

SENATE BILL NO. 235—SENATORS PARKS, HORSFORD, WIENER,
WOODHOUSE, BREEDEN; CARE, COFFIN, COPENING AND LEE

MARCH 13, 2009

JOINT SPONSOR: ASSEMBLYWOMAN PIERCE

Referred to Committee on Judiciary

SUMMARY—Revises the provisions relating to the jurisdiction of
the juvenile court over certain offenses.
(BDR 5-553)

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; requiring a juvenile court to
hold a hearing to determine if certain persons should be
transferred to district court for criminal proceedings;
excluding certain crimes from the jurisdiction of the
juvenile court; and providing other matters properly
relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill requires a juvenile court to hold a hearing to determine whether the case of a person should be transferred from the juvenile court to the criminal court for criminal proceedings if: (1) the person is charged with the commission of a delinquent act that occurred when the person was at least 16 years of age but less than 18 years of age; (2) the delinquent act would have been a category A or B felony if committed by an adult; (3) the person is identified by law enforcement as having committed the delinquent act before the person reaches 21 years of age; and (4) the person is apprehended by law enforcement after the person reaches 21 years of age. If the juvenile court finds probable cause to believe that the person committed the delinquent act, the juvenile court is required to consider a number of factors in determining whether, based upon the interests of justice and the need for protection of the public, the charges should be dismissed and the person should be discharged or the case and record should be transferred for criminal proceedings.

Under existing law, the juvenile court does not have jurisdiction over certain offenses that are committed by juveniles, such as murder, attempted murder and other serious offenses. (NRS 62B.330) **Section 3** of this bill excludes from the



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jurisdiction of the juvenile court a category A or B felony and any other related offense arising out of the same facts as the category A or B felony if the person was at least 16 years of age but less than 18 years of age when the offense was committed and the person: (1) is not identified by law enforcement as having committed the offense and charged before the person reaches the age of 20 years, 3 months; or (2) is not identified by law enforcement as having committed the offense before the person reaches 21 years of age.

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

Section 1. NRS 62A.030 is hereby amended to read as follows:

62A.030 1. "Child" means:

(a) A person who is less than 18 years of age;

(b) A person who is less than 21 years of age and subject to the jurisdiction of the juvenile court for an unlawful act that was committed before the person reached 18 years of age; or

(c) A person who is otherwise subject to the jurisdiction of the juvenile court as a juvenile sex offender pursuant to the provisions of NRS 62F.200, 62F.220 and 62F.260.

2. The term does not include ~~the~~:

(a) A person who is excluded from the jurisdiction of the juvenile court pursuant to NRS 62B.330 ~~or a~~;

(b) A person who is transferred to the district court for criminal proceedings as an adult pursuant to section 2 of this act; or

(c) A person who is certified for criminal proceedings as an adult pursuant to NRS 62B.390 or 62B.400.

Sec. 2. Chapter 62B of NRS is hereby amended by adding thereto a new section to read as follows:

1. If:

(a) A person is charged with the commission of a delinquent act that occurred when the person was at least 16 years of age but less than 18 years of age;

(b) The delinquent act would have been a category A or B felony if committed by an adult;

(c) The person is identified by law enforcement as having committed the delinquent act before the person reaches 21 years of age; and

(d) The person is apprehended by law enforcement after the person reaches 21 years of age,

↳ the juvenile court has jurisdiction over the person to conduct a hearing and make the determinations required by this section in accordance with the provisions of this section.



2. The juvenile court shall conduct a hearing to determine whether there is probable cause to believe that the person committed the delinquent act.

3. If the juvenile court determines that there is not probable cause to believe that the person committed the delinquent act, the juvenile court shall dismiss the charges and discharge the person.

4. If the juvenile court determines that there is probable cause to believe that the person committed the delinquent act, the juvenile court shall determine whether, based upon the interests of justice and the need for protection of the public, to:

(a) Dismiss the charges; or

(b) Transfer the case for proper criminal proceedings to any court that would have jurisdiction over the delinquent act if the delinquent act were committed by an adult.

5. In determining the interests of justice and the need for protection of the public, the juvenile court shall consider:

(a) The number, date, nature and gravity of the delinquent acts committed by the person.

(b) Whether the delinquent acts involved the use of a weapon, violence or infliction of serious bodily injury.

(c) The impact to any victim of the person.

(d) The extent to which the person has already received punishment, counseling, therapy or treatment after the commission of the delinquent acts, and the response of the person to any such punishment, counseling, therapy or treatment.

(e) The behavior of the person since the date on which he committed the delinquent acts, including, without limitation, the character, maturity, educational progress and work history of the person.

(f) Any evidence that the person engaged in recent threats against any person or expressed the intent to commit a crime in the future.

(g) Psychological or psychiatric evidence that indicates a risk of recidivism.

(h) Any emotional or mental health condition that existed at the time of the commission of the delinquent act.

