

Amendment No. 234

Senate Amendment to Senate Bill No. 315	(BDR 38-808)
<b>Proposed by:</b> Senate Committee on Health and Human Services	
<b>Amends:</b> Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

DAN/EWR



Date: 4/18/2023

S.B. No. 315—Makes revisions relating to the rights of persons with disabilities and persons who are aged. (BDR 38-808)





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

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

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 thereto a new  
2 section to read as follows:

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

5 *2. Except as otherwise specifically provided by law, each person with an*  
6 *intellectual disability, developmental disability or physical disability ~~and~~ who is*  
7 *receiving services pursuant to a home and community-based services waiver*

1 granted pursuant to 42 U.S.C. § 1396n, and each person who is aged and is  
2 receiving such services, has, to the extent applicable to the services received by  
3 the person and appropriate for the person ~~to~~ pursuant to the home and  
4 community-based services waiver, the right to:

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

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

8 (2) The location where the person resides; and

9 (3) The development and implementation of any plan for delivering  
10 services and the frequency with which services are delivered pursuant to the  
11 home and community-based services waiver.

12 (b) Be treated with respect and dignity.

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

16 (d) Food that is adequate to meet the nutritional needs of the person.

17 (e) Practice the religion of his or her choice or abstain from the practice of  
18 any religion.

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

20 (g) Receive ancillary ~~[services which may include, without limitation,~~  
21 ~~personal care, occupational therapy, physical therapy, speech therapy, behavior~~  
22 ~~modification and other psychological]~~ services, to the extent necessary for the  
23 person.

24 (h) Maintain privacy and confidentiality in personal matters.

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

27 (j) Own and use personal property.

28 (k) Have social interactions with persons of any sex or gender identity or  
29 expression.

30 (l) Pursue vocational opportunities to promote and enhance the economic  
31 independence of the person.

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

33 (n) Be free from emotional, psychological, physical and financial abuse.

34 (o) Participate in appropriate programs of education, training, social  
35 development, habilitation and reasonable recreation, including, without  
36 limitation, a class at or other program administered by a university, college,  
37 community college or trade school.

38 (p) Select a parent, family member, advocate or other person to act on his or  
39 her behalf, including, without limitation, by entering into a supported decision-  
40 making agreement pursuant to NRS 162C.200.

41 (q) Manage his or her own personal finances.

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

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

46 (t) Be free from unnecessary chemical, physical or mechanical restraints.

47 (u) Participate in the political process.

48 (v) Refuse to participate in any medical, psychological or other research or  
49 experiment.

50 3. The rights set forth in subsection 2 do not abrogate any remedies  
51 provided by law.

52 4. As used in this section:

1       (a) *“Developmental disability” has the meaning ascribed to it in NRS*  
2 *435.007.*

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

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

5       232.320 1. The Director:

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

- 8           (1) The Administrator of the Aging and Disability Services Division;  
9           (2) The Administrator of the Division of Welfare and Supportive Services;  
10          (3) The Administrator of the Division of Child and Family Services;  
11          (4) The Administrator of the Division of Health Care Financing and

12 Policy; and

- 13           (5) The Administrator of the Division of Public and Behavioral Health.

14       (b) Shall administer, through the divisions of the Department, the provisions of  
15 chapters 63, 424, 425, 427A, 432A to 442, inclusive, 446 to 450, inclusive, 458A  
16 and 656A of NRS, NRS 127.220 to 127.310, inclusive, 422.001 to 422.410,  
17 inclusive, *and section 1 of this act*, 422.580, 432.010 to 432.133, inclusive,  
18 432B.6201 to 432B.626, inclusive, 444.002 to 444.430, inclusive, and 445A.010 to  
19 445A.055, inclusive, and all other provisions of law relating to the functions of the  
20 divisions of the Department, but is not responsible for the clinical activities of the  
21 Division of Public and Behavioral Health or the professional line activities of the  
22 other divisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

