persons are met. So long as school districts allow non-handicapped students over the age of eighteen to continue in school until graduation where appropriate, they must offer educational services to handicapped persons over the age of eighteen where appropriate. Only if the school district cannot provide an appropriate special education program may it rely on the benefits of chapter 395 of NRS. Such conclusion is consistent with our previous analyses of Questions I and II.

CONCLUSION

Section 504 of the Rehabilitation Act of 1973 requires school districts to provide a free appropriate education to persons over the age of eighteen, where a free appropriate education is offered to non-handicapped persons.

Sincerely,

RICHARD H. BRYAN
Attorney General

By _____
Emmagene Sansing
Deputy Attorney General

RHB/pds

BEFORE THE NEVADA STATE BOARD OF EDUCATION

.

In The Matter of:
A Handicapped Student

DECISION ON ADMINISTRATIVE REVIEW

ISSUE PRESENTED FOR REVIEW

The parents of the student in question are seeking further education beyond the age of 18. The procedural chronology, findings of fact, and decision resulting from this administrative review follow.

PROCEDURAL CHRONOLOGY

A request for an impartial due process hearing under the provisions of Public Law 94-142 was initiated by the parents of this handicapped student. The hearing was conducted at the district level on September 25, 1981. The parents and the school district were each represented by counsel.

The following documents were entered as evidence by the parents in the local hearing.

1. Nevada Attorney General's Opinion of 3/15/81 (Petitioner's Exhibit A).
2. Nevada Attorney General's Opinion of 6/15/78 (Petitioner's Exhibit B).
3. Residential Center July-September Behavioral Summaries (Petitioner's Exhibit C).
4. Correspondence from the Training and Learning Center (Petitioner's Exhibit D).
5. Acknowledgement from a Physical Therapist (Petitioner's Exhibit E).
6. Petitioner's Witness List (Petitioner's Exhibit F).

The following documents were entered as evidence by the district in the local hearing.

1. School District Special Student Services Confidential Folder (Respondent Exhibit I).
2. Respondent Witness List (Respondent Exhibit II).
3. Respondent Correspondence File (Respondent Exhibit III).
4. Respondent Miscellaneous Data File (Respondent Exhibit IV).
5. Release of Confidential Information Authorization (Respondent Exhibit V).
6. Receipt of Authorization (Respondent Exhibit VI).
7. Germane Nevada Revised Statutes (Respondent Exhibit VII).

During the course of the local hearing, the following witnesses appeared:

1. Private Attorney (by the petitioner).
2. Director of the Training and Learning Center (by the petitioner).
3. Mother of the student (by the petitioner).
4. Father of the student (by the petitioner).
5. Dean of Students at evening high school (by the petitioner).
6. Supervisor: residential unit where student resides (by the petitioner).
7. Physical Therapist at school student attended (by the respondent).
8. Occupational Therapist at school student attended (by the respondent).
9. Special Student Services Counselor at school student attended (by the respondent).

10. Teacher of student from school she attended (by the respondent).
11. Associate Superintendent for Special Student Services: School District (by the respondent).
12. Director of Special Schools: School District (by the respondent).
13. Assistant Principal at school student attended (by the respondent).
14. Principal at school student attended (by the respondent).

The determination was made by the Hearing Officer at the beginning of the hearing that the respondent (school district) was in compliance with hearing regulations in accordance with State and federal statutes. In addition, the full disclosure requirement was met by both parties through the exchange of written evidence and lists of witnesses at least five (5) days prior to the hearing.

The Hearing Officer's decision upheld the appropriateness of additional years of schooling for this student at no expense to the parents.

Subsequently, the school district requested a review of the decision by the State Board of Education (Board).

A committee consisting of three (3) professional consultants of the Department of Education was designated by the Superintendent of Public Instruction to review the testimony, evidence and decision in this case and assist him in the development of a final recommendation for presentation to the Board. After the submission of a tentative recommendation to the Superintendent, a final recommendation was developed by the three (3) committee members, as well as the Director of Special Education Programs and the Superintendent of Public Instruction. This recommendation was presented to the State Board of Education at its regularly scheduled public meeting on November 18, 1981. What follows is the final review decision made by the Board after its consideration of the local hearing transcript, written evidence the decision of the Hearing Officer, the recommendation of the Superintendent and the oral presentations before the Board.

FINDINGS OF FACT

After close review the Board finds as follows:

1. The student is an 18 year old spastic diplegic female whose test results indicate intellectual functioning at the severely retarded level (I.Q. range 25-40), but whose performance in the classroom and other educational contexts also suggests a higher level of functioning and/or potential.
2. The student can make satisfactory progress in a highly structured, positively reinforcing program which emphasizes self-help skills and social and behavioral control.

