

Amendment No. 70

Senate Amendment to Senate Bill No. 108

(BDR 5-518)

Proposed by: Senate Committee on Judiciary

Amends: Summary: No Title: No 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.

VMS/DY



Date: 4/1/2013

S.B. No. 108—Revises provisions governing juvenile justice. (BDR 5-518)



SENATE BILL NO. 108—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE COMMISSION ON STATEWIDE
JUVENILE JUSTICE REFORM)

FEBRUARY 11, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing juvenile justice. (BDR 5-518)

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; providing that a child who violates certain local ordinances relating to curfews and loitering is to be treated by the juvenile court as a child in need of supervision rather than as a delinquent child; decreasing the length of time a child may remain in detention or shelter care pending the filing of a petition alleging delinquency or need of supervision; authorizing the juvenile court to order the Department of Motor Vehicles to issue a restricted driver's license to a child in certain circumstances; revising the statement of state policy concerning a probation program of special supervision for certain delinquent juveniles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a juvenile court has exclusive jurisdiction over proceedings concerning a child who is: (1) alleged or adjudicated to be in need of supervision as a result of certain acts committed by the child; or (2) alleged or adjudicated to have committed a delinquent act, including the violation of a county or municipal ordinance. (NRS 62B.320, 62B.330) **Sections 1 and 2** of this bill provide that a child who violates a county or municipal ordinance imposing a curfew on or restricting loitering by a child is to be adjudicated by the juvenile court as a child in need of supervision rather than as a delinquent child.

Under existing law, a child who is in detention or shelter care pending the filing of a petition alleging delinquency or need of supervision must be released if the district attorney has not filed the petition within 8 days after the complaint was referred to a probation officer. (NRS 62C.100) **Section 3** of this bill decreases the length of time that a child may remain in detention or shelter care pending the filing of a petition by requiring a child to be released if the district attorney has not filed a petition in juvenile court within ~~(72 hours)~~ **4 days** after the referral of the complaint to a probation officer, excluding Saturdays, Sundays and holidays. **Section 3 also provides that a juvenile court may, for good cause shown by the district attorney, allow an additional 4 days for the filing of the petition, excluding Saturdays, Sundays and holidays.**

Existing law authorizes the juvenile court to suspend or delay the issuance of the driver's license of a child who has been adjudicated delinquent or in need of supervision for certain

acts. (NRS 62E.250, 62E.430, 62E.630, 62E.640, 62E.650, 62E.690) Under existing law, the Department of Motor Vehicles may issue a restricted driver's license permitting a child whose driver's license has been revoked or suspended by the juvenile court to drive: (1) to and from work or in the course of work, or both; or (2) to and from school. (NRS 483.390) **Sections 4 and 6** of this bill authorize the juvenile court to order the Department of Motor Vehicles to issue a restricted driver's license to a child if: (1) the juvenile court has suspended or delayed the issuance of the child's driver's license because the child was adjudicated delinquent for the unlawful use, possession, sale or distribution of a controlled substance, or the unlawful purchase, consumption or possession of an alcoholic beverage; and (2) the juvenile court finds that the suspension or delay causes severe or undue hardship to the child or his or her immediate family.

Existing law establishes a program of special supervision of certain juveniles who have been adjudicated delinquent and authorizes the Department of Health and Human Services to adopt rules and distribute money to juvenile courts to carry out the program. (NRS 62G.400-62G.470) **Section 5** of this bill revises the statement of the state policy concerning the program.

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

Section 1. NRS 62B.320 is hereby amended to read as follows:

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

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

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

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

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

(e) Violates a county or municipal ordinance imposing a curfew on a child;

or
(f) Violates a county or municipal ordinance restricting loitering by a child.

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

3. As used in this section:

(a) "Electronic communication device" has the meaning ascribed to it in NRS 200.737.

(b) "Sexual image" has the meaning ascribed to it in NRS 200.737.

Sec. 2. 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 ~~H~~ *other than those specified in paragraph (e) or (f) of subsection 1 of NRS 62B.320;*

(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.