8           2. *Except as otherwise specifically provided by law, each pupil with a*  
9 *disability who is enrolled in a public school or receiving services from a provider*  
10 *of special education and is receiving transition services through an individualized*  
11 *education program pursuant to 34 C.F.R. § 300.43 has the right ~~to the same~~*  
12 *extent as pupils who are not pupils with disabilities and to the extent applicable to*  
13 *the services which the pupil is receiving, to:*

14           ~~(a) Participate in decisions concerning the education of the pupil, including,~~  
15 ~~without limitation, decisions concerning the services the pupil will receive as part~~  
16 ~~of an] Be provided notice of and invited to any meeting concerning his or her~~  
17 ~~individualized education program ~~at~~ at which transition services will be~~  
18 ~~discussed.~~

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

21           (1) Training or education;

22           (2) Employment; and

23           (3) If appropriate, independent living.

24           **(c) Be treated with respect and dignity** ~~to~~

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

29 ~~(d) by all teachers, paraprofessionals and other educational staff.~~

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

33           **(e) Receive [timely, effective and appropriate treatment.**

34 ~~(e) coordinated secondary transition services and related support services to~~  
35 ~~help prepare the pupil to meet the measurable postsecondary goals established~~  
36 ~~pursuant to paragraph (d). Such services must include, without limitation:~~

37           (1) An age-appropriate transition assessment;

38           (2) Instruction and related services;

39           (3) Community experiences;

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

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

44           **(f) Communicate freely [with persons of his or her choice and in any**  
45 **reasonable manner chosen by the pupil.**

46 ~~(f) using methods of communication that are accessible to the pupil~~  
47 ~~concerning his or her strengths, interests, preferences and vision of his or her~~  
48 ~~future for consideration when developing the transition plan.~~

49           **(g) Have access to social interactions in school-based settings that are**  
50 **common to pupils of a similar age with persons [of any sex or gender identity or**  
51 **expression.**

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

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

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

5 ~~— (j) Participate in~~ with whom he or she chooses to interact. Such access must  
6 be provided to the same extent as pupils not receiving transition services through  
7 an individualized education program.

8 (h) Assist in developing annual goals and objectives reasonably calculated to  
9 promote progress toward achieving the measurable postsecondary goals  
10 developed pursuant to paragraph (d).

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

14 (j) Receive information necessary to identify, explore and connect with  
15 outside agencies, as appropriate, including, without limitation:

16 (1) The Bureau of Vocational Rehabilitation in the Rehabilitation  
17 Division of the Department of Employment, Training and Rehabilitation; and

18 (2) The Aging and Disability Services Division of the Department of  
19 Health and Human Services.

20 ~~(k) Receive information on appropriate programs of~~ education, training,  
21 ~~social development, habilitation and reasonable recreation.~~

22 ~~— (k) support, including, without limitation, the Supplemental Security~~  
23 Income Program, as defined in NRS 422A.075.

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

26 ~~[(d) Receive]~~

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

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

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

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

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

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

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

45 (r) As appropriate to his or her individualized education program, receive  
46 instruction in civil participation, including, without limitation, participation in  
47 the political process.

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

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

51 (s) Be notified, not less than 1 year before the pupil reaches 18 years of age,  
52 that any right accorded to the parent of a pupil with a disability pursuant to Part  
53 B of the Individuals with Disabilities Education Act, 20 U.S.C. § 1411 et seq., and

1 *the regulations adopted pursuant thereto, transfer to the pupil when he or she*  
2 *reaches 18 years of age.*

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

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

6 388.417 As used in NRS 388.417 to 388.515, inclusive ~~(H)~~, **and section 3 of**  
7 ***this act:***

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

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

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

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

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

25 5. "Individualized education program team" has the meaning ascribed to it in  
26 20 U.S.C. § 1414(d)(1)(B).

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

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

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

37 9. "Response to scientific, research-based intervention" means a collaborative  
38 process which assesses a pupil's response to scientific, research-based intervention  
39 that is matched to the needs of a pupil and that systematically monitors the level of  
40 performance and rate of learning of the pupil over time for the purpose of making  
41 data-based decisions concerning the need of the pupil for increasingly intensified  
42 services.

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

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