

ASSEMBLY BILL NO. 329—ASSEMBLYMAN PERKINS

MARCH 21, 2005

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing juvenile justice.
(BDR 5-66)

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 juvenile justice; providing the juvenile court the power to designate proceedings as extended jurisdiction juvenile prosecutions; to allow certain criminal prosecutions by a juvenile court; providing that a juvenile court may impose certain adult sentences in extended jurisdiction juvenile prosecutions; providing for placement of a child who violates parole in a facility for detention of children or a county jail; providing that records of extended jurisdiction juvenile prosecutions must not be sealed; providing that certain information may be released to and published by news media regarding a child subject to an extended jurisdiction juvenile prosecution; 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.** Chapter 62A of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 ***“Extended jurisdiction juvenile prosecution” means a criminal***
4 ***prosecution in a juvenile court pursuant to section 3 of this act.***

5 **Sec. 2.** NRS 62A.010 is hereby amended to read as follows:

6 62A.010 As used in this title, unless the context otherwise
7 requires, the words and terms defined in NRS 62A.020 to 62A.350,



1 inclusive, *and section 1 of this act* have the meanings ascribed to
2 them in those sections.

3 **Sec. 3.** Chapter 62B of NRS is hereby amended by adding
4 thereto a new section to read as follows:

5 *1. Upon a motion by the district attorney and after a full*
6 *investigation, a juvenile court may designate a proceeding as an*
7 *extended jurisdiction juvenile prosecution if the juvenile court*
8 *would otherwise be allowed or required to certify the child for*
9 *criminal proceedings as an adult pursuant to subsection 1 or 2 of*
10 *NRS 62B.390. In determining whether to designate the proceeding*
11 *as an extended jurisdiction juvenile prosecution, the juvenile court*
12 *shall consider:*

13 *(a) The nature and seriousness of the charged offense;*

14 *(b) The persistency and seriousness of past offenses; and*

15 *(c) The personal factors of the child, including, without*
16 *limitation, age, maturity, character, personality and family*
17 *relationships.*

18 *↪ The juvenile court shall accord greater weight to the factors in*
19 *paragraphs (a) and (b) and shall not rely upon the factors in*
20 *paragraph (c) as the sole basis for a decision to designate or not to*
21 *designate the proceeding as an extended jurisdiction juvenile*
22 *prosecution.*

23 *2. If the juvenile court designates the proceeding on an*
24 *offense as an extended jurisdiction juvenile prosecution pursuant*
25 *to subsection 1, the juvenile court shall also designate as an*
26 *extended jurisdiction juvenile prosecution a proceeding on any*
27 *other related offense arising out of the same facts, regardless of*
28 *the nature of the related offense.*

29 *3. The Nevada Criminal Procedure Law, as provided in*
30 *title 14 of NRS is applicable to any proceeding designated as an*
31 *extended jurisdiction juvenile prosecution.*

32 *4. A child who is the subject of an extended jurisdiction*
33 *juvenile prosecution has the right to trial by jury, to the effective*
34 *assistance of counsel and to all other rights of an adult in a*
35 *criminal proceeding.*

36 **Sec. 4.** NRS 62B.390 is hereby amended to read as follows:

37 62B.390 1. Except as otherwise provided in subsection 2 and
38 NRS 62B.400, upon a motion by the district attorney and after a full
39 investigation, the juvenile court may certify a child for proper
40 criminal proceedings as an adult to any court that would have
41 jurisdiction to try the offense if committed by an adult, if the child:

42 (a) Is charged with an offense that would have been a felony if
43 committed by an adult; and

44 (b) Was 14 years of age or older at the time the child allegedly
45 committed the offense.



2. Except as otherwise provided in subsection 3 ~~H~~ *and unless the juvenile court designates the proceedings as an extended jurisdiction juvenile prosecution pursuant to section 3 of this act,* upon a motion by the district attorney and after a full investigation, the juvenile court shall certify a child for proper criminal proceedings as an adult to any court that would have jurisdiction to try the offense if committed by an adult, if the child:

(a) Is charged with:

(1) A sexual assault involving the use or threatened use of force or violence against the victim; or

(2) An offense or attempted offense involving the use or threatened use of a firearm; and

(b) Was 14 years of age or older at the time the child allegedly committed the offense.

