AN ACT relating to persons with disabilities; requiring a biannual report to be compiled regarding certain issues related to autism spectrum disorders; requiring certain governmental entities to coordinate to ensure that the same examination may be used to determine the eligibility of a pupil for certain services for children with autism; requiring certain governmental entities to conduct outreach to parents or guardians of pupils with autism to determine whether the pupil is eligible for and may benefit from certain services; requiring an appointing authority to provide certain information to a certified person with a disability appointed on a temporary basis; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law establishes the Autism Treatment Assistance Program within the Aging and Disability Services Division of the Department of Health and Human Services to serve as the primary autism program within the Department and to provide and coordinate services to persons under 20 years of age with autism spectrum disorders. (NRS 427A.875) Existing law requires the Division of Health Care Financing and Policy of the Department to conduct certain duties relating to the administration of Medicaid. (NRS 422.061) Existing law requires the board of trustees of a school district or the governing body of a charter school to conduct an initial evaluation of each pupil with autism spectrum disorder and conduct a reevaluation every 3 years thereafter. (NRS 388.449) Sections 1, 5 and 8 of this bill require the Autism Treatment Assistance Program, the Division of Health Care Financing and Policy of the Department and the State Board of Education to
coordinate so that, to the extent practicable, a pupil is only required to receive one
evaluation to determine his or her eligibility for programs of instruction or special
services for pupils with autism spectrum disorders, the Autism Treatment
Assistance Program and services provided under the Medicaid program for children
with autism spectrum disorders.

Section 2 of this bill requires the Department of Health and Human Services to
compile a report every 6 months concerning any barriers that exist to services and
other issues of concern for persons with autism spectrum disorders and their
families. Sections 1, 2, 5 and 9 of this bill require the Autism Treatment Assistance
Program, the Department of Education and the Division of Health Care Financing
and Policy of the Department of Health and Human Services to collaborate with the
Department of Health and Human Services to compile the report. Section 2
requires the report to be posted on the Internet websites of the Department of
Health and Human Services and certain other governmental entities. Sections 3, 4
and 6 of this bill make conforming changes.

Section 9 of this bill requires the Department of Education to provide to the
Division of Health Care Financing and Policy and the Autism Treatment Assistance
Program the name of each pupil with an autism spectrum disorder, the school in
which the pupil is enrolled and the contact information for the parent or guardian of
the pupil. Sections 1 and 5 require the Division and the Autism Treatment
Assistance Program to conduct outreach to such parents and guardians to determine
whether the pupil is eligible for and may benefit from services provided under the
Medicaid program or the Autism Treatment Assistance Program, as applicable.

In certain circumstances, existing law requires an appointing authority, if
possible, to make a temporary limited appointment of a certified person with a
disability for a period not to exceed 700 hours to fill an available position. (NRS
284.327) Section 7 of this bill requires an appointing authority to provide each
person who is so appointed with a monthly performance evaluation and inform the
person whether the appointing authority anticipates appointing the person to a
permanent position.

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

Section 1. Chapter 422 of NRS is hereby amended by adding
thereo a new section to read as follows:

The Division shall:

1. Coordinate with the State Board of Education to ensure
that, to the extent practicable, the process for determining the
eligibility of a child for services provided under the Medicaid
program for children with autism spectrum disorders allows such
eligibility to be determined through one evaluation conducted
pursuant to NRS 388.449;

2. Collaborate with the Department of Health and Human
Services, the Autism Treatment Assistance Program established by
NRS 427A.875 and the Department of Education to compile the
report described in section 2 of this act; and

3. Upon receiving from the Department of Education
information pursuant to NRS 388.451 concerning a child with an
autism spectrum disorder who is not receiving services provided under the Medicaid program for children with autism spectrum disorders, conduct outreach to the parent or guardian of the child to determine whether the child is eligible for and may benefit from services provided under the Medicaid program for children with autism spectrum disorders.

Sec. 2. Chapter 427A of NRS is hereby amended by adding thereto a new section to read as follows:

1. On or before July 1 and December 31 of each year, the Department of Health and Human Services, in collaboration with the Division of Health Care Financing and Policy of the Department of Health and Human Services, the Autism Treatment Assistance Program established by NRS 427A.875 and the Department of Education, shall compile and submit to the Governor, the Director of the Legislative Counsel Bureau, the Nevada Autism Task Force created by section 40 of chapter 348, Statutes of Nevada 2007, or its successor organization, and the Nevada Commission on Services for Persons with Disabilities created by NRS 427A.1211 a report concerning:

(a) Any barriers that exist to:
   (1) Services for children with autism spectrum disorders and their families provided under the Medicaid program, including, without limitation, services provided on a fee-for-service basis and services provided through a Medicaid managed care program;
   (2) Services provided by the Autism Treatment Assistance Program established by NRS 427A.875; and
   (3) Programs of instruction and special services for pupils with autism spectrum disorders pursuant to NRS 388.419;

(b) Data concerning the effectiveness, usage and accessibility of the services and programs described in paragraph (a); and

(c) Any other issues recommended for inclusion by the Nevada Autism Task Force or its successor organization.