(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. 3. NRS 62C.100 is hereby amended to read as follows:

62C.100 1. When a complaint is made alleging that a child is delinquent or in need of supervision:

(a) The complaint must be referred to a probation officer of the appropriate county; and

(b) The probation officer shall conduct a preliminary inquiry to determine whether the best interests of the child or of the public:

(1) Require that a petition be filed; or

(2) Would better be served by placing the child under informal supervision pursuant to NRS 62C.200.

2. If, after conducting the preliminary inquiry, the probation officer recommends the filing of a petition, the district attorney shall determine whether to file the petition.

3. If, after conducting the preliminary inquiry, the probation officer does not recommend the filing of a petition or that the child be placed under informal supervision, the probation officer must notify the complainant regarding the complainant's right to seek a review of the complaint by the district attorney.

4. If the complainant seeks a review of the complaint by the district attorney, the district attorney shall:

(a) Review the facts presented by the complainant;

(b) Consult with the probation officer; and

(c) File the petition with the juvenile court if the district attorney believes that the filing of the petition is necessary to protect the interests of the child or of the public.

5. The determination of the district attorney concerning whether to file the petition is final.

6. Except as otherwise provided in NRS 62C.060, if a child is in detention or shelter care, the child must be released immediately if a petition alleging that the child is delinquent or in need of supervision is not:

(a) Approved by the district attorney; or

(b) Filed within ~~181~~ **4 days** ~~172 hours~~ after the ~~date~~ ~~time~~ the complaint was referred to the probation officer ~~†~~, **excluding Saturdays, Sundays and holidays ††, except that the juvenile court may, for good cause shown by the district attorney, allow an additional 4 days for the filing of the petition, excluding Saturdays, Sundays and holidays.**

Sec. 4. NRS 62E.630 is hereby amended to read as follows:

62E.630 1. Except as otherwise provided in this section, if a child is adjudicated delinquent for the unlawful act of using, possessing, selling or distributing a controlled substance, or purchasing, consuming or possessing an alcoholic beverage in violation of NRS 202.020, the juvenile court shall:

(a) If the child possesses a driver's license, issue an order suspending the driver's license of the child for at least 90 days but not more than 2 years; or

(b) If the child does not possess a driver's license and the child is or will be eligible to receive a driver's license within the 2 years immediately following the date of the order, issue an order prohibiting the child from receiving a driver's license for a period specified by the juvenile court which must be at least 90 days but not more than 2 years:

(1) Immediately following the date of the order, if the child is eligible to receive a driver's license; or

(2) After the date the child will be eligible to receive a driver's license, if the child is not eligible to receive a driver's license on the date of the order.

2. If the child is already the subject of a court order suspending or delaying the issuance of the driver's license of the child, the juvenile court shall order the additional suspension or delay, as appropriate, to apply consecutively with the previous order.

3. If the juvenile court finds that a suspension or delay in the issuance of the driver's license of a child pursuant to this section would cause or is causing a severe or undue hardship to the child or his or her immediate family and that the

1 *child is otherwise eligible to receive a driver's license, the juvenile court may*
2 *order the Department of Motor Vehicles to issue a restricted driver's license to*
3 *the child pursuant to NRS 483.490.*

4 *4. If the juvenile court issues an order requiring the Department of Motor*
5 *Vehicles to issue a restricted driver's license to a child pursuant to subsection 3,*
6 *not later than 5 days after issuing the order, the juvenile court shall forward to*
7 *the Department of Motor Vehicles a copy of the order.*

8 **Sec. 5.** NRS 62G.410 is hereby amended to read as follows:

9 62G.410 1. It is the policy of this state to ~~rehabilitate delinquent children,~~
10 ~~to effect a more even administration of justice and to increase~~ *effectuate a system*
11 *of youth interventions, in a civil arena, to improve outcomes for juveniles, to*
12 *diminish juvenile criminality, to facilitate juvenile accountability and to improve*
13 *juvenile health and welfare, fairly and equally in the best interest of the child and*
14 *in furtherance of the public welfare of the citizens of this state.*

15 2. It is the purpose of NRS 62G.400 to 62G.470, inclusive, to reduce the
16 necessity for commitment of delinquent children to a state facility for the detention
17 of children by strengthening and improving local supervision of children placed on
18 probation by the juvenile court.

