

## Amendment No. 309

Assembly Amendment to Assembly Bill No. 202

(BDR 5-64)

Proposed by: Assembly Committee on Judiciary

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

BAW



Date: 4/12/2013

A.B. No. 202—Revises various provisions relating to juveniles charged as adults for committing certain crimes. (BDR 5-64)



## ASSEMBLY BILL NO. 202—COMMITTEE ON JUDICIARY

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

MARCH 4, 2013

Referred to Committee on Judiciary

SUMMARY—Revises various provisions relating to juveniles charged as adults for committing certain crimes. (BDR 5-64)

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 juvenile justice; revising the list of offenses that are excluded from the original jurisdiction of the juvenile court; authorizing a child who is certified for adult criminal proceedings to petition the court for placement in a state juvenile detention facility during the pendency of the proceeding; requiring ~~in a child who is sentenced to a term of imprisonment to serve the term in a state juvenile detention facility until he or she reaches the age of 18 years; providing for parole eligibility at the age of 25 years for certain prisoners;~~ **the Legislative Committee on Child Welfare and Juvenile Justice to appoint a task force to study certain issues relating to juveniles;** and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides that the juvenile court has exclusive jurisdiction over a child who is alleged to have committed an act designated as a criminal offense unless: (1) the criminal offense is excluded from the jurisdiction of the juvenile court; or (2) the child is alleged to have committed an offense for which the juvenile court may certify the child for criminal proceedings as an adult and the juvenile court certifies the child for criminal proceedings as an adult upon a motion by the district attorney and after a full investigation. (NRS 62B.330, 62B.390)

Under existing law, the offenses excluded from the jurisdiction of the juvenile court include, without limitation, murder ~~and~~ attempted murder ~~, offenses or attempted offenses involving the use or threatened use of a firearm which are committed by certain juveniles who were 16 years of age or older when the offense or attempted offense was committed, certain felonies resulting in death or substantial bodily harm to the victim which involve school property or school related activities, and other serious offenses.~~ (NRS 62B.330) **Section 1** of this bill provides that ~~(1)~~ murder and attempted murder are excluded from the jurisdiction of the juvenile court only if the offense was committed by a child who was ~~16~~ **12** years of age or older when he or she committed the offense ~~, (2) offenses or attempted offenses involving the use or threatened use of a firearm committed by certain~~

~~children who were 16 years of age or older when the offense or attempted offense was committed are not excluded from the jurisdiction of the juvenile court; and (2) certain felonies resulting in death or substantial bodily harm to the victim which involve school property or school related activities are not excluded from the jurisdiction of the juvenile court.~~

Under existing law, during the pendency of the proceeding, a child who is charged with a crime which is excluded from the original jurisdiction of the juvenile court may petition the juvenile court for temporary placement in a facility for the detention of children. (NRS 62C.030) **Section 2** of this bill authorizes a child who is certified for criminal proceedings as an adult to petition the juvenile court for temporary placement in a facility for the detention of children during the pendency of the proceeding.

~~Section 3 of this bill requires a person who is less than 18 years of age and who is sentenced as an adult to a term of imprisonment for committing a crime to serve the term in a state juvenile detention facility until the person reaches the age of 18 years, unless the court determines that he or she may be dangerous to another juvenile.~~

~~Section 4 of this bill provides that certain prisoners who were sentenced to terms of imprisonment as an adult for nonhomicide crimes they committed when they were less than 18 years of age become eligible for release from prison on parole at the age of 25 years.~~

**Section 10 of this bill requires the Legislative Committee on Child Welfare and Juvenile Justice to create a task force to study certain issues relating to juvenile justice.**

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

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

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

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

(a) Violates a county or municipal ordinance;

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

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

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

(a) Murder or attempted murder and any other related offense arising out of the same facts as the murder or attempted murder, regardless of the nature of the related offense ~~if the person was 16 or 12 years of age or older when the murder or attempted murder was committed.~~

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

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

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

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

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

(2) Before the offense or attempted offense involving the use or threatened use of a firearm was committed, the person previously had been adjudicated delinquent for an act that would have been a 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~~ Any other offense if, before the offense was committed, the person previously had been convicted of a criminal offense.

**Sec. 2.** NRS 62C.030 is hereby amended to read as follows:

62C.030 1. If a child is not alleged to be delinquent or in need of supervision, the child must not, at any time, be confined or detained in:

(a) A facility for the secure detention of children; or

(b) Any police station, lockup, jail, prison or other facility in which adults are detained or confined.