2. The report must be posted on the Internet websites maintained by the Department of Health and Human Services, the Governor, the Legislative Counsel Bureau, the Nevada Autism Task Force, or its successor organization, and the Nevada Commission on Services for Persons with Disabilities.

Sec. 3. NRS 427A.871 is hereby amended to read as follows:

427A.871 As used in NRS 427A.871 to 427A.880, inclusive, and section 2 of this act, “early intervention services” has the meaning ascribed to it in 20 U.S.C. § 1432.

Sec. 4. NRS 427A.872 is hereby amended to read as follows:

427A.872 1. The Division, in cooperation and guidance with the Department of Education, representatives of the school districts
in this State and the Nevada Autism Task Force created by section 40 of chapter 348, Statutes of Nevada 2007, or its successor organization, shall prescribe by regulation a statewide standard for measuring outcomes and assessing and evaluating persons with autism spectrum disorders through the age of 21 years who receive services through the State or a local government or an agency thereof. The regulations must designate a protocol based upon accepted best practices guidelines which includes at least one standardized assessment instrument that requires direct observation by the professional conducting the assessment for determining whether a person is a person with autism spectrum disorder, which must be used by personnel employed by the State or a local government or an agency thereof who provide assessments, interventions and diagnoses of persons with autism spectrum disorders through the age of 21 years and by the persons with whom the State or a local government or an agency thereof contracts to provide assessments, interventions and diagnoses of persons with autism spectrum disorders through the age of 21 years. The protocol must require that the direct observation conducted by a professional pursuant to this subsection include, without limitation, an evaluation to measure behaviors of the person which are consistent with autism spectrum disorder, cognitive functioning, language functioning and adaptive functioning.

2. The protocol designated pursuant to subsection 1 must be used upon intake of a person suspected of having autism spectrum disorder or at any later time if a person is suspected of having autism spectrum disorder after intake. The results of an assessment must be provided to the parent or legal guardian of the person, if applicable.

3. The Division shall prescribe the form and content of reports relating to persons with autism spectrum disorders through the age of 21 years that must be reported to the Division pursuant to subsection 1 of NRS 388.451 and 615.205. Except as otherwise provided in NRS 388.451, the Division shall ensure that the information is reported in a manner which:

(a) Allows the Division to document the services provided to and monitor the progress of each person with autism spectrum disorder through the age of 21 years who receives services from the State or an agency thereof; and

(b) Ensures that information reported for each person who receives services which identifies the person is kept confidential, consistent with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any other applicable state and federal privacy laws.
4. The Division shall prepare annually a summary of the reports submitted pursuant to **subsection 1 of** NRS 388.451 and 615.205 and make the summary publicly available. The Division shall ensure that information contained in the summary does not identify a person who received services.

**Sec. 5.** NRS 427A.875 is hereby amended to read as follows:

427A.875 1. There is hereby established the Autism Treatment Assistance Program within the Division to serve as the primary autism program within the Department and to provide and coordinate the provision of services to persons diagnosed or determined, including, without limitation, through the use of a standardized assessment, to have autism spectrum disorders through the age of 19 years.

2. The Autism Treatment Assistance Program shall:

(a) Prescribe an application process for parents and guardians of persons with autism spectrum disorders to participate in the Program. **The Program shall coordinate with the State Board of Education to ensure that, to the extent practicable, the application process allows the eligibility of a person to participate in the Program to be determined through one evaluation conducted pursuant to NRS 388.449.**

(b) Provide for the development of a plan of treatment for persons who participate in the Program.

(c) Promote the use of evidence-based treatments which are cost effective and have been proven to improve treatment of autism spectrum disorders.

(d) Educate parents and guardians of persons with autism spectrum disorders on autism spectrum disorders and the assistance that may be provided by the parent or guardian to improve treatment outcomes.

(e) Establish and use a system for assessing persons with autism spectrum disorders to determine a baseline to measure the progress of and prepare a plan for the treatment of such persons.

(f) Assist parents and guardians of persons with autism spectrum disorders in obtaining public services that are available for the treatment of autism spectrum disorders.

(g) **Collaborate with the Department of Health and Human Services, the Division of Health Care Financing and Policy of the Department of Health and Human Services and the Department of Education to compile the report described in section 2 of this act.**

(h) **Upon receiving from the Department of Education information pursuant to NRS 388.451 concerning a child with an autism spectrum disorder who is not participating in the Program, conduct outreach to the parent or guardian of the child to**
determine whether the child is eligible for and may benefit from participation in the Program.