19 **Sec. 6.** NRS 483.490 is hereby amended to read as follows:

20 483.490 1. Except as otherwise provided in this section, after a driver's
21 license has been suspended or revoked for an offense other than a second violation
22 within 7 years of NRS 484C.110, and one-half of the period during which the driver
23 is not eligible for a license has expired, the Department may, unless the statute
24 authorizing the suspension prohibits the issuance of a restricted license, issue a
25 restricted driver's license to an applicant permitting the applicant to drive a motor
26 vehicle:

27 (a) To and from work or in the course of his or her work, or both; or

28 (b) To acquire supplies of medicine or food or receive regularly scheduled
29 medical care for himself, herself or a member of his or her immediate family.

30 ➤ Before a restricted license may be issued, the applicant must submit sufficient
31 documentary evidence to satisfy the Department that a severe hardship exists
32 because the applicant has no alternative means of transportation and that the severe
33 hardship outweighs the risk to the public if the applicant is issued a restricted
34 license.

35 2. A person who has been ordered to install a device in a motor vehicle
36 pursuant to NRS 484C.460:

37 (a) Shall install the device not later than 21 days after the date on which the
38 order was issued; and

39 (b) May not receive a restricted license pursuant to this section until:

40 (1) After at least 1 year of the period during which the person is not
41 eligible for a license, if the person was convicted of:

42 (I) A violation of NRS 484C.430 or a homicide resulting from driving
43 or being in actual physical control of a vehicle while under the influence of
44 intoxicating liquor or a controlled substance or resulting from any other conduct
45 prohibited by NRS 484C.110, 484C.130 or 484C.430; or

46 (II) A violation of NRS 484C.110 that is punishable as a felony
47 pursuant to NRS 484C.410 or 484C.420;

48 (2) After at least 180 days of the period during which the person is not
49 eligible for a license, if the person was convicted of a violation of subsection 6 of
50 NRS 484B.653; or

51 (3) After at least 45 days of the period during which the person is not
52 eligible for a license, if the person was convicted of a first violation within 7 years
53 of NRS 484C.110.

1 3. If the Department has received a copy of an order requiring a person to
2 install a device in a motor vehicle pursuant to NRS 484C.460, the Department shall
3 not issue a restricted driver's license to such a person pursuant to this section unless
4 the applicant has submitted proof of compliance with the order and subsection 2.

5 4. ~~After~~ *Except as otherwise provided in NRS 62E.630, after* a driver's
6 license has been revoked or suspended pursuant to title 5 of NRS, the Department
7 may issue a restricted driver's license to an applicant permitting the applicant to
8 drive a motor vehicle:

9 (a) If applicable, to and from work or in the course of his or her work, or both;
10 or

11 (b) If applicable, to and from school.

12 5. After a driver's license has been suspended pursuant to NRS 483.443, the
13 Department may issue a restricted driver's license to an applicant permitting the
14 applicant to drive a motor vehicle:

15 (a) If applicable, to and from work or in the course of his or her work, or both;

16 (b) To receive regularly scheduled medical care for himself, herself or a
17 member of his or her immediate family; or

18 (c) If applicable, as necessary to exercise a court-ordered right to visit a child.

19 6. A driver who violates a condition of a restricted license issued pursuant to
20 subsection 1 or by another jurisdiction is guilty of a misdemeanor and, if the license
21 of the driver was suspended or revoked for:

22 (a) A violation of NRS 484C.110, 484C.210 or 484C.430;

23 (b) A homicide resulting from driving or being in actual physical control of a
24 vehicle while under the influence of intoxicating liquor or a controlled substance or
25 resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or
26 484C.430; or

27 (c) A violation of a law of any other jurisdiction that prohibits the same or
28 similar conduct as set forth in paragraph (a) or (b),

29 ➤ the driver shall be punished in the manner provided pursuant to subsection 2 of
30 NRS 483.560.

31 7. The periods of suspensions and revocations required pursuant to this
32 chapter and NRS 484C.210 must run consecutively, except as otherwise provided
33 in NRS 483.465 and 483.475, when the suspensions must run concurrently.

34 8. Whenever the Department suspends or revokes a license, the period of
35 suspension, or of ineligibility for a license after the revocation, begins upon the
36 effective date of the revocation or suspension as contained in the notice thereof.