

ASSEMBLY BILL NO. 308—ASSEMBLYMEN TIFFANY, CEGAVSKE, ARBERRY,
BEERS, BERMAN, BROWER, BROWN, BUCKLEY, CARPENTER,
CHOWNING, CLABORN, COLLINS, FREEMAN, GIBBONS, HETTRICK,
KOIVISTO, LEE, LESLIE, MANENDO, MARVEL, MORTENSON,
NEIGHBORS, PARKS, PARNELL, SMITH AND VON TOBEL

MARCH 8, 2001

JOINT SPONSOR: SENATOR WIENER

Referred to Committee on Judiciary

SUMMARY—Revises provisions concerning waiver by juveniles of right to counsel.
(BDR 5-464)

FISCAL NOTE: Effect on Local Government: Yes.
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; revising the provisions concerning the waiver by juveniles of
their right to counsel; 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 62.085 is hereby amended to read as follows:
2 62.085 1. If a child is alleged to be delinquent or in need of
3 supervision, the child and his parents, guardian or custodian must be
4 advised by the court or its representative that the child is entitled to be
5 represented by an attorney at all stages of the proceedings . ~~if, unless~~
6 ~~waived.~~ If indigent, the parent, guardian or custodian of the child may
7 request the appointment of an attorney to represent the child pursuant to the
8 provisions in NRS 171.188. If not indigent and:
9 (a) An attorney is not retained for the child; or
10 (b) It does not appear that an attorney will be retained,
11 an attorney must be appointed for the child . ~~if, unless waived.~~
12 2. Except as otherwise provided in NRS 424.085, if an attorney is
13 appointed to represent a child:
14 (a) The parents of that child shall pay the reasonable fees and expenses
15 of the attorney unless they are indigent; or



1 (b) If the parents of the child are indigent, the court may require the
2 parent or guardian of the child to reimburse the county or state in
3 accordance with his ability to pay.

4 3. The parent, guardian or custodian may be represented by an attorney
5 at all stages of the proceedings. In no case may an attorney be appointed
6 for him unless the court makes written findings that such an appointment is
7 required in the interest of justice and specifying the reasons thereof.

8 4. Each attorney, other than a public defender, appointed under the
9 provisions of this section is entitled to the same compensation and
10 expenses from the county as provided in NRS 7.125 and 7.135 for
11 attorneys appointed to represent persons charged with crimes.

12 **Sec. 2.** NRS 62.193 is hereby amended to read as follows:

13 62.193 1. Proceedings concerning any child alleged to be delinquent,
14 in need of supervision or in need of commitment to an institution for the
15 mentally retarded are not criminal in nature and must be heard separately
16 from the trial of cases against adults, and without a jury. The hearing may
17 be conducted in an informal manner and may be held at a juvenile
18 detention facility or elsewhere at the discretion of the judge. Stenographic
19 notes or other transcript of the hearing are not required unless the court so
20 orders. All proceedings pursuant to this chapter must be open to the general
21 public unless the judge, or in case of a reference, the referee, upon his own
22 motion or upon the motion of another person, determines that all or part of
23 the proceedings must be closed to the general public because such closure
24 is in the best interests of the child or the general public. If the judge or
25 referee determines that all or part of the proceedings must be closed to the
26 general public, the general public must be excluded and only those persons
27 having a direct interest in the case may be admitted, as ordered by the
28 judge or referee. The judge or referee in his sole discretion may determine
29 that a victim or any member of a victim's family is a person having a direct
30 interest in the case who may be admitted to the proceedings.

31 2. The court shall provide written notice of any hearing after the initial
32 detention hearing to the parent, guardian or custodian of the child, together
33 with a copy of ~~the~~ *the* notice which the parent, guardian or custodian may
34 provide to his employer. The employer's copy of the notice must set forth
35 the date and time of the hearing and the provisions of NRS 62.900. The
36 employer's copy of the notice must not set forth the name of the child or
37 the offense alleged.

