

Amendment No. 867

Senate Amendment to Assembly Bill No. 202 Third Reprint (BDR 5-64)

Proposed by: Senator Brower

Amendment Box: Consistent with Amendment No. 829.
 Conflicts with Amendments Nos. 844 and 858.

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

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

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: 5/24/2013

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; reducing the age at which a child may be certified as an adult for criminal proceedings; 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 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. (NRS 62B.330) **Section 1** of this bill provides that murder and attempted murder are excluded from the jurisdiction of the juvenile court only if the offense was committed by a child who was 14 years of age or older when he or she committed the offense. Under **section 11** of this bill, this provision becomes effective on October 1, 2014.

Under existing law, a child may be certified for criminal proceedings as an adult upon a motion by the district attorney and after a full investigation if the child: (1) is charged with an offense that would have been a felony if committed by an adult; and (2) was 14 years of age or older at the time the child allegedly committed the offense. Section 1.3 of this bill reduces the minimum age of such certification from 14 years of age to 13 years of age. Under section 11, this provision becomes effective on October 1, 2014.

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. Under **section 11**, this provision becomes effective on October 1, 2013.

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.

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 14 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 other offense if, before the offense was committed, the person previously had been convicted of a criminal offense.

Sec. 1.3. NRS 62B.390 is hereby amended to read as follows:

62B.390 1. Except as otherwise provided in subsection 2 and NRS 62B.400, upon a motion by the district attorney and after a full investigation, the juvenile court may 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 an offense that would have been a felony if committed by an adult; and

(b) Was ~~14~~ 13 years of age or older at the time the child allegedly committed the offense.

2. Except as otherwise provided in subsection 3, 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 16 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 the situation and the proceedings of the court or to aid the child's attorney in those proceedings; or

(b) The child has substance abuse or emotional or behavioral problems 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. 1.7. NRS 62B.400 is hereby amended to read as follows:

62B.400 1. A child shall be deemed to be a prisoner who has escaped or attempted to escape from lawful custody in violation of NRS 212.090, and proceedings may be brought against the child pursuant to the provisions of this section, if the child:

(a) Is committed to or otherwise is placed in a public or private facility for the detention or correctional care of children, including, but not limited to, all state, regional and local facilities for the detention of children; and

(b) Escapes or attempts to escape from such a facility.

2. Upon a motion by the district attorney and after a full investigation, the juvenile court may certify the child for criminal proceedings as an adult pursuant to subsection 1 of NRS 62B.390 if the child was ~~14~~ 13 years of age or older at the time of the escape or attempted escape and:

(a) The child was committed to or placed in the facility from which the child escaped or attempted to escape because the child had been charged with or had been adjudicated delinquent for an unlawful act that would have been a felony if committed by an adult; or

(b) The child or another person aiding the child used a dangerous weapon to facilitate the escape or attempted escape.

3. If the child is certified for criminal proceedings as an adult pursuant to subsection 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 escape or attempted escape, regardless of the nature of the related offense.

4. If the child is not certified for criminal proceedings as an adult pursuant to subsection 2 or otherwise is not subject to the provisions of subsection 2, the escape or attempted escape shall be deemed to be a delinquent act, and proceedings may be brought against the child pursuant to the provisions of this title.

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 ~~HH~~:

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

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

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

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

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

2. The Chair of the Legislative Committee on Child Welfare and Juvenile Justice shall appoint to the task force the following 10 voting members:

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

(b) One member who is a district attorney.

(c) One member who is a public defender.

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

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

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

(g) One member who is a director of juvenile services, as defined in NRS 62A.080.

(h) One member who is a mental health professional.

(i) One member who is a representative from an organization that advocates on behalf of juveniles.

(j) The Director of the Department of Corrections.

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

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

(b) The advantages and disadvantages of blended sentencing.

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

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

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

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

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

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

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

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

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

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

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

3. ~~Section~~ Sections 1, 1.3 and 1.7 of this act ~~becomes~~ become effective on October 1, 2014.