3. The most desirable long-term expectation for the student is placement in a sheltered workshop.
4. A clear relationship between a long-term expectation and annual goals and objectives was never explicitly contained in any of the student's Individualized Education Programs (IEPs).
5. The IEP did not delineate competencies to be demonstrated prior to the student's completion of the school district's program, i.e., completion criteria.
6. The parents of the student were not informed of any option to be provided by the district other than the termination of services via the certificate of completion at the end of the school year in which the student reached the age of 18.
7. The school district offers services at no cost to some nonhandicapped students past the age of 18.

DECISION AND RATIONALE

After the review of the evidence, testimony, and the Hearing Officer's decision, it is the decision of this Board that the student be given additional schooling at no expense to her parents. To implement this decision, it is further ordered that the following steps be taken:

1. Responsible school district personnel should initiate contact with parents to develop an IEP which reflects the student's long-term educational needs and articulates specific completion criteria (i.e., competencies to be demonstrated prior to the student's completion of the school district's program).
2. The district shall submit a copy of the revised IEP to the Superintendent of Public Instruction by December 16, 1981.

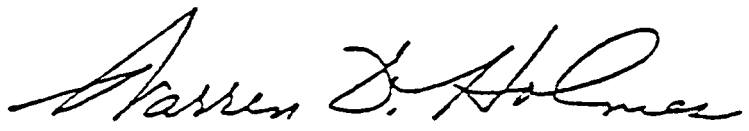
It is the opinion of this Board that local school districts must offer appropriate educational programs to handicapped persons aged 18-21 in the same manner as those offered to nonhandicapped persons over the age of 18. This position is consistent with the opinion of the Nevada Attorney General issued on March 13, 1981, which was based on a review of NRS 388.440, Chapter 395 of NRS, the Education for All Handicapped Children Act (P.L. 94-142), rules and regulations in support of that Act, and Section 504 of the Federal Rehabilitation Act of 1973. The determination of an appropriate program must be made through the annual Individualized Education Program (IEP) process and include the requirements to determine when the program has been completed.

Since the district in this case provides education to nonhandicapped students over age 18 in certain circumstances to meet graduation or completion requirements, it must in the same manner provide education to handicapped students in certain circumstances to meet completion requirements. In the case of handicapped students, those completion requirements should be articulated in the IEP as long range goals.

The IEPs of the student in question did not articulate completion requirements and the parents were not aware that the district offered any options other than automatic graduation at age 18. It is therefore incumbent upon the IEP committee to develop an appropriate program for this student and upon the school district to implement that IEP.

It should be emphasized that this decision is based solely on the unique needs of this specific individual at this time. Future determinations relative to placement and duration of program for this student must be made on a periodic basis through the assessment and Individualized Education Program process, as outlined in State standards.

(Dated this 18th day of December, 1981)

A handwritten signature in cursive script, reading "Warren F. Holmes". The signature is written in dark ink and is positioned above a horizontal line.

WARREN F. HOLMES, President
Nevada State Board of Education

A P P E N D I X H

SUGGESTED LEGISLATION

	<u>Page</u>
BDR 18-15 ... Extends responsibilities of equal rights commission to include protection for mentally retarded persons	56
BDR 22-16 ... Limits local control over location of housing for mentally retarded persons	74
BDR 39-17 ... Expands program for assistance to parents or relatives caring for profoundly retarded persons in the home	75
BDR 39-18 ... Provides for allocation of money for facilities and equipment of community training centers for retarded persons	77
BDR 39-19 ... Establishes office of public guardian to serve certain mentally retarded and mentally ill persons	80
BDR 20 Urges Congress to permit recipients of supplemental security income who are mentally retarded to accumulate savings	82
BDR 39-21 ... Provides specifically for contributions to cost of care, support and maintenance of mentally retarded adults in state facilities and provides exceptions	86

SUMMARY--Extends responsibilities of equal rights commission to include protection for mentally retarded persons.
(BDR 18-15)

Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to the Nevada equal rights commission; extending the responsibilities of the commission to include protection against discriminatory practices in housing, employment and public accommodations for mentally retarded persons; and providing other matters properly relating thereto.

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

Section 1. NRS 233.010 is hereby amended to read as follows:

233.010 1. It is [hereby declared to be] the public policy of [the State of Nevada] this state to protect the welfare, prosperity, health and peace of all the people of the state, and to foster the right of all persons reasonably to seek, obtain and hold employment and housing accommodations, and reasonably to seek and be granted services in places of public accommodation without discrimination, distinction or restriction because of race, religious creed, color, age, sex, physical or visual handicap, mental retardation, national origin or ancestry.

