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SECOND REPRINT

S.B. 315

SENATE BILL NO. 315—SENATORS SCHEIBLE, SPEARMAN;
AND D. HARRIS

MARCH 20, 2023

Referred to Committee on Health and Human Services

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

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

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to persons with disabilities; prescribing certain rights for persons with disabilities who are receiving certain home and community-based services and persons who are aged receiving such services; prescribing certain rights for pupils with disabilities who are receiving certain services through an individualized education program; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing federal law authorizes states to implement certain home and
2 community-based services for persons who are elderly or disabled. (42 U.S.C. §
3 1396n) **Section 1** of this bill prescribes certain rights for persons with an
4 intellectual disability, developmental disability or physical disability who are
5 receiving such services or who are aged and receiving such services. **Section 2** of
6 this bill makes a conforming change to indicate the proper placement of **section 1**
7 in the Nevada Revised Statutes.

8 Existing law requires public schools to provide special programs and services
9 for pupils with disabilities. (NRS 388.419, 388.429) **Section 3** of this bill prescribes
10 certain rights for pupils with disabilities who are enrolled in a public school or
11 receiving services from a provider of special education and receiving transition
12 services through an individualized education program. **Section 4** of this bill makes
13 a conforming change to indicate the proper placement of **section 3** in the Nevada
14 Revised Statutes.



* S B 3 1 5 R 2 *

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

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

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

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

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

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

17 (2) *The location where the person resides; and*

18 (3) *The development and implementation of any plan for*
19 *delivering services and the frequency with which services are*
20 *delivered pursuant to the home and community-based services*
21 *waiver.*

22 (b) *Be treated with respect and dignity.*

23 (c) *An appropriate, safe and sanitary living environment that*
24 *complies with all local, state and federal standards and recognizes*
25 *the needs of the person for privacy and independence.*

26 (d) *Food that is adequate to meet the nutritional needs of the*
27 *person.*

28 (e) *Practice the religion of his or her choice or abstain from*
29 *the practice of any religion.*

30 (f) *Receive timely, effective and appropriate health care.*

31 (g) *Receive ancillary services, to the extent necessary for the*
32 *person.*

33 (h) *Maintain privacy and confidentiality in personal matters.*

34 (i) *Communicate freely with persons of his or her choice and*
35 *in any reasonable manner he or she chooses.*

36 (j) *Own and use personal property.*

37 (k) *Have social interactions with persons of any sex or gender*
38 *identity or expression.*

39 (l) *Pursue vocational opportunities to promote and enhance*
40 *the economic independence of the person.*

41 (m) *Be treated as an equal citizen under the law.*



1 (n) *Be free from emotional, psychological, physical and*
2 *financial abuse.*

3 (o) *Participate in appropriate programs of education, training,*
4 *social development, habilitation and reasonable recreation,*
5 *including, without limitation, a class at or other program*
6 *administered by a university, college, community college or trade*
7 *school.*

8 (p) *Select a parent, family member, advocate, employee of this*
9 *State or other person to act on his or her behalf, including,*
10 *without limitation, by entering into a supported decision-making*
11 *agreement pursuant to NRS 162C.200.*

12 (q) *Manage his or her own personal finances.*

13 (r) *Have his or her personal and medical records kept*
14 *confidential to the extent provided by state and federal law.*

15 (s) *Voice grievances and suggest changes in policies, services*
16 *and providers of services without restraint, interference, coercion,*
17 *discrimination or reprisal.*

18 (t) *Be free from unnecessary chemical, physical or mechanical*
19 *restraints.*

20 (u) *Participate in the political process.*

21 (v) *Refuse to participate in any medical, psychological or other*
22 *research or experiment.*

23 3. *The rights set forth in subsection 2 do not abrogate any*
24 *remedies provided by law.*

25 4. *As used in this section:*

26 (a) *“Developmental disability” has the meaning ascribed to it*
27 *in NRS 435.007.*

28 (b) *“Intellectual disability” has the meaning ascribed to it in*
29 *NRS 435.007.*

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

31 232.320 1. The Director:

32 (a) Shall appoint, with the consent of the Governor,
33 administrators of the divisions of the Department, who are
34 respectively designated as follows:

35 (1) The Administrator of the Aging and Disability Services
36 Division;

37 (2) The Administrator of the Division of Welfare and
38 Supportive Services;

39 (3) The Administrator of the Division of Child and Family
40 Services;

41 (4) The Administrator of the Division of Health Care
42 Financing and Policy; and

43 (5) The Administrator of the Division of Public and
44 Behavioral Health.



