

(REPRINTED WITH ADOPTED AMENDMENTS)
FIRST REPRINT **A.B. 294**

ASSEMBLY BILL NO. 294—ASSEMBLYMAN BACHE

MARCH 7, 2001

Referred to Committee on Judiciary

SUMMARY—Revises provisions pertaining to sealing of juvenile records. (BDR 5-690)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 juveniles; providing that juveniles who are adjudicated delinquent for committing certain acts that would be crimes if committed by an adult may not have their records sealed; making various other changes related to sealing of juvenile records; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 62.2115 is hereby amended to read as follows:
2 62.2115 Any decree or order entered by a judge or master of a juvenile
3 court, district court, justice's court or municipal court concerning a child
4 within the purview of this chapter must contain, for the benefit of the child,
5 an explanation of the contents of NRS ~~62.345,~~ 62.370 and, if applicable,
6 NRS 62.600.
7 **Sec. 2.** NRS 62.350 is hereby amended to read as follows:
8 62.350 1. The fingerprints of a child must be taken if the child is in
9 custody for an act that, if committed by an adult:
10 (a) Would be a felony, a gross misdemeanor or a sexual offense; or
11 (b) Would be a misdemeanor, and the act involved:
12 (1) The use or threatened use of force or violence against the victim;
13 or
14 (2) The possession, use or threatened use of a firearm or a deadly
15 weapon.
16 2. The fingerprints of a child who is in custody but who is not subject
17 to the provisions of subsection 1 may be taken if a law enforcement officer
18 finds latent fingerprints during the investigation of an offense and the
19 officer has reason to believe that the latent fingerprints are those of the
20 child. The officer shall use the fingerprints taken from the child ~~for the~~
21 ~~purpose of making~~ ***to make*** an immediate comparison with the latent
22 fingerprints. If the comparison is:



* A B 2 9 4 R 1 *

- 1 (a) Negative, the fingerprint card and other copies of the fingerprints
2 taken may be immediately destroyed or may be retained for future use.
- 3 (b) Positive, the fingerprint card and other copies of the fingerprints:
4 (1) Must be delivered to the court for disposition if the child is
5 referred to court.
6 (2) May be immediately destroyed or may be retained for future use
7 if the child is not referred to court.
- 8 3. Fingerprints that are taken from a child pursuant to the provisions of
9 this section:
10 (a) May be retained in a local file or a local system for the automatic
11 retrieval of fingerprints if they are retained under special security measures
12 that limit inspection of the fingerprints to law enforcement officers who are
13 conducting criminal investigations. If the child from whom the fingerprints
14 are taken subsequently is not adjudicated delinquent, the parent or guardian
15 of the child or, when the child becomes at least 18 years of age, the child
16 ~~H~~ may petition the court for the removal of the fingerprints from any such
17 local file or local system.
18 (b) Must be submitted to the central repository for Nevada records of
19 criminal history if the child is adjudicated delinquent for an act that, if
20 committed by an adult, would be a felony or sexual offense, and may be
21 submitted to the central repository for any other act. Any such fingerprints
22 submitted to the central repository must be submitted with a description of
23 the child and the unlawful act, if any, that the child committed. The central
24 repository shall retain the fingerprints and such information of the child
25 under special security measures that limit inspection of the fingerprints and
26 such information to law enforcement officers who are conducting criminal
27 investigations and to officers and employees of the central repository who
28 are assisting law enforcement officers with criminal investigations or who
29 are conducting research or performing a statistical analysis.
30 (c) Must not be submitted to the Federal Bureau of Investigation unless
31 the child is adjudicated delinquent for an act that, if committed by an adult,
32 would be a felony or a sexual offense.
- 33 4. A child who is in custody must be photographed for the purpose of
34 identification. Except as otherwise provided in this subsection, the
35 photographs of the child must be kept in the file pertaining to the child
36 under special security measures which provide that the photographs may be
37 inspected only to conduct criminal investigations and photographic lineups.
38 If a court subsequently determines that the child is not delinquent, the court
39 shall order the photographs to be destroyed.
- 40 5. Any person who willfully violates any provision of this section is
41 guilty of a misdemeanor.
- 42 6. *As used in this section, "sexual offense" means:*
43 *(a) Sexual assault pursuant to NRS 200.366;*
44 *(b) Statutory sexual seduction pursuant to NRS 200.368;*
45 *(c) Battery with intent to commit sexual assault pursuant to NRS*
46 *200.400;*
47 *(d) An offense involving pornography and a minor pursuant to NRS*
48 *200.710 to 200.730, inclusive;*
49 *(e) Incest pursuant to NRS 201.180;*