2. It is recognized that the people of this state should be afforded full and accurate information concerning actual and alleged practices of discrimination and acts of prejudice, and

that such information may provide the basis for formulating statutory remedies of equal protection and opportunity for all citizens in this state.

Sec. 2. NRS 233.140 is hereby amended to read as follows:

233.140 The commission shall:

1. Foster mutual understanding and respect among all racial, religious, handicapped and ethnic groups and between the sexes in the state.

2. Aid in securing equal health and welfare services and facilities for all the residents of the state without regard to race, religion, sex, age, physical or visual handicap , mental retardation or nationality.

3. Study problems arising between groups within the state which may result in tensions, discrimination or prejudice because of race, color, creed, sex, age, physical or visual handicap, mental retardation, national origin or ancestry, and formulate and carry out programs of education and disseminate information with the object of discouraging and eliminating any such tensions, prejudices or discrimination.

4. Secure the cooperation of various racial, religious, handicapped, [nationality] national and ethnic groups, veterans' organizations, labor organizations, business and [industry] industrial organizations and fraternal, benevolent and service groups, in

educational campaigns devoted to the need for eliminating [group prejudice, racial or area tensions,] prejudice against specific groups, tensions based on racial differences or geographical areas, intolerance [or] and discrimination.

5. Cooperate with and seek the cooperation of federal and state agencies and departments in carrying out projects within their respective authorities to eliminate [intergroup] tensions among groups and to promote [intergroup] harmony [.] among groups.

Sec. 3. NRS 233.150 is hereby amended to read as follows:

233.150 The commission may:

1. Order its executive director to investigate tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, physical or visual handicap, mental retardation, national origin or ancestry, and may conduct hearings with regard [thereto.] to those matters.

2. Mediate between or reconcile the persons or groups involved in [such] those tensions, practices and acts.

3. Issue subpoenas for the attendance of witnesses or for the production of documents or tangible evidence relevant to any hearings conducted by the commission.

4. Delegate its power to hold hearings and issue subpoenas to any of its members or any hearing officer in its employ.

5. Adopt reasonable regulations necessary for the commission to carry out the functions assigned to it by law.

Sec. 4. NRS 118.020 is hereby amended to read as follows:

118.020 It is [hereby declared to be] the public policy of [the State of Nevada] this state that all people in the state shall have equal opportunity to inherit, purchase, lease, rent, sell, hold and convey real property without discrimination, distinction or restriction because of race, religious creed, color, national origin, ancestry , mental retardation or sex.

Sec. 5. NRS 118.080 is hereby amended to read as follows:

118.080 1. ["Person" means one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, unincorporated corporations, any owner, lessee, proprietor, manager, employee or any agent of such person, the State of Nevada, and all cities, towns and political subdivisions and agencies thereof.] Except as limited by subsection 2, "person" means any natural person, association or business organization of any kind, the State of Nevada and all cities, towns, other political subdivisions and agencies thereof.

2. "Person" does not include any nonprofit, fraternal, educational or social organization or club, unless [such] the nonprofit, fraternal, educational or social organization or club has the purpose of promoting discrimination in the matter of housing against any person or persons because of race, religious creed, color, national origin, ancestry , mental retardation or sex.

Sec. 6. NRS 118.100 is hereby amended to read as follows:

118.100 No person may, because of race, religious creed, color, national origin, ancestry , mental retardation or sex:

1. Refuse to sell or rent or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person.

2. Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, including the amount of breakage fees, deposits or other undue penalties, or in the provision of services or facilities in connection therewith.

3. Make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination, or an intention to make any such preference, limitation or discrimination.

4. Represent to any person because of race, religious creed, color, national origin, ancestry , mental retardation or sex that any dwelling is not available for inspection, sale or rental when [such] the dwelling is in fact so available.

5. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, religious creed, color, national origin,

ancestry or sex [.] or of one or more persons who are mentally retarded.

Sec. 7. NRS 610.020 is hereby amended to read as follows:

610.020 The purposes of this chapter are:

1. To open to young people, without regard to race, color, creed, sex, physical or visual handicap , mental retardation or national origin, the opportunity to obtain training that will equip them for profitable employment and citizenship.

2. To set up, as a means to this end, a program of voluntary apprenticeship under approved apprentice agreements providing facilities for their training and guidance in the arts and crafts of industry and trade, with instruction in related and supplementary education.