2. If a child is alleged to be delinquent or in need of supervision, the child must not, before disposition of the case, be detained in a facility for the secure detention of children unless there is probable cause to believe that:

(a) If the child is not detained, the child is likely to commit an offense dangerous to the child or to the community, or likely to commit damage to property;

(b) The child will run away or be taken away so as to be unavailable for proceedings of the juvenile court or to its officers;

(c) The child was taken into custody and brought before a probation officer pursuant to a court order or warrant; or

(d) The child is a fugitive from another jurisdiction.

3. If a child is less than 18 years of age, the child must not, at any time, be confined or detained in any police station, lockup, jail, prison or other facility where the child has regular contact with any adult who is confined or detained in the facility and who has been convicted of a criminal offense or charged with a criminal offense, unless:

(a) The child is alleged to be delinquent;

(b) An alternative facility is not available; and

(c) The child is separated by sight and sound from any adults who are confined or detained in the facility.

4. During the pendency of a proceeding involving ~~the~~:

1 (a) A criminal offense excluded from the original jurisdiction of the juvenile  
2 court pursuant to NRS 62B.330 ~~H~~; or

3 (b) A child who is certified for criminal proceedings as an adult pursuant to  
4 NRS 62B.390,

5 a child may petition the juvenile court for temporary placement in a facility for  
6 the detention of children.

7 Sec. 3. ~~Chapter 176 of NRS is hereby amended by adding thereto a new~~  
8 ~~section to read as follows:~~

9 ~~1. If a person who is less than 18 years of age is sentenced to serve a term of~~  
10 ~~imprisonment in the state prison, the court must order the person to be housed in~~  
11 ~~a state facility for the detention of children until he or she reaches the age of 18~~  
12 ~~years, except that the court may order the person to be immediately placed in the~~  
13 ~~custody of the Department of Corrections if the court determines that the person~~  
14 ~~may present a danger to others in the state facility for the detention of children.~~

15 ~~2. As soon as practicable after a person who is housed in a state facility for~~  
16 ~~the detention of children pursuant to subsection 1 reaches the age of 18 years, the~~  
17 ~~state facility for the detention of children shall transfer the person to the custody of~~  
18 ~~the Department of Corrections.~~

19 ~~3. As used in this section, "state facility for the detention of children" has~~  
20 ~~the meaning ascribed to it in NRS 62A.330.~~ (Deleted by amendment.)

21 Sec. 4. ~~Chapter 213 of NRS is hereby amended by adding thereto a new~~  
22 ~~section to read as follows:~~

23 ~~1. Unless eligible for parole sooner pursuant to this section and NRS~~  
24 ~~213.107 to 213.157, inclusive, a prisoner who was convicted of one or more~~  
25 ~~nonhomicide crimes committed when the prisoner was less than 18 years of age is~~  
26 ~~eligible for parole when the prisoner reaches 25 years of age, regardless of~~  
27 ~~whether the prisoner has served the minimum term of imprisonment to which he~~  
28 ~~or she was sentenced and regardless of whether a concurrent or consecutive~~  
29 ~~sentence remains to be served, if the prisoner was sentenced to:~~

30 ~~(a) A minimum term of imprisonment of not less than 10 years; or~~  
31 ~~(b) A minimum aggregate sentence of not less than 10 years.~~

32 ~~2. A prisoner described in subsection 1 is eligible for release on parole upon~~  
33 ~~reaching 25 years of age if:~~

34 ~~(a) The prisoner has completed a program of general education or an~~  
35 ~~industrial or vocational training program, unless this requirement has been~~  
36 ~~waived because of the prisoner's disability as shown by:~~

37 ~~(1) The individualized education program of the prisoner;~~

38 ~~(2) The accommodation plan of the prisoner created pursuant to section~~  
39 ~~504 of the federal Rehabilitation Act of 1973, 29 U.S.C. § 794; or~~

40 ~~(3) A psychological evaluation of the prisoner;~~

41 ~~(b) The prisoner has not been identified as a member of a group that poses a~~  
42 ~~security threat pursuant to the procedures for identifying security threats~~  
43 ~~established by the Department of Corrections; and~~

44 ~~(c) The prisoner has not, within the immediately preceding 24 months:~~

45 ~~(1) Committed a major violation of the regulations of the Department of~~  
46 ~~Corrections; or~~

47 ~~(2) Been housed in disciplinary segregation;~~

48 ~~3. If the Board grants parole to a prisoner pursuant to this section:~~

49 ~~(a) The Board must prescribe any conditions necessary for the orderly~~  
50 ~~conduct of the parolee upon his or her release.~~

51 ~~(b) The parolee must be supervised closely by the Division, in accordance~~  
52 ~~with the plan for supervision developed by the Chief pursuant to NRS 213.122.~~  
53 (Deleted by amendment.)