1 (b) Shall administer, through the divisions of the Department,
2 the provisions of chapters 63, 424, 425, 427A, 432A to 442,
3 inclusive, 446 to 450, inclusive, 458A and 656A of NRS, NRS
4 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive, *and*
5 *section 1 of this act*, 422.580, 432.010 to 432.133, inclusive,
6 432B.6201 to 432B.626, inclusive, 444.002 to 444.430, inclusive,
7 and 445A.010 to 445A.055, inclusive, and all other provisions of
8 law relating to the functions of the divisions of the Department, but
9 is not responsible for the clinical activities of the Division of Public
10 and Behavioral Health or the professional line activities of the other
11 divisions.

12 (c) Shall administer any state program for persons with
13 developmental disabilities established pursuant to the
14 Developmental Disabilities Assistance and Bill of Rights Act of
15 2000, 42 U.S.C. §§ 15001 et seq.

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

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

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

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

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

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

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

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

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



1 2. Notwithstanding any other provision of law, the Director, or
2 the Director's designee, is responsible for appointing and removing
3 subordinate officers and employees of the Department.

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

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

8 *2. Except as otherwise specifically provided by law, each*
9 *pupil with a disability who is enrolled in a public school or*
10 *receiving services from a provider of special education and is*
11 *receiving transition services through an individualized education*
12 *program pursuant to 34 C.F.R. § 300.43 has the right to:*

13 *(a) Be provided notice of and invited to any meeting*
14 *concerning his or her individualized education program at which*
15 *transition services will be discussed.*

16 *(b) Attend all meetings concerning his or her individualized*
17 *education program and be able to represent his or her desire*
18 *concerning his or her:*

19 *(1) Training or education;*

20 *(2) Employment; and*

21 *(3) If appropriate, independent living.*

22 *(c) Be treated with respect and dignity by all teachers,*
23 *paraprofessionals and other educational staff.*

24 *(d) Assist in the development of realistic, specific and*
25 *measurable post-secondary goals in training, education,*
26 *employment and, if appropriate, independent living for the pupil.*

27 *(e) Receive coordinated secondary transition services and*
28 *related support services to help prepare the pupil to meet the*
29 *measurable postsecondary goals established pursuant to*
30 *paragraph (d). Such services must include, without limitation:*

31 *(1) An age-appropriate transition assessment;*

32 *(2) Instruction and related services;*

33 *(3) Community experiences;*

34 *(4) Assistance in developing objectives for employment and*
35 *other life after the pupil ceases to attend school; and*

36 *(5) If appropriate, services to aid in developing skills for*
37 *daily living and an evaluation of functional vocational skills.*

38 *(f) Communicate freely using methods of communication that*
39 *are accessible to the pupil, including, without limitation, the*
40 *preferred language of the pupil, concerning his or her strengths,*
41 *interests, preferences and vision of his or her future for*
42 *consideration when developing the transition plan.*

43 *(g) Have access to social interactions in school-based settings*
44 *that are common to pupils of a similar age with persons with*
45 *whom he or she chooses to interact. Such access must be provided*



1 *to the same extent as pupils not receiving transition services*
2 *through an individualized education program.*

3 *(h) Assist in developing annual goals and objectives*
4 *reasonably calculated to promote progress toward achieving the*
5 *measurable postsecondary goals developed pursuant to*
6 *paragraph (d).*

7 *(i) Invite, or have assistance in inviting, appropriate outside*
8 *agencies to any meeting concerning his or her individualized*
9 *education program at which transition services will be discussed.*

10 *(j) Receive information necessary to identify, explore and*
11 *connect with outside agencies, as appropriate, including, without*
12 *limitation:*