3. The juvenile court shall not certify a child for criminal proceedings as an adult pursuant to subsection 2 if the juvenile court specifically finds by clear and convincing evidence that:

(a) The child is developmentally or mentally incompetent to understand his situation and the proceedings of the court or to aid his attorney in those proceedings; or

(b) The actions of the child were substantially the result of the substance abuse or emotional or behavioral problems of the child and the substance abuse or emotional or behavioral problems may be appropriately treated through the jurisdiction of the juvenile court.

4. If a child is certified for criminal proceedings as an adult pursuant to subsection 1 or 2, the juvenile court shall also certify the child for criminal proceedings as an adult for any other related offense arising out of the same facts as the offense for which the child was certified, regardless of the nature of the related offense.

5. If a child has been certified for criminal proceedings as an adult pursuant to subsection 1 or 2 and the child's case has been transferred out of the juvenile court:

(a) The court to which the case has been transferred has original jurisdiction over the child;

(b) The child may petition for transfer of the case back to the juvenile court only upon a showing of exceptional circumstances; and

(c) If the child's case is transferred back to the juvenile court, the juvenile court shall determine whether the exceptional circumstances warrant accepting jurisdiction.

Sec. 5. NRS 62B.410 is hereby amended to read as follows:

62B.410 Except as otherwise provided in NRS 62F.110 and 62F.220, if a child is subject to the jurisdiction of the juvenile court, the juvenile court:



1 1. May terminate its jurisdiction concerning the child at any
2 time, either on its own volition or for good cause shown; ~~or~~

3 2. May retain jurisdiction over the child until the child reaches
4 21 years of age ~~or~~; or

5 *3. May retain jurisdiction over a person 21 years of age or*
6 *older if the person was the subject of an extended jurisdiction*
7 *juvenile prosecution that resulted in the imposition of an adult*
8 *sentence.*

9 **Sec. 6.** NRS 62D.010 is hereby amended to read as follows:

10 62D.010 1. ~~Each~~ *Except as otherwise provided in this title*
11 *for extended jurisdiction juvenile prosecutions, each* proceeding
12 conducted pursuant to the provisions of this title:

13 (a) Is not criminal in nature.

14 (b) Must be heard separately from the trial of cases against
15 adults.

16 (c) Must be heard without a jury.

17 (d) May be conducted in an informal manner.

18 (e) May be held at a facility for the detention of children or
19 elsewhere at the discretion of the juvenile court.

20 (f) Does not require stenographic notes or any other transcript of
21 the proceeding unless ordered by the juvenile court.

22 2. Except as otherwise provided in this subsection, each
23 proceeding conducted pursuant to the provisions of this title must be
24 open to the public. If the juvenile court determines that all or part of
25 the proceeding must be closed to the public because the closure is in
26 the best interests of the child or the public:

27 (a) The public must be excluded; and

28 (b) The juvenile court may order that only those persons who
29 have a direct interest in the case may be admitted. The juvenile court
30 may determine that a victim or any member of the victim's family is
31 a person who has a direct interest in the case and may be admitted.

32 **Sec. 7.** Chapter 62E of NRS is hereby amended by adding
33 thereto the provisions set forth as sections 8 and 9 of this act.

34 **Sec. 8. 1.** *Except as otherwise provided in section 9 of this*
35 *act, in any extended jurisdiction juvenile prosecution that results*
36 *in a guilty plea or finding of guilt, the juvenile court may:*

37 (a) *Impose a juvenile sentence to be served in a state facility*
38 *for the detention of children;*

39 (b) *Impose an adult sentence to be served in state prison;*

40 (c) *Impose a sentence to be served in part in a state facility for*
41 *the detention of children and in part in state prison; or*

42 (d) *Impose an adult criminal sentence, the execution of which*
43 *is stayed on the condition that the child not violate the provisions*
44 *of the juvenile sentence and not commit a new offense.*



2. *The juvenile court shall conduct a hearing to review the sentence of a child sentenced pursuant to subsection 1 upon the child's reaching 18 years of age. If after the hearing the sentence is continued, the juvenile court shall set a date of further review not later than 36 months after the date of the hearing.*

