

ASSEMBLY BILL NO. 113—COMMITTEE ON JUDICIARY

FEBRUARY 5, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the sealing of juvenile records. (BDR 5-444)

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 juvenile justice; revising provisions governing the sealing of juvenile records; setting forth factors that the juvenile court may consider in determining whether a child has been rehabilitated to the satisfaction of the juvenile court; providing that certain portions of juvenile records relating to certain civil judgments must not be sealed until the judgment is satisfied or expires; including the Chief of the Youth Parole Bureau of the Division of Child and Family Services of the Department of Health and Human Services as a person entitled to notification of the filing of a petition for the sealing of juvenile records and authorized to testify at a hearing on the petition if the circumstances warrant; revising the circumstances in which the juvenile court may order the inspection of sealed juvenile records; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, if a child is less than 21 years of age, the child or a probation officer on behalf of the child may petition the juvenile court for an order sealing all records relating to the child. (NRS 62H.130) **Section 1** of this bill revises the requirements for such a petition to be filed. Existing law also provides that the juvenile court shall enter an order sealing all records relating to a child if the juvenile court finds that: (1) during the previous 3 years, the child has not been convicted of a felony or of any misdemeanor involving moral turpitude; and (2) the child has been rehabilitated to the satisfaction of the juvenile court. (NRS 62H.130) **Section 1** instead provides that if the juvenile court makes such findings, then the juvenile court: (1) may enter an order sealing all records relating to the child if the child is less than 18 years of age; and (2) shall enter an order sealing all records



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relating to the child if the child is 18 years of age or older. **Section 1** also: (1) sets forth various factors that the juvenile court may consider in determining whether a child has been rehabilitated to the satisfaction of the juvenile court; and (2) provides that if the juvenile court retains jurisdiction over a civil judgment and a person against whom the civil judgment was entered, the case caption, case number and order entering the civil judgment must not be sealed until the civil judgment is satisfied or expires.

Existing law requires the juvenile court to notify the district attorney and, in certain circumstances, the chief probation officer, if a petition is filed to seal juvenile records. Additionally, the district attorney and the chief probation officer, any of their deputies or any other person who has evidence that is relevant to consideration of the petition is authorized to testify at the hearing on the petition. (NRS 62H.130, 62H.150) **Sections 1 and 3** of this bill include the Chief of the Youth Parole Bureau of the Division of Child and Family Services of the Department of Health and Human Services as a person who, if the circumstances warrant, is entitled to notification of the filing of a petition for the sealing of juvenile records and is authorized to testify at a hearing on the petition.

Existing law further provides that the juvenile court may order the inspection of juvenile records that are sealed in certain circumstances, including if the juvenile court determines that the inspection of the records is necessary to perform bona fide outcome and recidivism studies. (NRS 62H.170) **Section 4** of this bill: (1) adds to these circumstances the situation in which the person who is the subject of the records has committed an act which subjects the person to the jurisdiction of the juvenile court and which may form the basis of a civil action and a person who, in good faith, intends to bring or has brought the civil action, or any other person who is a party to the civil action, petitions the juvenile court to permit inspection of the records to obtain information relating to the person who is the subject of the records; and (2) specifies that performing bona fide outcome and recidivism studies may include using personal identifying information from sealed juvenile records to perform criminal background checks on persons who were adjudicated pursuant to title 5 of NRS.

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

Section 1. NRS 62H.130 is hereby amended to read as follows:

62H.130 1. If a child is less than 21 years of age, the child or a probation *or parole* officer on behalf of the child may petition the juvenile court for an order sealing all records relating to the child.

The petition may be filed ~~[not]~~:

(a) *Not* earlier than 3 years after the child ~~[~~:

~~—(a) Was~~ was last adjudicated in need of supervision, ~~[or]~~ adjudicated delinquent ~~[;]~~ or *placed under the supervision of the juvenile court pursuant to NRS 62C.230; and*

(b) ~~[Was last referred to the juvenile court,~~

~~→ whichever is later.] If, at the time the petition is filed, the child does not have any delinquent or criminal charges pending.~~



2. If a petition is filed pursuant to this section, the juvenile court shall notify the district attorney and, if a probation *or parole* officer is not the petitioner, the chief probation officer ~~[]~~ *or the Chief of the Youth Parole Bureau.*

3. The district attorney and the chief probation officer ~~[]~~ or any of their deputies, *the Chief of the Youth Parole Bureau or his or her designee*, or any other person who has evidence that is relevant to consideration of the petition may testify at the hearing on the petition.

4. ~~[After]~~ *Except as otherwise provided in subsection 6, after the hearing on the petition, [the juvenile court shall enter an order sealing all records relating to the child]* if the juvenile court finds that ~~[]~~

~~—(a) During]~~ *during* the applicable 3-year period, the child has not been convicted of a felony or of any misdemeanor involving moral turpitude ~~[]~~ and

~~[(b) The]~~ *the* child has been rehabilitated to the satisfaction of the juvenile court ~~[]~~, *the juvenile court:*

(a) May enter an order sealing all records relating to the child if the child is less than 18 years of age; and

(b) Shall enter an order sealing all records relating to the child if the child is 18 years of age or older.