* A B 2 9 4 R 1 *

- 1 *(f) Solicitation of a minor to engage in acts constituting the infamous*
2 *crime against nature pursuant to NRS 201.195;*
3 *(g) Open or gross lewdness pursuant to NRS 201.210;*
4 *(h) Indecent or obscene exposure pursuant to NRS 201.220;*
5 *(i) Lewdness with a child pursuant to NRS 201.230;*
6 *(j) Sexual penetration of a dead human body pursuant to NRS*
7 *201.450;*
8 *(k) Annoyance or molestation of a minor pursuant to NRS 207.260;*
9 *(l) An attempt to commit an offense listed in paragraphs (a) to (k),*
10 *inclusive; or*
11 *(m) An offense that is determined to be sexually motivated pursuant to*
12 *NRS 175.547.*

13 **Sec. 3.** NRS 62.370 is hereby amended to read as follows:

14 62.370 1. Except as otherwise provided in *subsection 3 and NRS*
15 ~~62.345 and~~ 62.600, if a child is taken into custody by a peace officer, is
16 taken before a probation officer, or appears before a judge or master of a
17 juvenile court, district court, justice's court or municipal court, the child or
18 a probation officer on his behalf may petition for the sealing of all records
19 relating to the child, including records of arrest, but not including records
20 relating to misdemeanor traffic violations, in the custody of the juvenile
21 court, district court, justice's court or municipal court, probation officer,
22 law enforcement agency, or any other agency or public official, if:

23 (a) Three years or more have elapsed ~~after termination of the~~
24 ~~jurisdiction of the juvenile~~ *since the child was declared a ward of the*
25 court; or

26 (b) Three years or more have elapsed since the child was last referred to
27 the juvenile court and the child has never been declared a ward of the
28 court.

29 2. ~~The~~ *Except as otherwise provided in subsection 3 and NRS*
30 *62.600, all records relating to a child must be automatically sealed when*
31 *the child reaches 21 years of age.*

32 3. *If a child is adjudicated delinquent for an act that, if committed by*
33 *an adult, would be punishable as sexual assault pursuant to NRS*
34 *200.366, battery with intent to commit sexual assault pursuant to NRS*
35 *200.400 or lewdness with a child pursuant to NRS 201.230, or for an act*
36 *involving the use or threatened use of force or violence that, if committed*
37 *by an adult, would be punishable as a felony, any records pertaining to*
38 *that act must not be sealed.*

39 4. *If a petition is filed pursuant to subsection 1, the* court shall notify
40 the district attorney of the county and the probation officer, if he is not the
41 petitioner. The district attorney, probation officer, any of their deputies or
42 any other persons having relevant evidence may testify at the hearing on
43 the petition.

44 ~~3.~~ 5. If, after the hearing, the court finds that, ~~since such termination~~
45 ~~of jurisdiction,~~ *during the applicable 3-year period,* the child has not been
46 convicted of a felony or of any misdemeanor involving moral turpitude and
47 that rehabilitation has been attained to the satisfaction of the court, it shall
48 order all records, papers and exhibits in the ~~juvenile's~~ *child's* case in the
49 custody of the juvenile court, district court, justice's court, municipal court,



* A B 2 9 4 R 1 *

1 probation officer, law enforcement agency or any other agency or public
2 official sealed. Other records relating to the case, in the custody of such
3 other agencies and officials as are named in the order, must also be ordered
4 sealed.

5 ~~{4. Except as otherwise provided in NRS 62.345 and 62.600, all~~
6 ~~records relating to a child must be automatically sealed when the child~~
7 ~~reaches 24 years of age.~~

8 ~~—5.}~~ 6. The court shall send a copy of the order sealing the records of a
9 child to each agency and official named therein. Each agency and official
10 shall, within 5 days after receipt of the order:

11 (a) Seal records in its custody, as directed by the order.

12 (b) Advise the court of its compliance.

13 (c) Seal the copy of the court's order that it or he received.

14 ~~{6.}~~ 7. If the court orders the records sealed, all proceedings recounted
15 in the records are deemed never to have occurred, and the person who is
16 the subject of the records may properly reply accordingly to any inquiry
17 concerning the proceedings and the events which brought about the
18 proceedings.

19 ~~{7.}~~ 8. The person who is the subject of records sealed pursuant to this
20 section may petition the court to permit inspection of the records by a
21 person named in the petition and the court may order the inspection.

22 ~~{8.}~~ 9. The court may, upon the application of a district attorney or an
23 attorney representing a defendant in a criminal action, order an inspection
24 of the records ~~{for the purpose of obtaining}~~ to obtain information relating
25 to persons who were involved in the incident recorded.

26 ~~{9.}~~ 10. The court may, upon its own motion and ~~{for the purpose of~~
27 ~~sentencing}~~ to sentence a convicted adult who is under 21 years of age,
28 inspect any records of that person which are sealed pursuant to this section.

29 ~~{10.}~~ 11. An agency charged with the medical or psychiatric care of a
30 person may petition the court to unseal his juvenile records.

31 ~~{11.}~~ 12. The provisions of this section do not apply to information
32 maintained in the standardized system established pursuant to NRS 62.910
33 or information that must be collected by the division of child and family
34 services of the department of human resources pursuant to NRS 62.920.