3. To promote employment opportunities for young people, without regard to race, color, creed, sex, physical or visual handicap , mental retardation or national origin, under conditions providing adequate training and reasonable earnings.

4. To regulate the supply of skilled workers to employment demands.

5. To establish standards for apprentice training.

6. To establish a state apprenticeship council and local joint apprenticeship committees to assist in effectuating the purposes of this chapter.

7. To provide for a state director of apprenticeship.

8. To provide for reports to the legislature and to the public regarding the status of apprentice training in the state.

9. To establish a procedure for the determination of controversies involving apprentice [agreement controversies.] agreements.

Sec. 8. NRS 610.150 is hereby amended to read as follows:

610.150 Every apprentice agreement or indenture entered into under this chapter [shall] must contain:

1. The names of the contracting parties.

2. The date of birth of the apprentice.

3. A statement of the trade, craft or business which the apprentice is to be taught, and the time at which the apprenticeship will begin and end.

4. A statement showing the number of hours to be spent by the apprentice in work and the number of hours to be spent in related and supplemental instruction, which instruction may not be less than 144 hours per year . [; but in] In no case may the combined weekly hours of work and of required related and supplemental instruction of the apprentice exceed the maximum number of hours of work prescribed by law for a person of the age of the apprentice.

5. A statement setting forth a schedule of the processes in the trade or industry division in which the apprentice is to be taught and the approximate time to be spent at each process.

6. A statement of the graduated scale of wages to be paid the apprentice and whether compensation is to be paid for the required school time.

7. A statement providing for a period of probation of not more than 500 hours of employment and instruction extending over not more than 6 months, during which time any apprentice indenture [shall] must be terminated by the local joint apprenticeship committee at the request, in writing, of either party to the indenture, and providing that after such probationary period the apprentice indenture may be terminated after due hearing of the case by the local joint apprenticeship committee subject to appeal to the state apprenticeship council.

8. A statement that an apprentice [shall] must not be discriminated against with respect to [hire,] hiring, advancement, compensation or other terms, conditions or privileges of employment because of race, color, creed, sex, physical or visual handicap or national origin [.] , or because of mental retardation unless that retardation would in fact disqualify him for the work for which he is being trained.

9. A provision that all controversies or differences concerning the apprentice agreement which cannot be adjusted locally [shall]

must be submitted to the state apprenticeship council for determination as provided in NRS 610.180.

10. Such additional terms and conditions as may be prescribed or approved by the state apprenticeship council not inconsistent with the provisions of this chapter.

Sec. 9. NRS 610.185 is hereby amended to read as follows:

610.185 The state apprenticeship council shall suspend for 1 year the right of any employer, association of employers or organization of employees acting as agent for an employer to participate in the apprenticeship program under the provisions of this chapter if the Nevada equal rights commission, after notice and hearing, finds that [such] the employer, association or organization has discriminated against an apprentice because of race, color, creed, sex, physical or visual handicap , mental retardation or national origin in violation of this chapter.

Sec. 10. NRS 613.330 is hereby amended to read as follows:

613.330 1. Except as otherwise provided in NRS 613.350 [,] and 613.380, it is an unlawful employment practice for an employer:

(a) To fail or refuse to hire or to discharge any person, or otherwise to discriminate against any person with respect to his compensation, terms, conditions or privileges of employment, because of his race, color, religion, sex, age, physical, aural or visual handicap , mental retardation or national origin; or

(b) To limit, segregate or classify employees in any way which would deprive or tend to deprive any person of employment opportunities or otherwise adversely affect his status as an employee, because of his race, color, religion, sex, age, physical, aural or visual handicap , mental retardation or national origin.

2. It is an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any person because of his race, color, religion, sex, age, physical, aural or visual handicap , mental retardation or national origin, or to classify or refer for employment any person on the basis of his race, color, religion, sex, age, physical, aural or visual handicap , mental retardation or national origin.

3. It is an unlawful employment practice for a labor organization:

(a) To exclude or to expel from its membership, or otherwise to discriminate against, any person because of his race, color, religion, sex, age, physical, aural or visual handicap , mental retardation or national origin;

(b) To limit, segregate or classify its membership, or to classify or fail or refuse to refer for employment any person, in any way which would deprive or tend to deprive him of employment opportunities, or would limit his employment opportunities or

otherwise adversely affect his status as an employee or as an applicant for employment, because of his race, color, religion, sex, age, physical, aural or visual handicap , mental retardation or national origin; or

(c) To cause or attempt to cause an employer to discriminate against any person in violation of this section.