1       **Sec. 5.** ~~NRS 213.107 is hereby amended to read as follows:~~  
2       ~~213.107 As used in NRS 213.107 to 213.157, inclusive, and section 4 of this~~  
3       ~~act, unless the context otherwise requires:~~

4       ~~1. "Board" means the State Board of Parole Commissioners.~~  
5       ~~2. "Chief" means the Chief Parole and Probation Officer.~~  
6       ~~3. "Division" means the Division of Parole and Probation of the Department~~  
7       ~~of Public Safety.~~

8       ~~4. "Residential confinement" means the confinement of a person convicted of~~  
9       ~~a crime to his or her place of residence under the terms and conditions established~~  
10       ~~by the Board.~~

11       ~~5. "Sex offender" means any person who has been or is convicted of a sexual~~  
12       ~~offense.~~

13       ~~6. "Sexual offense" means:~~

14       ~~(a) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710,~~  
15       ~~200.720, subsection 2 of NRS 200.730, NRS 201.180, paragraph (a) or~~  
16       ~~subparagraph (2) of paragraph (b) of subsection 1 of NRS 201.195, NRS 201.230 or~~  
17       ~~201.450, or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of~~  
18       ~~subsection 5 of NRS 201.560;~~

19       ~~(b) An attempt to commit any offense listed in paragraph (a); or~~

20       ~~(c) An act of murder in the first or second degree, kidnapping in the first or~~  
21       ~~second degree, false imprisonment, burglary or invasion of the home if the act is~~  
22       ~~determined to be sexually motivated at a hearing conducted pursuant to NRS~~  
23       ~~475.547.~~

24       ~~7. "Standards" means the objective standards for granting or revoking parole~~  
25       ~~or probation which are adopted by the Board or the Chief.} (Deleted by~~  
26       ~~amendment.)~~

27       **Sec. 6.** ~~NRS 213.1213 is hereby amended to read as follows:~~

28       ~~213.1213 1. If a prisoner is sentenced pursuant to NRS 176.035 to serve two~~  
29       ~~or more concurrent sentences, whether or not the sentences are identical in length or~~  
30       ~~other characteristics, eligibility for parole from any of the concurrent sentences~~  
31       ~~must be based on the sentence which requires the longest period before the prisoner~~  
32       ~~is eligible for parole.~~

33       ~~2. Notwithstanding any other provision of law, if a prisoner is sentenced~~  
34       ~~pursuant to NRS 176.035 to serve two or more consecutive sentences of life~~  
35       ~~imprisonment with the possibility of parole:~~

36       ~~(a) For offenses committed on or after July 1, 2009:~~

37       ~~(1) All minimum sentences for such offenses must be aggregated;~~

38       ~~(2) The prisoner shall be deemed to be eligible for parole from all such~~  
39       ~~sentences after serving the minimum aggregate sentence; and~~

40       ~~(3) The Board is not required to consider the prisoner for parole until the~~  
41       ~~prisoner has served the minimum aggregate sentence [-] , unless the prisoner~~  
42       ~~becomes eligible for parole pursuant to section 4 of this act.~~

43       ~~(b) For offenses committed before July 1, 2009, in cases in which the prisoner~~  
44       ~~has not previously been considered for parole for any such offenses:~~

45       ~~(1) The prisoner may, by submitting a written request to the Director of the~~  
46       ~~Department of Corrections, make an irrevocable election to have the minimum~~  
47       ~~sentences for such offenses aggregated; and~~

48       ~~(2) If the prisoner makes such an irrevocable election to have the minimum~~  
49       ~~sentences for such offenses aggregated, the Board is not required to consider the~~  
50       ~~prisoner for parole until the prisoner has served the minimum aggregate sentence [-]~~  
51       ~~, unless the prisoner becomes eligible for parole pursuant to section 4 of this act.}~~  
52       ~~(Deleted by amendment.)~~

1        **Sec. 7.** ~~NRS 213.122 is hereby amended to read as follows:~~

2        ~~213.122 The Chief shall develop a statewide plan for the strict supervision of~~  
3 ~~parolees released pursuant to NRS 213.1215 [ ] or section 4 of this act. In addition~~  
4 ~~to such other provisions as the Chief deems appropriate, the plan must provide for~~  
5 ~~the supervision of such parolees by assistant parole and probation officers whose~~  
6 ~~caseload allows for enhanced supervision of the parolees under their charge unless,~~  
7 ~~because of the remoteness of the community to which the parolee is released,~~  
8 ~~enhanced supervision is impractical.] (Deleted by amendment.)~~

9        **Sec. 8.** ~~NRS 213.1519 is hereby amended to read as follows:~~

10        ~~213.1519 1. Except as otherwise provided in subsection 2, a parolee whose~~  
11 ~~parole is revoked by decision of the Board for a violation of any rule or regulation~~  
12 ~~governing his or her conduct:~~