35 ~~{12.}~~ 13. As used in this section, "seal" means placing the records in a
36 separate file or other repository not accessible to the general public.

37 **Sec. 4.** NRS 62.560 is hereby amended to read as follows:

38 62.560 Except as otherwise provided in subsection ~~{3}~~ 2 of NRS
39 62.600, the provisions of NRS 62.500 to 62.600, inclusive, do not apply to
40 a child who is subject to registration and community notification pursuant
41 to NRS 179D.350 to 179D.800, inclusive, before reaching 21 years of age.

42 **Sec. 5.** NRS 62.600 is hereby amended to read as follows:

43 62.600 1. The records relating to a child must not be sealed pursuant
44 to the provisions of NRS 62.370 while the child is subject to community
45 notification as a juvenile sex offender.

46 2. ~~{Except as otherwise provided in NRS 62.345, if a child is relieved~~
47 ~~of being subject to community notification as a juvenile sex offender~~
48 ~~pursuant to NRS 62.590, all records relating to the child must be~~



* A B 2 9 4 R 1 *

- 1 ~~automatically sealed when the child reaches 24 years of age as provided in~~
2 ~~subsection 4 of NRS 62.370.~~
3 ~~3.4~~ If a child is deemed to be an adult sex offender pursuant to NRS
4 62.590, is convicted of a sexual offense, as defined in NRS 179D.410,
5 before reaching 21 years of age or is otherwise subject to registration and
6 community notification pursuant to NRS 179D.350 to 179D.800, inclusive,
7 before reaching 21 years of age:
8 (a) The records relating to the child must not be sealed pursuant to the
9 provisions of NRS 62.370; and
10 (b) Each delinquent act committed by the child that would have been a
11 sexual offense, as defined in NRS 179D.410 if committed by an adult, shall
12 be deemed to be a criminal conviction for the purposes of:
13 (1) Registration and community notification pursuant to NRS
14 179D.350 to 179D.800, inclusive; and
15 (2) The statewide registry established within the central repository
16 pursuant to chapter 179B of NRS.
17 **Sec. 6.** NRS 179D.035 is hereby amended to read as follows:
18 179D.035 "Convicted" includes, but is not limited to, an adjudication
19 of delinquency or a finding of guilt by a court having jurisdiction over
20 juveniles if the adjudication of delinquency or the finding of guilt is for the
21 commission of any of the following offenses:
22 1. A crime against a child that is listed in subsection 6 of NRS
23 179D.210.
24 2. A sexual offense that is listed in subsection 19 of NRS 179D.410.
25 3. A sexual offense that is listed in paragraph (b) of subsection ~~3~~ 2 of
26 NRS 62.600.
27 **Sec. 7.** NRS 62.335 and 62.345 are hereby repealed.
28 **Sec. 8.** The amendatory provisions of this act apply to any act
29 committed by a child before, on or after July 1, 2001, if the records
30 pertaining to that act have not been sealed pursuant to NRS 62.370 before
31 July 1, 2001.
32 **Sec. 9.** This act becomes effective on July 1, 2001.

TEXT OF REPEALED SECTIONS

62.335 "Sexual offense" defined. As used in this section and NRS 62.345 and 62.350, unless the context otherwise requires, "sexual offense" means:

1. Sexual assault pursuant to NRS 200.366;
2. Statutory sexual seduction pursuant to NRS 200.368;
3. Battery with intent to commit sexual assault pursuant to NRS 200.400;
4. An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;
5. Incest pursuant to NRS 201.180;
6. Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195;



* A B 2 9 4 R 1 *

7. Open or gross lewdness pursuant to NRS 201.210;
8. Indecent or obscene exposure pursuant to NRS 201.220;
9. Lewdness with a child pursuant to NRS 201.230;
10. Sexual penetration of a dead human body pursuant to NRS 201.450;
11. Annoyance or molestation of a minor pursuant to NRS 207.260;
12. An attempt to commit an offense listed in subsections 1 to 11, inclusive; or
13. An offense that is determined to be sexually motivated pursuant to NRS 175.547.

62.345 Procedure for sealing and unsealing records of child adjudicated delinquent for certain sexual offenses or acts involving force or violence.

1. Except as otherwise provided in this section, if a child is adjudicated delinquent for an act that, if committed by an adult, would be a category A or category B felony and the act was a sexual offense or involved the use or threatened use of force or violence against the victim, the records relating to the child must not be sealed pursuant to the provisions of NRS 62.370.

2. If a child who is subject to the provisions of subsection 1 is not adjudicated delinquent for any other subsequent act that, if committed by an adult, would be a felony and is not otherwise convicted of a felony as an adult before reaching 24 years of age, all records relating to the child must be automatically sealed when the child reaches 24 years of age as provided in subsection 4 of NRS 62.370.

3. The provisions of this section:

(a) Apply to a child who is relieved of being subject to community notification as a juvenile sex offender pursuant to NRS 62.590.

(b) Do not apply to a child who is deemed to be an adult sex offender pursuant to NRS 62.590.

