

ASSEMBLY BILL NO. 152—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON
CHILD WELFARE AND JUVENILE JUSTICE)

FEBRUARY 20, 2013

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to sexually exploited children. (BDR 5-62)

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 juveniles; providing that a sexually exploited child is a child in need of supervision for the purposes of juvenile court proceedings; revising provisions governing the detention of sexually exploited children; revising provisions governing juvenile court proceedings involving sexually exploited children; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the juvenile court has exclusive jurisdiction over a juvenile: (1) who is alleged or adjudicated to be in need of supervision because he or she is a habitual truant, an unmanageable child or a runaway or has transmitted, distributed or possessed a sexual image in violation of NRS 200.737; or (2) who is alleged or adjudicated to be delinquent because he or she has committed certain crimes. (NRS 62B.320, 62B.330) **Sections 1 and 4** of this bill provide that a child who is under the age of 18 years and who engages in or attempts to engage in prostitution or any other commercial sex act is a sexually exploited child and a child in need of supervision for the purposes of juvenile court proceedings. **Section 3** of this bill makes such a child subject to the exclusive jurisdiction of the juvenile court.

Under existing law, certain children alleged to be in need of supervision are required to be released within 24 hours after being taken into custody and detained. (NRS 62C.050) **Section 5** of this bill creates an exception to this requirement for a sexually exploited child.

Under existing law, if a petition is filed alleging that a child is in need of supervision and the child has not previously been found to be within the jurisdiction of the juvenile court, the juvenile court is required to admonish the child and refer him or her to services available in the community, unless the child is alleged to be a



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19 habitual truant. (NRS 62E.410) **Section 6** of this bill makes this requirement
20 inapplicable to a child who is alleged to be a sexually exploited child.

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 1. *“Sexually exploited child” means a child who is less than*
4 *18 years of age and who is alleged or adjudicated to have engaged*
5 *or attempted to engage in a commercial sex act, including, without*
6 *limitation, prostitution as defined in NRS 201.295.*

7 2. *As used in this section, “commercial sex act” means any*
8 *sex act on account of which anything of value is given to or*
9 *received by any person.*

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

11 62A.010 As used in this title, unless the context otherwise
12 requires, the words and terms defined in NRS 62A.020 to 62A.350,
13 inclusive, *and section 1 of this act* have the meanings ascribed to
14 them in those sections.

15 **Sec. 3.** NRS 62B.320 is hereby amended to read as follows:

16 62B.320 1. Except as otherwise provided in this title, the
17 juvenile court has exclusive original jurisdiction in proceedings
18 concerning any child living or found within the county who is
19 alleged or adjudicated to be in need of supervision because the
20 child:

21 (a) Is subject to compulsory school attendance and is a habitual
22 truant from school;

23 (b) Habitually disobeys the reasonable and lawful demands of
24 the parent or guardian of the child and is unmanageable;

25 (c) Deserts, abandons or runs away from the home or usual
26 place of abode of the child and is in need of care or rehabilitation;

27 ~~for~~
28 (d) Uses an electronic communication device to transmit or
29 distribute a sexual image of himself or herself to another person or
30 to possess a sexual image in violation of NRS 200.737 ~~H~~ ; *or*

31 *(e) Is a sexually exploited child.*

32 2. A child who is subject to the jurisdiction of the juvenile
33 court pursuant to this section must not be considered a delinquent
34 child.

35 3. As used in this section:

36 (a) “Electronic communication device” has the meaning
37 ascribed to it in NRS 200.737.

38 (b) “Sexual image” has the meaning ascribed to it in
39 NRS 200.737.



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1 **Sec. 4.** NRS 62B.330 is hereby amended to read as follows:

2 62B.330 1. Except as otherwise provided in this title, the
3 juvenile court has exclusive original jurisdiction over a child living
4 or found within the county who is alleged or adjudicated to have
5 committed a delinquent act.

6 2. ~~For~~ *Except as otherwise provided in subsection 3, for* the
7 purposes of this section, a child commits a delinquent act if the
8 child:

9 (a) Violates a county or municipal ordinance;

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

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

13 3. *The provisions of subsection 2 do not apply to a sexually*
14 *exploited child.*

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

19 (a) Murder or attempted murder and any other related offense
20 arising out of the same facts as the murder or attempted murder,
21 regardless of the nature of the related offense.

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

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

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

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

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

40 (2) Before the offense or attempted offense involving the use
41 or threatened use of a firearm was committed, the person previously
42 had been adjudicated delinquent for an act that would have been a
43 felony if committed by an adult.



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

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

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

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

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

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

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

Sec. 5. NRS 62C.050 is hereby amended to read as follows:

62C.050 1. Except as otherwise provided in this section, if a child who is alleged to be in need of supervision is taken into custody and detained, the child must be released not later than 24 hours, excluding Saturdays, Sundays and holidays, after the child's initial contact with a peace officer or probation officer to:

(a) A parent or guardian of the child;

(b) Any other person who is able to provide adequate care and supervision for the child; or

(c) Shelter care.

2. A child does not have to be released pursuant to subsection 1 if the juvenile court:

(a) Holds a detention hearing;

(b) Determines that the child:

(1) Has threatened to run away from home or from the shelter;

(2) Is accused of violent behavior at home; ~~to~~

(3) *Is a sexually exploited child; or*

(4) Is accused of violating the terms of a supervision and consent decree; and



(c) Determines that the child needs to be detained to make an alternative placement for the child.

➔ The child may be detained for an additional 24 hours but not more than 48 hours after the detention hearing, excluding Saturdays, Sundays and holidays.

3. A child does not have to be released pursuant to this section if the juvenile court:

(a) Holds a detention hearing; and

(b) Determines that the child:

(1) Is a ward of a federal court or held pursuant to a federal statute;

(2) Has run away from another state and a jurisdiction within that state has issued a want, warrant or request for the child; or

(3) Is accused of violating a valid court order.

➔ The child may be detained for an additional period as necessary for the juvenile court to return the child to the jurisdiction from which the child originated or to make an alternative placement for the child.

4. For the purposes of this section, an alternative placement must be in a facility in which there are no physical restraining devices or barriers.

Sec. 6. NRS 62E.410 is hereby amended to read as follows:

62E.410 1. If a petition is filed alleging that a child is in need of supervision and the child previously has not been found to be within the purview of this title, the juvenile court:

(a) Shall admonish the child to obey the law and to refrain from repeating the acts for which the petition was filed;

(b) Shall maintain a record of the admonition;

(c) Shall refer the child to services available in the community for counseling, behavioral modification and social adjustment; and

(d) Shall not adjudicate the child to be in need of supervision, unless a subsequent petition based upon additional facts is filed with the juvenile court after admonition and referral pursuant to this subsection.

2. If a child is not subject to the provisions of subsection 1, the juvenile court may not adjudicate the child to be in need of supervision unless the juvenile court expressly finds that reasonable efforts were taken in the community to assist the child in ceasing the behavior for which the child is alleged to be in need of supervision.

3. The provisions of this section do not apply to a child who is alleged to be in need of supervision because the child is a habitual truant ~~or~~ *or is a sexually exploited child.*