3. A plan of treatment developed for a person who participates in the Program pursuant to paragraph (b) of subsection 2 must:
   (a) Identify the specific behaviors of the person to be addressed and the expected outcomes.
   (b) Include, without limitation, preparations for transitioning the person from one provider of treatment to another or from one public program to another, as the needs of the person require through the age of 19 years.
   (c) Be revised to address any change in the needs of the person.

4. The policies of the Autism Treatment Assistance Program and any services provided by the Program must be developed in cooperation with and be approved by the Nevada Autism Task Force created by section 40 of chapter 348, Statutes of Nevada 2007, or its successor organization.

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

Sec. 6. NRS 232.320 is hereby amended to read as follows:

232.320 1. The Director:
   (a) Shall appoint, with the consent of the Governor, administrators of the divisions of the Department, who are respectively designated as follows:
      (1) The Administrator of the Aging and Disability Services Division;
      (2) The Administrator of the Division of Welfare and Supportive Services;
      (3) The Administrator of the Division of Child and Family Services;
      (4) The Administrator of the Division of Health Care Financing and Policy; and
      (5) The Administrator of the Division of Public and Behavioral Health.
   (b) Shall administer, through the divisions of the Department, the provisions of chapters 63, 424, 425, 427A, 432A to 442, inclusive, 446 to 450, inclusive, 458A and 656A of NRS, NRS 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive, and section 1 of this act, 422.580, 432.010 to 432.133, inclusive, 432B.621 to 432B.626, inclusive, 444.002 to 444.430, inclusive, and 445A.010 to 445A.055, inclusive, and all other provisions of law relating to the functions of the divisions of the Department, but
is not responsible for the clinical activities of the Division of Public
and Behavioral Health or the professional line activities of the other
divisions.

(c) Shall administer any state program for persons with
developmental disabilities established pursuant to the
Developmental Disabilities Assistance and Bill of Rights Act of

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

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

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

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

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

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

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

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

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

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

Sec. 7. NRS 284.327 is hereby amended to read as follows:

284.327 1. Except as otherwise provided in subsection 4, if
an appointing authority has a position available and the position is
not required to be filled in another manner pursuant to this chapter, to assist persons with disabilities certified by the Rehabilitation Division of the Department of Employment, Training and Rehabilitation, the appointing authority shall, if possible, make a temporary limited appointment of a certified person with a disability for a period not to exceed 700 hours notwithstanding that the position so filled is a continuing position.

2. A person with a disability who is certified by the Rehabilitation Division must be placed on the appropriate list for which the person is eligible. Each such person must:
   (a) Possess the training and skills necessary for the position for which the person is certified; and
   (b) Be able to perform, with or without accommodation, the essential functions of that position.

3. The Rehabilitation Division must be notified of an appointing authority’s request for a list of eligibility on which the names of one or more certified persons with disabilities appear. A temporary limited appointment of a certified person with a disability pursuant to this section constitutes the person’s examination as required by NRS 284.215.

4. An appointing authority shall not make a temporary limited appointment of a certified person with a disability pursuant to this section:
   (a) If the certified person with a disability currently receives benefits from the agency of the Executive Department of the State Government in which the position exists; or
   (b) In any other circumstances that the appointing authority determines would create an actual or potential conflict of interest between the certified person with the disability and the agency of the Executive Department of the State Government in which the position exists.

5. Each appointing authority shall ensure that there is at least one person on the staff of the appointing authority who has training concerning:
   (a) Making a temporary limited appointment of a certified person with a disability pursuant to this section; and
   (b) The unique challenges a person with a disability faces in the workplace.

6. The Commission shall adopt regulations to carry out the provisions of subsections 1 and 2.

7. This section does not deter or prevent appointing authorities from employing:
   (a) A person with a disability if the person is available and eligible for permanent employment.
(b) A person with a disability who is employed pursuant to the provisions of subsection 1 in permanent employment if the person qualifies for permanent employment before the termination of the person’s temporary limited appointment.

8. If a person appointed pursuant to this section is subsequently appointed to a permanent position during or after the 700-hour period, the 700 hours or portion thereof counts toward the employee’s probationary period.

9. An appointing authority shall, at least once each month, provide to a person appointed pursuant to this section a performance evaluation and inform the person whether the appointing authority anticipates appointing the person to a permanent position.

Sec. 8. NRS 388.419 is hereby amended to read as follows:

388.419 1. The Department shall:
   (a) Prescribe a form that contains the basic information necessary for the uniform development, review and revision of an individualized education program for a pupil with a disability in accordance with 20 U.S.C. § 1414(d); and
   (b) Make the form available on a computer disc for use by school districts and, upon request, in any other manner deemed reasonable by the Department.