4. [It] Except as otherwise provided in NRS 613.350 and 613.-380, it is an unlawful employment practice for any employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any person because of his race, color, religion, sex, age, physical, aural or visual handicap , mental retardation or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

5. It is an unlawful employment practice for any employer, employment agency, labor organization or joint labor-management committee to discriminate against the physically, aurally or visually handicapped by interfering, directly or indirectly, with the use of an aid or appliance, including a guide dog or hearing dog, by such a handicapped person.

6. It is an unlawful employment practice for an employer, directly or indirectly, to refuse to permit a visually or aurally

handicapped employee to keep his guide dog or hearing dog with him at all times in his place of employment.

7. For the purposes of this section, the terms "guide dog" and "hearing dog" have the meanings ascribed to them respectively in NRS 426.075 and 426.081.

Sec. 11. NRS 613.340 is hereby amended to read as follows:

613.340 1. It is an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against any [individual,] person, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by NRS 613.310 to 613.420, inclusive, or because he has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under NRS 613.310 to 613.420, inclusive.

2. It is an unlawful employment practice for an employer, labor organization or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such

an employment agency, indicating any preference, limitation, specification or discrimination, based on race, color, religion, sex, age, physical or visual handicap , mental retardation or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification or discrimination based on religion, sex, age, physical , [or] visual or mental condition or national origin when religion, sex, age, physical , [or] visual or mental condition or national origin is a bona fide occupational qualification for employment.

Sec. 12. NRS 613.350 is hereby amended to read as follows:

613.350 1. It is not an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any person, for a labor organization to classify its membership or to classify or refer for employment any person, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any person in any such program, on the basis of his religion, sex, age, physical or visual handicap , mental retardation or national origin in those instances where religion, sex, age, physical , [or] visual or mental condition or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

2. It is not an unlawful employment practice for an employer to fail or refuse to hire and employ employees, for an employment agency to fail to classify or refer any person for employment, for a labor organization to fail to classify its membership or to fail to classify or refer any person for employment, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to fail to admit or employ any person in any such program, on the basis of his physical or visual handicap or mental retardation in those instances where physical , [or] visual or mental condition is a bona fide and relevant occupational qualification necessary to the normal operation of that particular business or enterprise, if it is shown that the particular physical or visual handicap or mental retardation would prevent proper performance of the work for which the handicapped person would otherwise have been hired, classified, referred or prepared under a training or retraining program.

3. It is not an unlawful employment practice for an employer to fail or refuse to hire or to discharge a person, for an employment agency to fail to classify or refer any person for employment, for a labor organization to fail to classify its membership or to fail to classify or refer any person for employment, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to fail to

admit or employ any person in any such program, on the basis of his age if the person is less than 40 years of age or more than 69 years of age.

4. It is not an unlawful employment practice for a school, college, university or other educational institution or institution of learning to hire and employ employees of a particular religion if the school or institution is, in whole or in substantial part, owned, supported, controlled or managed by a particular religion or by a particular religious corporation, association or society, or if the curriculum of the school or institution is directed toward the propagation of a particular religion.

5. It is not an unlawful employment practice for an employer to observe the terms of any bona fide plan for employees' benefits, such as a retirement, pension or insurance plan, which is not a subterfuge to evade the provisions of NRS 613.310 to 613.420, inclusive, as they relate to discrimination against a person because of age, except that no such plan excuses the failure to hire any person who is at least 40 years of age but is less than 70 years of age.

Sec. 13. NRS 613.380 is hereby amended to read as follows:

613.380 [Notwithstanding any other provision of NRS 613.310 to 613.420, inclusive, it] It is not an unlawful employment practice for an employer to apply different standards of compensation, or

different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, [provided that such] if the differences are not the result of an intention to discriminate because of race, color, religion, sex, age, physical or visual handicap , mental retardation or national origin, nor is it an unlawful employment practice for an employer to give and to act upon the results of any professionally developed [ability test, provided that such] test of ability, if the test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex, age, physical or visual handicap , mental retardation or national origin.

Sec. 14. NRS 613.400 is hereby amended to read as follows:

613.400 Nothing contained in NRS 613.310 to 613.420, inclusive, requires any employer, employment agency, labor organization or joint labor-management committee subject to [NRS 613.310 to 613.-420, inclusive,] those sections to grant preferential treatment to any [individual] person or to any group because of the race, color, religion, sex, age, physical or visual handicap , mental retardation or national origin of [such individual] that person or group on account of an imbalance which may exist with respect to

the total number or percentage of persons of any race, color, religion, sex, age, physical or visual handicap , mental retardation or national origin employed by an employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, age, physical or visual handicap , mental retardation or national origin in any community, section or other area, or in the available work force in any community, section or other area.