13        ~~(a) Forfeits all credits for good behavior previously earned to reduce his or her~~  
14 ~~sentence pursuant to chapter 209 of NRS; and~~

15        ~~(b) Must serve such part of the unexpired maximum term of his or her original~~  
16 ~~sentence as may be determined by the Board.~~

17        ~~The Board may restore any credits forfeited under this subsection.~~

18        ~~2. A parolee released on parole pursuant to NRS 213.1215 and section 4 of~~  
19 ~~this act whose parole is revoked for having been convicted of a new felony:~~

20        ~~(a) Forfeits all credits for good behavior previously earned to reduce his or her~~  
21 ~~sentence pursuant to chapter 209 of NRS;~~

22        ~~(b) Must serve the entire unexpired maximum term of his or her original~~  
23 ~~sentence; and~~

24        ~~(c) May not again be released on parole during his or her term of~~  
25 ~~imprisonment.] (Deleted by amendment.)~~

26        **Sec. 9.** ~~The amendatory provisions of:~~

27        ~~1. Section 3 of this act apply to a person convicted of a crime on or after~~  
28 ~~October 1, 2013.~~

29        ~~2. Section 4 of this act apply to a person convicted of a crime before, on or~~  
30 ~~after October 1, 2013.] (Deleted by amendment.)~~

31        **Sec. 10. 1. The Legislative Committee on Child Welfare and Juvenile**  
32 **Justice created by NRS 218E.705 shall create a task force to study certain**  
33 **issues relating to juvenile justice in accordance with the provisions of this**  
34 **section.**

35        **2. The Chair of the Legislative Committee on Child Welfare and Juvenile**  
36 **Justice shall appoint to the task force the following nine voting members:**

37        **(a) One member of the Senate or Assembly, who shall serve as Chair of**  
38 **the task force.**

39        **(b) One member who is a district attorney.**

40        **(c) One member who is a public defender.**

41        **(d) One member from the Office of the Attorney General.**

42        **(e) One member from the Division of Child and Family Services of the**  
43 **Department of Health and Human Services.**

44        **(f) One member who is a judge of the juvenile court.**

45        **(g) One member who is a mental health professional.**

46        **(h) One member who is a representative from an organization that**  
47 **advocates on behalf of juveniles.**

48        **(i) The Director of the Department of Corrections.**

49        **3. The task force shall study the following issues and make its findings**  
50 **and any recommendations for proposed legislation:**

51        **(a) The laws in this State and other states, including an examination of**  
52 **best practices, pertaining to certification of juveniles as adults and offenses**  
53 **excluded from the jurisdiction of the juvenile court.**

1 (b) The advantages and disadvantages of blended sentencing.

2 (c) The ability of adult correctional facilities and institutions to provide  
3 appropriate housing and programming for youthful offenders who are  
4 convicted of crimes as adults and incarcerated in adult facilities and  
5 institutions.

6 (d) The ability of juvenile detention facilities to provide appropriate  
7 housing and programming for youthful offenders who are convicted of crimes  
8 as adults and detained in juvenile detention facilities.

9 (e) The costs and benefits of housing juvenile offenders who are convicted  
10 of crimes as adults in adult correctional facilities and institutions and in  
11 juvenile detention facilities.

12 (f) Proposed legislation that is necessary to implement any necessary or  
13 desirable changes in Nevada law relating to the issues set forth in this  
14 subsection.

15 4. The members of the task force, other than the Chair of the task force,  
16 serve without compensation, except that each such member is entitled, while  
17 engaged in the business of the task force and within the limits of available  
18 money, to the per diem allowance and travel expenses provided for state  
19 officers and employees generally.

20 5. Not later than 30 days after appointment, each member of the task  
21 force, other than the Chair of the task force, shall nominate one person to  
22 serve as his or her alternate member and submit the name of the person  
23 nominated to the Chair of the task force for appointment. An alternate  
24 member shall serve as a voting member of the task force when the appointed  
25 member who nominated the alternate member is disqualified or unable to  
26 serve.

27 6. The members of the task force shall hold not more than four meetings  
28 at the call of the Chair of the task force.

29 7. To the extent that money is available, including, without limitation,  
30 money from gifts, grants and donations, the Committee may fund the costs of  
31 the task force.

32 8. The Committee shall submit a report of the findings of the task force  
33 and its recommendations for legislation to the 78th Session of the Nevada  
34 Legislature.

35 Sec. 11. 1. This section and section 10 of this act become effective on  
36 July 1, 2013.

37 2. Sections 1 to 9, inclusive, of this act become effective on October 1,  
38 2013.