3. *An extended jurisdiction juvenile prosecution that results in the imposition of a sentence described in paragraph (b), (c) or (d) of subsection 1 constitutes a criminal conviction.*

Sec. 9. *Notwithstanding any other provision of law, in an extended jurisdiction juvenile prosecution that results in a guilty plea or finding of guilt, the juvenile court may impose a sentence that is less than the minimum sentence prescribed by law for committing the offense that is the subject of the guilty plea or finding of guilt. A sentence imposed in an extended jurisdiction juvenile prosecution must not exceed the maximum sentence prescribed by law for committing the offense that is the subject of the guilty plea or finding of guilt.*

Sec. 10. NRS 62E.010 is hereby amended to read as follows:

62E.010 1. ~~[A]~~ *Except as otherwise provided in section 8 of this act, a* child who is adjudicated pursuant to the provisions of this title is not a criminal and any adjudication is not a conviction, and a child may be charged with a crime or convicted in a criminal proceeding only as provided in this title.

2. *Except as otherwise provided by specific statute, an adjudication pursuant to the provisions of this title upon the status of a child does not impose any of the civil disabilities ordinarily resulting from conviction, and the disposition of a child or any evidence given in the juvenile court must not be used to disqualify the child in any future application for or appointment to the civil service.*

Sec. 11. NRS 62E.710 is hereby amended to read as follows:

62E.710 The juvenile court may order any child who is:

1. *Less than 18 years of age and who has been adjudicated delinquent and placed on probation **or parole** by the juvenile court to be placed in a facility for the detention of children for not more than 30 days for the violation of probation **[H] or parole.***

2. *At least 18 years of age but less than 21 years of age and who has been placed on probation **or parole** by the juvenile court to be placed in a county jail for the violation of probation **[H] or parole.***

Sec. 12. Chapter 62H of NRS is hereby amended by adding thereto a new section to read as follows:

The records relating to a child who is the subject of an extended jurisdiction juvenile prosecution must not be sealed pursuant to the provisions of NRS 62H.100 to 62H.170, inclusive.



1 **Sec. 13.** NRS 62H.020 is hereby amended to read as follows:
2 62H.020 1. A news medium may not publish, broadcast or air
3 the name or race of any child connected with any proceeding
4 conducted pursuant to the provisions of this title without a written
5 order of the juvenile court unless:

6 (a) The proceeding has been opened to the public pursuant to
7 NRS 62D.010; or

8 (b) The release of the information is authorized pursuant to
9 subsection 2.

10 2. An officer or employee of the juvenile court may release to a
11 news medium the name of a child and the nature of the charges
12 against the child, and any news medium may publish, broadcast or
13 air such information if:

14 (a) The child has been adjudicated delinquent on at least one
15 prior occasion for an unlawful act which would have been a felony
16 if committed by an adult and which resulted in death or serious
17 bodily injury, and the child is charged with committing another
18 unlawful act which would have been a felony if committed by an
19 adult; ~~for~~

20 (b) The child has been adjudicated delinquent on at least two
21 prior occasions for unlawful acts which would have been felonies if
22 committed by an adult, and the child is charged with committing
23 another unlawful act which would have been a felony if committed
24 by an adult ~~H~~; or

25 (c) *The child is the subject of an extended jurisdiction juvenile*
26 *prosecution.*

27 **Sec. 14.** NRS 62H.100 is hereby amended to read as follows:

28 62H.100 1. As used in NRS 62H.100 to 62H.170, inclusive,
29 *and section 12 of this act*, unless the context otherwise requires,
30 "records" means any records relating to a child who is within the
31 purview of this title and who:

32 (a) Is taken into custody by a peace officer or a probation officer
33 or is otherwise taken before a probation officer; or

34 (b) Appears before the juvenile court or any other court pursuant
35 to the provisions of this title.

36 2. The term includes records of arrest.

37 **Sec. 15.** NRS 62H.140 is hereby amended to read as follows:

38 62H.140 Except as otherwise provided in NRS 62H.150 ~~H~~ *and*
39 *section 12 of this act*, when a child reaches 21 years of age, all
40 records relating to the child must be sealed automatically.