13 *(1) The Bureau of Vocational Rehabilitation in the*
14 *Rehabilitation Division of the Department of Employment,*
15 *Training and Rehabilitation;*

16 *(2) The Aging and Disability Services Division of the*
17 *Department of Health and Human Services;*

18 *(3) The Council on Developmental Disabilities established*
19 *in this State pursuant to 42 U.S.C. § 15025; and*

20 *(4) The Statewide Independent Living Council established*
21 *in this State pursuant to 29 U.S.C. § 796d.*

22 *(k) Receive information on appropriate programs of support,*
23 *including, without limitation, the Supplemental Security Income*
24 *Program, as defined in NRS 422A.075.*

25 *(l) Select a parent, family member, advocate, employee of this*
26 *State or other person to act on his or her behalf, including,*
27 *without limitation, as prescribed in NRS 388.459.*

28 *(m) As appropriate to his or her individualized education*
29 *program, receive education in financial literacy, including,*
30 *without limitation, information about the Nevada ABLE Savings*
31 *Program established pursuant to NRS 427A.889, to assist the pupil*
32 *in managing his or her financial affairs.*

33 *(n) Receive, as appropriate, the pre-employment transition*
34 *services required by 34 C.F.R. § 361.48.*

35 *(o) Voice concerns and disagreements with his or her*
36 *educational or transition services and suggest changes in policies,*
37 *services and providers of services without restraint, interference,*
38 *coercion, discrimination or reprisal.*

39 *(p) Assist in the development of a course of study that is*
40 *designed to provide the pupil with the ability to achieve his or her*
41 *measurable post-secondary goals established pursuant to*
42 *paragraph (d) and obtain a diploma.*

43 *(q) Receive information regarding potential consequences of*
44 *attaining a diploma accessible to pupils with disabilities.*



1 (r) *As appropriate to his or her individualized education*
2 *program, receive instruction in civil participation, including,*
3 *without limitation, participation in the political process.*

4 (s) *Be notified, not less than 1 year before the pupil reaches 18*
5 *years of age, that any right accorded to the parent of a pupil with a*
6 *disability pursuant to Part B of the Individuals with Disabilities*
7 *Education Act, 20 U.S.C. § 1411 et seq., and the regulations*
8 *adopted pursuant thereto, transfer to the pupil when he or she*
9 *reaches 18 years of age.*

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

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

13 388.417 As used in NRS 388.417 to 388.515, inclusive **[H]** ,
14 *and section 3 of this act:*

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

20 (a) American Sign Language;

21 (b) English-based manual or sign systems;

22 (c) Oral and aural communication;

23 (d) Spoken and written English, including speech reading or lip
24 reading; and

25 (e) Communication with assistive technology devices.

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

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

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

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

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

42 7. "Pupil who receives early intervening services" means a
43 person enrolled in kindergarten or grades 1 to 12, inclusive, who is
44 not a pupil with a disability but who needs additional academic and
45 behavioral support to succeed in a regular school program.



1 8. "Pupil with a disability" means a "child with a disability," as
2 that term is defined in 20 U.S.C. § 1401(3)(A), who is under 22
3 years of age.

4 9. "Response to scientific, research-based intervention" means
5 a collaborative process which assesses a pupil's response to
6 scientific, research-based intervention that is matched to the needs
7 of a pupil and that systematically monitors the level of performance
8 and rate of learning of the pupil over time for the purpose of making
9 data-based decisions concerning the need of the pupil for
10 increasingly intensified services.

11 10. "Specific learning disability" means a disorder in one or
12 more of the basic psychological processes involved in understanding
13 or using spoken or written language which is not primarily the result
14 of a visual, hearing or motor impairment, intellectual disability,
15 serious emotional disturbance, or an environmental, cultural or
16 economic disadvantage. Such a disorder may manifest itself in an
17 imperfect ability to listen, think, speak, read, write, spell or perform
18 mathematical calculations. The term includes, without limitation,
19 perceptual disabilities, brain injury, minimal brain dysfunction,
20 dyslexia and developmental aphasia.

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