(i) Any physical conditions that minimize the risk of recidivism, including, without limitation, physical disability or illness.

(j) Any other factor the juvenile court finds relevant.

6. If the case is transferred for criminal proceedings pursuant to this section, the court shall also transfer any other related offense arising out of the same facts as the delinquent act, regardless of the nature of the related offense.



1 **7. The court to which the case is transferred has original**
2 **jurisdiction over the person.**

3 **8. A person held in custody pursuant to this section must be**
4 **held in the state prison, a county or city jail or detention facility**
5 **for adults and is entitled to bail as established in criminal**
6 **proceedings.**

7 **Sec. 3.** NRS 62B.330 is hereby amended to read as follows:

8 62B.330 1. Except as otherwise provided in this title, the
9 juvenile court has exclusive original jurisdiction over a child living
10 or found within the county who is alleged or adjudicated to have
11 committed a delinquent act.

12 2. For the purposes of this section, a child commits a
13 delinquent act if the child:

14 (a) Violates a county or municipal ordinance;

15 (b) Violates any rule or regulation having the force of law; or

16 (c) Commits an act designated a criminal offense pursuant to the
17 laws of the State of Nevada.

18 3. For the purposes of this section, each of the following acts
19 shall be deemed not to be a delinquent act, and the juvenile court
20 does not have jurisdiction over a person who is charged with
21 committing such an act:

22 (a) Murder or attempted murder and any other related offense
23 arising out of the same facts as the murder or attempted murder,
24 regardless of the nature of the related offense.

25 (b) Sexual assault or attempted sexual assault involving the use
26 or threatened use of force or violence against the victim and any
27 other related offense arising out of the same facts as the sexual
28 assault or attempted sexual assault, regardless of the nature of the
29 related offense, if:

30 (1) The person was 16 years of age or older when the sexual
31 assault or attempted sexual assault was committed; and

32 (2) Before the sexual assault or attempted sexual assault was
33 committed, the person previously had been adjudicated delinquent
34 for an act that would have been a felony if committed by an adult.

35 (c) An offense or attempted offense involving the use or
36 threatened use of a firearm and any other related offense arising out
37 of the same facts as the offense or attempted offense involving the
38 use or threatened use of a firearm, regardless of the nature of the
39 related offense, if:

40 (1) The person was 16 years of age or older when the offense
41 or attempted offense involving the use or threatened use of a firearm
42 was committed; and

43 (2) Before the offense or attempted offense involving the use
44 or threatened use of a firearm was committed, the person previously



1 had been adjudicated delinquent for an act that would have been a
2 felony if committed by an adult.

3 (d) A felony resulting in death or substantial bodily harm to the
4 victim and any other related offense arising out of the same facts as
5 the felony, regardless of the nature of the related offense, if:

6 (1) The felony was committed on the property of a public or
7 private school when pupils or employees of the school were present
8 or may have been present, at an activity sponsored by a public or
9 private school or on a school bus while the bus was engaged in its
10 official duties; and

11 (2) The person intended to create a great risk of death or
12 substantial bodily harm to more than one person by means of a
13 weapon, device or course of action that would normally be
14 hazardous to the lives of more than one person.

15 (e) *A category A or B felony and any other related offense*
16 *arising out of the same facts as the category A or B felony,*
17 *regardless of the nature of the related offense, if the person was at*
18 *least 16 years of age but less than 18 years of age when the offense*
19 *was committed, and:*

20 (1) *The person is not identified by law enforcement as*
21 *having committed the offense and charged before the person is at*
22 *least 20 years, 3 months of age, but less than 21 years of age; or*

23 (2) *The person is not identified by law enforcement as*
24 *having committed the offense until the person reaches 21 years of*
25 *age.*

26 (f) Any other offense if, before the offense was committed, the
27 person previously had been convicted of a criminal offense.

28 **Sec. 4.** NRS 62B.370 is hereby amended to read as follows:

29 62B.370 1. Except as otherwise provided in this title, a court
30 shall transfer a case and record to the juvenile court if, during the
31 pendency of a proceeding involving a criminal offense, it is
32 ascertained that the person who is charged with the offense was less
33 than 18 years of age when the person allegedly committed the
34 offense.

35 2. A court shall not transfer a case and record to the juvenile
36 court if the proceeding involves a criminal offense ~~excluded~~ :

37 (a) *Excluded* from the original jurisdiction of the juvenile court
38 pursuant to NRS 62B.330 ~~or~~ ; *or*

39 (b) *Transferred to the court pursuant to section 2 of this act.*

40 3. A court making a transfer pursuant to this section shall:

41 (a) Order the child to be taken immediately to the place of
42 detention designated by the juvenile court;

43 (b) Order the child to be taken immediately to appear before the
44 juvenile court; or



- 1 (c) Release the child to the custody of a suitable person and
- 2 order the child to be brought before the juvenile court at a time
- 3 designated by the juvenile court.