5. *In determining whether a child has been rehabilitated to the satisfaction of the juvenile court pursuant to subsection 4, the juvenile court may consider:*

(a) The age of the child;

(b) The nature of the offense and the role of the child in the commission of the offense;

(c) The behavior of the child after the child was last adjudicated in need of supervision or adjudicated delinquent, placed under the supervision of the juvenile court pursuant to NRS 62C.230 or placed with a suitable person or in an appropriate facility by a probation officer pursuant to subsection 5 of NRS 62C.300;

(d) The response of the child to any treatment or rehabilitation program;

(e) The education and employment history of the child;

(f) The statement of the victim;

(g) The nature of any criminal offense for which the child was convicted;

(h) Whether the sealing of the record would be in the best interest of the child and the State; and

(i) Any other circumstance that may relate to the rehabilitation of the child.



6. *If the juvenile court retains jurisdiction over a civil judgment and a person against whom the civil judgment was entered pursuant to NRS 62B.420, the case caption, case number and order entering the civil judgment must not be sealed until the civil judgment is satisfied or expires. After the civil judgment is satisfied or expires, the child or a person named as a judgment debtor may file a petition to seal such information.*

Sec. 2. NRS 62H.140 is hereby amended to read as follows:

62H.140 Except as otherwise provided in NRS *62H.130 and* 62H.150, when a child reaches 21 years of age, all records relating to the child must be sealed automatically.

Sec. 3. NRS 62H.150 is hereby amended to read as follows:

62H.150 1. If a child is adjudicated delinquent for an unlawful act listed in subsection 6 and the records relating to that unlawful act have not been sealed by the juvenile court pursuant to NRS 62H.130 before the child reaches 21 years of age, *unless the records have not been sealed pursuant to subsection 6 of NRS 62H.130,* those records must not be sealed before the child reaches 30 years of age.

2. After the child reaches 30 years of age, the child may petition the juvenile court for an order sealing those records.

3. If a petition is filed pursuant to this section, the juvenile court shall notify the district attorney and the chief probation officer *or the Chief of the Youth Parole Bureau.*

4. The district attorney and the chief probation officer *or* any of their deputies, *the Chief of the Youth Parole Bureau or his or her designee,* or any other person who has evidence that is relevant to consideration of the petition may testify at the hearing on the petition.

5. After the hearing on the petition, the juvenile court may enter an order sealing the records relating to the child if the juvenile court finds that, during the period since the child reached 21 years of age, the child has not been convicted of any offense, except for minor moving or standing traffic offenses.

6. The provisions of this section apply to any of the following unlawful acts:

(a) An unlawful act which, if committed by an adult, would have constituted:

(1) Sexual assault pursuant to NRS 200.366;

(2) Battery with intent to commit sexual assault pursuant to NRS 200.400; or

(3) Lewdness with a child pursuant to NRS 201.230.

(b) An unlawful act which would have been a felony if committed by an adult and which involved the use or threatened use of force or violence.



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Sec. 4. NRS 62H.170 is hereby amended to read as follows:

62H.170 1. Except as otherwise provided in this section, if the records of a person are sealed:

(a) All proceedings recounted in the records are deemed never to have occurred; and

(b) The person may reply accordingly to any inquiry concerning the proceedings and the acts which brought about the proceedings.

2. The juvenile court may order the inspection of records that are sealed if:

(a) The person who is the subject of the records petitions the juvenile court to permit the inspection of the records by the persons named in the petition;

(b) An agency charged with the medical or psychiatric care of the person who is the subject of the records petitions the juvenile court to permit the inspection of the records by the agency;

(c) A ~~{district}~~ *prosecuting* attorney or ~~{an—attorney representing}~~ a defendant in a criminal action petitions the juvenile court to permit the inspection of the records to obtain information relating to the persons , *including the defendant*, who were involved in the acts detailed in the records; ~~{or}~~

(d) *The person who is the subject of the records has committed an act which subjects the person to the jurisdiction of the juvenile court and which may form the basis of a civil action and a person who, in good faith, intends to bring or has brought the civil action, or any other person who is a party to the civil action, petitions the juvenile court to permit the inspection of the records to obtain information relating to the person who is the subject of the records; or*

(e) The juvenile court determines that the inspection of the records is necessary to:

(1) Perform bona fide outcome and recidivism studies ~~{}~~ , *which may include, without limitation, using personal identifying information from sealed juvenile records to perform criminal background checks on persons who were adjudicated pursuant to this title;*

(2) Further bona fide research to determine the effectiveness of juvenile justice services;

(3) Improve the delivery of juvenile justice services; or

(4) Obtain additional resources for the delivery of juvenile justice services.

➔ Personal identifying information contained in records inspected *or obtained from criminal background checks* pursuant to this paragraph must remain confidential in a manner consistent with any applicable laws and regulations.



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1 3. Upon its own order, any court of this State may inspect
2 records that are sealed if the records relate to a person who is less
3 than 21 years of age and who is to be sentenced by the court in a
4 criminal proceeding.



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