38 3. The parties must be advised of their rights in their first appearance
39 at intake and before the court. They must be informed of the specific
40 allegations in the petition and given an opportunity to admit or deny those
41 allegations. *The court shall not allow a child who is alleged to be*
42 *delinquent to admit any specific allegation in the petition unless the child*
43 *has consulted with an attorney who represents the interests of the child.*

44 4. If the allegations are denied, the court shall proceed to hear evidence
45 on the petition. *If the petition alleges that the child is delinquent, the*
46 *court shall not hear evidence on the petition unless an attorney who is*
47 *representing the child is present.* The court shall record its findings on
48 whether the acts ascribed to the child in the petition were committed by
49 him. If the court finds that the allegations in the petition have not been



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1 established, it shall dismiss the petition and order the child discharged from
2 any detention or temporary care previously ordered in the proceedings,
3 unless otherwise ordered by the court.

4 5. If the court finds on the basis of an admission *made pursuant to*
5 *subsection 3 or 4* or a finding on proof beyond a reasonable doubt, based
6 upon competent, material and relevant evidence ~~+~~ *at a hearing held*
7 *pursuant to subsection 4*, that a child committed the acts by reason of
8 which he is alleged to be delinquent, it may, in the absence of objection
9 and except as otherwise provided in NRS 62.214, proceed immediately to
10 make a proper disposition of the case. *A court shall not dispose of a case*
11 *in which a child is alleged to be delinquent or conduct a hearing*
12 *concerning the disposition of such a case unless an attorney who is*
13 *representing the child is present.*

14 6. The court may, at the request of the district attorney, expedite the
15 date for any adjudicatory hearing involving acts committed against a child
16 less than 16 years of age or involving acts witnessed by a child less than 16
17 years of age. In making a ruling, the court may consider the effect a delay
18 in the commencement of the hearing might have on the mental or
19 emotional health or well-being of the child.

20 7. In adjudicatory hearings, all competent, material and relevant
21 evidence helpful in determining the questions presented, including oral and
22 written reports, may be received by the court and may be relied upon to the
23 extent of its probative value. The parties or their counsel must be afforded
24 an opportunity to examine and controvert written reports so received and to
25 cross-examine persons making reports when reasonably available.

26 8. On its motion or that of a party, the court may continue the hearings
27 under this section for a reasonable period to receive reports and other
28 evidence bearing on the disposition. If the hearing involves acts committed
29 against a child less than 16 years of age or involving acts witnessed by a
30 child less than 16 years of age, the court may consider any adverse effect a
31 continuance or other postponement might have upon the mental or
32 emotional health or well-being of the child. The court may deny a
33 continuance or other postponement if the delay will adversely affect the
34 mental or emotional health or well-being of the child. The court shall make
35 an appropriate order for detention or temporary care of the child subject to
36 supervision of the court during the period of any continuance.

37 9. If the court finds by preponderance of the evidence that the child is
38 in need of supervision or is in need of commitment to an institution for the
39 mentally retarded, the court may proceed immediately, or at a postponed
40 hearing, to make proper disposition of the case.

41 10. Except as otherwise provided in subsection 11, the court shall
42 make its final disposition of a case no later than 60 days after the petition
43 was filed.

44 11. The court may extend the time for final disposition of a case by
45 filing an order setting forth specific reasons for the extension:

- 46 (a) No later than 60 days after the petition was filed; or
47 (b) Later than 60 days after the petition was filed, if the court finds that
48 the extension would serve the interests of justice. In deciding whether an
49 extension would serve the interests of justice, the court shall consider:



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- 1 (1) The gravity of the act alleged in the case;
- 2 (2) The reasons for any delay in the disposition of the case; and
- 3 (3) The potential consequences to the child, victim and public of not
- 4 extending the time for final disposition of the case.
- 5 An extension of time for final disposition of a case granted pursuant to this
- 6 subsection must not exceed 1 year from the date of filing the petition.
- 7 12. The prosecuting attorney shall disclose to the victim of an act
- 8 committed by a child the disposition of the child's case regarding that act if
- 9 the victim, or a parent or guardian of the victim, requests such a disclosure.
- 10 All personal information, including, but not limited to, a current or former
- 11 address, which pertains to a victim or a parent or guardian of a victim and
- 12 which is received by the prosecuting attorney pursuant to this subsection is
- 13 confidential.