2. Except as otherwise provided in this subsection, each school district shall ensure that the form prescribed by the Department is used for the development, review and revision of an individualized education program for each pupil with a disability who receives special education in the school district. A school district may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

3. The State Board:
   (a) Shall prescribe minimum standards for the special education of pupils with disabilities.
   (b) May prescribe minimum standards for the provision of early intervening services.

4. The minimum standards prescribed by the State Board must include standards for programs of instruction or special services maintained for the purpose of serving pupils with:
   (a) Hearing impairments, including, but not limited to, deafness.
   (b) Visual impairments, including, but not limited to, blindness.
   (c) Orthopedic impairments.
   (d) Speech and language impairments.
   (e) Intellectual disabilities.
   (f) Multiple impairments.
   (g) Emotional disturbances.
(h) Other health impairments.
(i) Specific learning disabilities.
(j) Autism spectrum disorders.
(k) Traumatic brain injuries.
(l) Developmental delays.

5. The minimum standards prescribed by the State Board for pupils with hearing impairments, including, without limitation, deafness, pursuant to paragraph (a) of subsection 4 must comply with:

   (a) The Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations adopted pursuant thereto;
   (b) The effective communication requirement of Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 et seq., and the regulations adopted pursuant thereto; and

6. The minimum standards prescribed by the State Board for pupils with dyslexia pursuant to paragraph (i) of subsection 4 must include, without limitation, standards for instruction on:

   (a) Phonemic awareness to enable a pupil to detect, segment, blend and manipulate sounds in spoken language;
   (b) Graphonomic knowledge for teaching the sounds associated with letters in the English language;
   (c) The structure of the English language, including, without limitation, morphology, semantics, syntax and pragmatics;
   (d) Linguistic instruction directed toward proficiency and fluency with the patterns of language so that words and sentences are carriers of meaning; and
   (e) Strategies that a pupil may use for decoding, encoding, word recognition, fluency and comprehension.

7. The State Board shall coordinate with the Autism Treatment Assistance Program established by NRS 427A.875 and the Division of Health Care Financing and Policy of the Department of Health and Human Services to ensure that, to the extent practicable, the minimum standards prescribed by the State Board for pupils with autism spectrum disorders pursuant to paragraph (j) of subsection 4 allow for a pupil to receive one evaluation pursuant to NRS 388.449 to determine the eligibility of the pupil for:

   (a) Programs of instruction or special services for pupils with autism spectrum disorders;
   (b) Participation in the Autism Treatment Assistance Program established by NRS 427A.875; and
   (c) Services provided under the Medicaid program for children with autism spectrum disorders.
8. No apportionment of state money may be made to any school district or charter school for the instruction of pupils with disabilities until the program of instruction maintained therein for such pupils is approved by the Superintendent of Public Instruction as meeting the minimum standards prescribed by the State Board.

[8.] 9. The Department shall, upon the request of the board of trustees of a school district, provide information to the board of trustees concerning the identification and evaluation of pupils with disabilities in accordance with the standards prescribed by the State Board.

[9.] 10. The Department shall post on the Internet website maintained by the Department the data that is submitted to the United States Secretary of Education pursuant to 20 U.S.C. § 1418 within 30 days after submission of the data to the Secretary in a manner that does not result in the disclosure of data that is identifiable to an individual pupil.

Sec. 9. NRS 388.451 is hereby amended to read as follows:

388.451 1. The Department of Education shall report:
(a) Report annually to the Aging and Disability Services Division of the Department of Health and Human Services information relating to pupils with autism spectrum disorders. The information must:
(1) Be submitted in the form required by the Aging and Disability Services Division; and
(2) Include the total number of pupils with autism spectrum disorders who are enrolled in public schools in this State, including all pupils with autism spectrum disorders who have an individualized education program.
(b) Collaborate with the Department of Health and Human Services, the Division of Health Care Financing and Policy of the Department of Health and Human Services and the Autism Treatment Assistance Program established by NRS 427A.875 to compile the report described in section 2 of this act.
(c) With the consent of the parent or guardian of the pupil, provide to the Department of Health and Human Services, upon the identification of a pupil with an autism spectrum disorder, the name of the pupil, the school in which the pupil is enrolled and the contact information for the parent or guardian of the pupil. The Department of Health and Human Services shall immediately report that information to the Division of Health Care Financing and Policy and the Autism Treatment Assistance Program to facilitate outreach pursuant to section 1 of this act and NRS 427A.875, as applicable.

2. A pupil with autism spectrum disorder who is designated as a pupil with more than one physical or mental impairment or
disability must be included as a pupil with autism spectrum disorder
for the purposes of reporting information pursuant to this section.

3. The reporting made pursuant to this section must comply
with the Family Educational Rights and Privacy Act of 1974, 20
U.S.C. § 1232g, and any other applicable state and federal privacy
laws.

Sec. 10. This act becomes effective on July 1, 2019.