Sec. 15. NRS 613.405 is hereby amended to read as follows:

613.405 Any person injured by an unlawful employment practice within the scope of NRS 613.310 to 613.400, inclusive, may file a complaint to that effect with the Nevada equal rights commission if the complaint is based on discrimination because of race, color, sex, age, physical or visual handicap, mental retardation, religion or national origin.

Sec. 16. NRS 651.070 is hereby amended to read as follows:

651.070 All persons are entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodation, without

discrimination or segregation on the ground of race, color, religion, national origin , [or] physical or visual handicap [.] or mental retardation.

Sec. 17. NRS 651.110 is hereby amended to read as follows:

651.110 Any person who believes he has been denied full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodation because of discrimination or segregation based on race, color, religion, national origin , [or] physical or visual handicap or mental retardation may file a complaint to that effect with the Nevada equal rights commission.

SUMMARY--Limits local control over location of housing for mentally retarded persons. (BDR 22-16)

Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

AN ACT relating to zoning; limiting local control over location of housing for mentally retarded persons; and providing other matters properly relating thereto.

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

Section 1. Chapter 278 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. It is the purpose of this section to remove obstacles imposed by zoning ordinances which prevent persons who are mentally retarded from living in normal residences.

2. In any ordinance adopted by a city or county, the definition of "single-family residence" must include a home in which six or fewer unrelated persons who are mentally retarded reside with one or two additional persons to act as house parents or guardians who need not be related to each other or any of the mentally retarded persons who reside in the house.

3. This section does not prohibit a definition which permits more persons to reside in the house, nor does it prohibit regulation of homes which are operated on a commercial basis.

SUMMARY--Expands program for assistance to parents or relatives caring for profoundly retarded persons in the home.

(BDR 39-17)

Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to mentally retarded persons; adding severely retarded persons to the program for assistance to parents or relatives caring for profoundly retarded persons in the home; and providing other matters properly relating thereto.

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

Section 1. NRS 435.365 is hereby amended to read as follows:

435.365 1. Whenever a severely or profoundly mentally retarded person is cared for by a parent or other relative with whom he lives, that parent or relative is entitled to receive assistance on a monthly basis from the [mental hygiene and mental retardation] division for each such person who lives and is cared for in the home if the division finds that:

(a) The severely or profoundly mentally retarded person is receiving adequate care; and

(b) Neither he nor the parent or other relative with whom he lives is reasonably able to pay for his care and support.

The amount of such assistance is established by law for each fiscal year.

2. The division shall adopt regulations:
- (a) Which establish a procedure of application for assistance;
 - (b) For determining the eligibility of an applicant pursuant to subsection 1; and
 - (c) For determining whether to provide assistance to an eligible applicant beyond the minimum amount specified by [law] regulation for the applicable fiscal year.
3. The decision of the division regarding eligibility for assistance or the amount of assistance to be provided is a final administrative decision.

SUMMARY--Provides for allocation of money for facilities and equipment of community training centers for retarded persons.

(BDR 39-18)

Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial
Insurance: Contains Appropriation.

AN ACT relating to community training centers for retarded persons; providing for the allocation of money to such centers for facilities and equipment; providing for the recovery of amounts allocated; making an appropriation; and providing other matters properly relating thereto.

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

Section 1. Chapter 435 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. There is hereby created a fund for facilities of community training centers. The division may allocate money from this fund to one or more centers for the purpose of constructing, or otherwise acquiring, and improving the facilities and equipment of the centers. Any center which holds a certificate of qualification issued by the division may apply for an allocation. Before making an allocation, the division shall satisfy itself that the cost of acquiring or improving the facilities and equipment will be recovered by the state through payments for their use within 20 years.

2. The division shall select for allocation those centers which it believes will make the most effective use of the money allocated to enhance their ability to serve enrollees, and which it believes are least likely to acquire or improve their facilities and equipment without such an allocation.

3. Money appropriated to and allocated from the fund for facilities of community training centers is in addition to the money appropriated and distributed pursuant to NRS 435.260 for the purpose of aiding training centers.

Sec. 3. The division shall report annually to the interim finance committee of the legislature concerning the operation of section 2 of this act. The report must identify those community training centers to which sums have been allocated and must include, among other things, a description of the terms of each allocation and the center's compliance with those terms.

