

Amendment No. 29

Assembly Amendment to Assembly Bill No. 82 (BDR 5-78)

Proposed by: Assembly Committee on Judiciary

Amends: Summary: Yes 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.

NCA/BAW



Date: 3/29/2013

A.B. No. 82—Revises provisions governing evidence in certain court proceedings.
(BDR 5-78)



ASSEMBLY BILL NO. 82—ASSEMBLYMAN FRIERSON

PREFILED FEBRUARY 1, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing evidence in certain court proceedings.
(BDR ~~(5-78)~~ 11-78)

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 evidence; ~~prohibiting a juvenile court from receiving evidence of the previous sexual conduct of a victim of a sexual assault;~~ prohibiting a court from receiving evidence of the previous sexual conduct of a child in proceedings related to the protection of children; prohibiting a court from receiving evidence of the previous sexual conduct of a child in proceedings related to the termination of parental rights; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Existing law provides that in a criminal proceeding involving a defendant who is an adult, a defendant accused of sexual assault or attempt or conspiracy to commit such a crime is prohibited from presenting evidence of any previous sexual conduct of the victim to challenge the victim's credibility as a witness unless the prosecutor has presented evidence or the victim has testified concerning such conduct. (NRS 50.090) Section 1 of this bill prohibits the introduction of such evidence in a juvenile court proceeding.~~

Existing law ~~also~~ provides that evidence may be presented in certain civil proceedings related to the protection of children. (Chapter 432B of NRS) **Section 2** of this bill ~~similarly~~ prohibits, in any proceeding related to the protection of children, the introduction of evidence of any previous sexual conduct of a child to challenge the child's credibility as a witness unless the child's attorney has presented evidence or the child has testified concerning such conduct. **Section 1.5 of this bill similarly prohibits the introduction of such evidence in proceedings regarding the termination of parental rights.**

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

Section 1. ~~NRS 62D.420 is hereby amended to read as follows:~~
~~62D.420 1. [In] Except as otherwise provided in subsection 2, in each proceeding conducted pursuant to the provisions of this title, the juvenile court may:~~

1 ~~— (a) Receive all competent, material and relevant evidence that may be helpful~~
2 ~~in determining the issues presented, including, but not limited to, oral and written~~
3 ~~reports; and~~

4 ~~— (b) Rely on such evidence to the extent of its probative value.~~

5 ~~2. In any prosecution for a delinquent act that would constitute the offense~~
6 ~~of sexual assault or attempt or conspiracy to commit sexual assault if the~~
7 ~~delinquent act were committed by an adult, the accused may not present evidence~~
8 ~~of any previous sexual conduct of the victim of the delinquent act to challenge the~~
9 ~~victim's credibility as a witness unless the district attorney has presented evidence~~
10 ~~or the victim has testified concerning such conduct, or the absence of such~~
11 ~~conduct, in which case the scope of the accused's cross examination of the victim~~
12 ~~or rebuttal must be limited to the evidence presented by the district attorney or~~
13 ~~victim.~~

14 ~~3. The juvenile court shall afford the parties and their attorneys an~~
15 ~~opportunity to examine and controvert each written report that is received into~~
16 ~~evidence and to cross examine each person who made the written report, when~~
17 ~~reasonably available.~~

18 ~~[3.] 4. In any proceeding involving a child for which the court has access to~~
19 ~~records relating to the custody of the child or the involvement of the child with an~~
20 ~~agency which provides child welfare services, the juvenile court may review those~~
21 ~~records to assist the court in determining the appropriate placement or plan of~~
22 ~~treatment for the child.~~

23 ~~[4.] 5. Except when a record described in subsection [3.] 4 would otherwise~~
24 ~~be admissible as evidence in the proceeding, the juvenile court shall not use a~~
25 ~~record reviewed pursuant to subsection [3.] 4 to prove that the child committed a~~
26 ~~delinquent act or is in need of supervision or for any purpose other than a purpose~~
27 ~~set forth in subsection [3.] 4. Except as otherwise provided in subsection [5.] 6,~~
28 ~~such records must not be disclosed or otherwise made open to inspection unless the~~
29 ~~records are admitted as evidence and used to determine the disposition of the case.~~

30 ~~[5.] 6. The juvenile court shall afford the parties and their attorneys an~~
31 ~~opportunity to examine and address any record reviewed by the juvenile court~~
32 ~~pursuant to subsection [3.]~~

33 ~~— 6.] 4.~~

34 ~~7. As used in this section, "agency which provides child welfare services" has~~
35 ~~the meaning ascribed to it in NRS 432B.030.] (Deleted by amendment.)~~

36 Sec. 1.5. Chapter 128 of NRS is hereby amended by adding thereto a
37 new section to read as follows:

38 In any proceeding held pursuant to this chapter involving a child who has
39 been the subject of a proceeding pursuant to chapter 432B of NRS, a party may
40 not present evidence of any previous sexual conduct of a child to challenge the
41 child's credibility as a witness unless the attorney for the child has first presented
42 evidence or the child has testified concerning such conduct, or the absence of
43 such conduct, on direct examination by the district attorney or the attorney for
44 the child, in which case the scope of the cross-examination of the child or
45 rebuttal must be limited to the evidence presented by the child's attorney or the
46 child.

47 Sec. 2. Chapter 432B of NRS is hereby amended by adding thereto a new
48 section to read as follows:

49 In any proceeding held pursuant to this chapter, a party may not present
50 evidence of any previous sexual conduct of a child to challenge the child's
51 credibility as a witness unless the attorney for the child has first presented
52 evidence or the child has testified concerning such conduct, or the absence of
53 such conduct, on direct examination by the district attorney or the attorney for

1 *the child. in which case the scope of the cross-examination of the child or*
2 *rebuttal must be limited to the evidence presented by the child's attorney or the*
3 *child.*