Sec. 4. NRS 435.140 is hereby amended to read as follows:

435.140 As used in NRS 435.130 to 435.320, inclusive, and sections 2 and 3 of this act, unless the context otherwise requires, the words and terms defined in NRS 435.170 to 435.190, inclusive, have the meanings ascribed to them in [such] those sections.

Sec. 5. NRS 435.220 is hereby amended to read as follows:

435.220 The division may establish all [rules,] regulations and standards not inconsistent with the provisions of NRS 435.130 to

435.320, inclusive, and sections 2 and 3 of this act which it deems necessary in order to carry out the purposes of [such] those sections and to set [qualification] standards for the qualification of centers to receive the aid provided for by [such] those sections.

Sec. 6. NRS 435.260 is hereby amended to read as follows:

435.260 Money for the purpose of aiding training centers in the community which have received certificates of qualification from the division must be provided by legislative appropriation [.] and accounted for in an account for community training centers. The division [is authorized to] may make grants from [the appropriation] that account to aid qualifying centers in accordance with the provisions of NRS 435.290 if the advisory board also approves the grants.

Sec. 7. There is hereby appropriated from the state general fund to the fund for facilities of community training centers the sum of \$150,000.

SUMMARY--Establishes office of public guardian to serve certain mentally retarded and mentally ill persons. (BDR 39-19)
Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to guardianships for certain mentally retarded and mentally ill persons; establishing the office of public guardian in the department of human resources; prescribing its powers and duties; and providing other matters properly relating thereto.

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

Section 1. Chapter 433 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. "Public guardian" means the public guardian for clients of the mental hygiene and mental retardation division of the department of human resources.

Sec. 3. 1. There is hereby created the office of public guardian for clients of the mental hygiene and mental retardation division of the department of human resources.

2. The director of the department shall appoint or designate one person to serve as the public guardian for Clark, Esmeralda, Lincoln and Nye counties and one person to serve as the public guardian for Churchill, Douglas, Elko, Eureka, Humboldt, Lander, Lyon, Mineral, Pershing, Storey, Washoe and White Pine counties and Carson City.

3. The public guardians are under the direct supervision of the director of the department.

Sec. 4. 1. The public guardian shall serve as general or special guardian when appointed pursuant to the provisions of chapter 159 of NRS for a client of the division for whom no other suitable guardian can be found.

2. The public guardian is exempt from the requirements of NRS 159.065, relating to the filing of a surety bond.

Sec. 5. Whenever the proposed ward in a guardianship proceeding is a client of the division, the district attorney of the county in which the petition is filed shall represent the public guardian in that proceeding.

Sec. 6. The department is entitled to recover from the estate of the ward, the parent or parents of the ward, if the ward is a minor or any other responsible person, a reasonable amount to pay for the services of the public guardian as guardian for that ward.

Sec. 7. NRS 433.005 is hereby amended to read as follows:

433.005 As used in this Title, unless the context otherwise requires, the words and terms defined in NRS 433.014 to 433.224, inclusive, and section 2 of this act have the meanings ascribed to them in those sections.

SUMMARY--Urges Congress to permit recipients of supplemental security income who are mentally retarded to accumulate savings. (BDR 20)

Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

JOINT RESOLUTION--Urging Congress to enact legislation permitting recipients of supplemental security income who are mentally retarded to accumulate savings without inclusion of the amounts in the computation of income and resources for the purpose of determining eligibility.

WHEREAS, Many mentally retarded adults have little or no earning capacity and depend upon the federally established program of supplemental security income for support; and

WHEREAS, The federal statutes governing the program of supplemental security income specify the maximum annual income which a recipient may receive and the maximum resources which a recipient may have and still be eligible for assistance under the program; and

WHEREAS, These limitations on income and resources preclude the accumulation and investment of savings from such sources as parental gifts and bequests without loss of eligibility; and

WHEREAS, A mentally retarded person may very well outlive his parents and other persons who would, if living, provide for his special needs and be responsible for him in the event governmentally supported assistance is reduced or discontinued; and

WHEREAS, Many parents strongly desire to assist their mentally retarded adult children in accumulating savings upon which those children can draw when necessary, particularly after the parents' death; and

WHEREAS, Those parents, and others concerned with the security and well-being of mentally retarded persons in their later years, urge the enactment of legislation to permit a recipient of supplemental security income who is mentally retarded to invest a certain amount of savings annually without need for complex legal mechanisms and without inclusion of the amounts accumulated in the computation of income and resources for the purpose of determining eligibility; and

WHEREAS, The legislature of the State of Nevada has considered this problem and has concluded that legislative action is needed to encourage mentally retarded adults to acquire privately financed reserves to protect them against the uncertainties of the future when they are alone and without other sources of support apart from governmental programs of assistance; and

WHEREAS, Governmental incentives to long-term savings are not new, the most obvious recent example being the program whereby a person may invest a portion of his earnings (up to \$2,000 per year for a single person) in an "individual retirement account" without paying current federal income taxes on the amounts accumulated; and

WHEREAS, A program for long-term savings by mentally retarded persons without loss of eligibility for benefits under the supplemental security income program could be patterned after the program for individual retirement accounts in some respects; now, therefore, be it

RESOLVED BY THE AND OF THE STATE OF NEVADA,
JOINTLY, That this legislature strongly urges the Congress of the United States to amend the statutory provisions governing the program of supplemental security income (Title XVI of the Social Security Act, 42 U.S.C. §§ 1381 et seq.) to exclude from the definitions of income and resources amounts up to \$2,000 per year, plus interest or other return on those amounts, received by or on behalf of a mentally retarded person and paid to an approved "savings plan" or "savings account" established for his benefit; and be it further

RESOLVED, That several alternative types of savings plans or savings accounts be approved for this purpose; and be it further

RESOLVED, That corresponding changes be made in any other federally established programs which preclude the accumulation of savings by mentally retarded adults receiving benefits on the basis of need in substantially the same manner; and be it further

RESOLVED, That the legislative counsel shall forthwith transmit copies of this resolution to the President of the United States,

the Vice President as President of the Senate, the Speaker of the House of Representatives and each member of the Nevada congressional delegation; and be it further

RESOLVED, That this resolution shall become effective upon passage and approval.

SUMMARY--Provides specifically for contributions to cost of care, support and maintenance of mentally retarded adults in state facilities and provides exceptions. (BDR 39-21)
Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to mentally retarded persons; providing specifically for contributions to the cost of care, support and maintenance of mentally retarded adults in state facilities; prohibiting recovery by the mental hygiene and mental retardation division from the estate of such a person for care provided at a time when the estate was insufficient to contribute; and providing other matters properly relating thereto.

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

Section 1. Chapter 435 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. Whenever any mentally retarded adult is involuntarily admitted to a division facility or the involuntary admission of a mentally retarded child continues after his 18th birthday, the court shall examine the mentally retarded person or his guardian regarding the ability of the person's estate to contribute to the care, support and maintenance of the person while he resides in such a facility.

2. If the court determines that the estate of the mentally retarded person is able to contribute, it shall enter an order requiring that a guardian of the estate be appointed, if there is

none, and that the guardian of the estate contribute the amount prescribed by the court from that estate.

3. If the guardian of the estate fails or refuses to comply with the order of the court, the division is entitled to recover from the estate, by appropriate legal action, all sums due together with interest, except as otherwise provided in this subsection. The division is not entitled to recover from the estate of a mentally retarded adult any amount for the care, support and maintenance of that person provided since his 18th birthday at a time when the court determines the estate was insufficient to contribute to the cost of that care, support and maintenance.

Sec. 3. 1. Whenever any mentally retarded adult is voluntarily admitted to a division facility, or the voluntary admission of a mentally retarded child continues after his 18th birthday, the mentally retarded person or his guardian shall enter into an agreement with the division providing for the contribution of an amount for the care, support and maintenance of the person while he resides in such a facility, as determined by the division to be reasonable. In determining the amount, the division shall give consideration to the ability of the estate of the mentally retarded person to make such a contribution, and may excuse the making of any contribution.

2. If the division determines that the estate of the mentally retarded person is able to contribute, it shall apply to a court

of competent jurisdiction for the appointment of a guardian of the estate, if there is none, and may apply for an order requiring that the guardian of the estate contribute an amount from that estate as prescribed by the court.

3. If the guardian of the estate fails or refuses to perform under the terms of the agreement or to comply with the order of the court, the division is entitled to recover from the estate, by appropriate legal action, all sums due together with interest, except as otherwise provided in this subsection. The division is not entitled to recover from the estate of a mentally retarded adult any amount for the care, support and maintenance of that person provided since his 18th birthday at a time when the court determines the estate was insufficient to contribute to the cost of that care, support and maintenance.

Sec. 4. NRS 435.360 is hereby amended to read as follows:

435.360 [1.] The relatives of a mentally retarded client who is 18 years of age or older are not responsible for the costs of his care and treatment within a division facility.

[2. The client or his estate, when able, may be required to contribute a reasonable amount toward the costs of his care and treatment. Otherwise, the full costs of such services must be borne by the state.]