

ASSEMBLY BILL NO. 216—ASSEMBLYMAN HAMBRICK

PREFILED FEBRUARY 13, 2017

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to the prosecution of certain persons. (BDR 5-293)

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 criminal procedure; establishing a presumption that a child acts in self-defense if he or she commits an act deemed not to be a delinquent act against a person who has physically or sexually abused or trafficked the child; providing that such a child is subject to the jurisdiction of the juvenile court in certain circumstances; establishing provisions relating to the admissibility of evidence of intimate partner battering or traumatic bonding and expert testimony concerning the nature and effects thereof in criminal proceedings; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that the juvenile court generally has exclusive original jurisdiction over a child living or found within the county who is alleged or adjudicated to have committed a delinquent act, which includes the commission of an act designated a criminal offense pursuant to the laws of this State. Certain acts committed by a child are deemed not to be a delinquent act, and the juvenile court does not have jurisdiction over a child charged with committing any such act. (NRS 62B.330) **Section 1** of this bill provides that if a child who is less than 18 years of age is charged with committing an offense against another person that is deemed not to be a delinquent act, there is a presumption that the child acted in self-defense if the person against whom the offense was committed physically or sexually abused or trafficked the child. **Section 1** also provides that if it is proven by clear and convincing evidence that the person against whom a child is charged with committing an offense committed any such act against the child, the child shall be deemed to have allegedly committed a delinquent act and is subject to the jurisdiction of the juvenile court for the purposes of adjudication and being provided any services necessary for rehabilitation and reentry into society.



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Section 3 of this bill provides that in a criminal proceeding, evidence of intimate partner battering or traumatic bonding and expert testimony concerning the nature and effects thereof that is offered by the prosecution or defense is admissible for any relevant purpose unless such expert testimony is being offered against a defendant to prove the occurrence of an act which forms the basis of a criminal charge against the defendant. **Section 3** also provides that expert testimony concerning the nature and effects of intimate partner battering or traumatic bonding must not be considered to be a new scientific technique for which the reliability thereof has not been proven. **Section 3** defines the term "intimate partner battering" as severe and escalating abuse upon a victim by a person with whom the victim shares an intimate relationship, and defines the term "traumatic bonding" as a strong emotional attachment between a victim of physical or sexual abuse, sex trafficking or domestic violence and the person committing such an act upon the victim that is formed as the result of a cycle of intermittent abuse.

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

Section 1. Chapter 62B of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding any other provision of law:

1. If a child who is less than 18 years of age is charged with committing an offense against another person that is deemed not to be a delinquent act pursuant to subsection 3 of NRS 62B.330, there is a presumption that the child acted in self-defense if the person against whom the offense was committed:

(a) Sexually abused the child, as "sexual abuse" is defined in NRS 432B.100;

(b) Trafficked the child in violation of subsection 2 of 201.300;
or

(c) Otherwise physically abused the child.

2. If it is proven by clear and convincing evidence that the person against whom a child is charged with committing an offense committed any of the acts set forth in paragraph (a), (b) or (c) of subsection 1, the child shall be deemed to have allegedly committed a delinquent act and is subject to the jurisdiction of the juvenile court pursuant to NRS 62B.330 for the purposes of adjudication and being provided any services necessary for rehabilitation and reentry into society.

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 other than those specified in paragraph (f) or (g) of subsection 1 of NRS 62B.320 or an offense related to tobacco;

(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~~ *Except as otherwise provided in section 1 of this act,* 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 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



1 private school or on a school bus while the bus was engaged in its
2 official duties; and

3 (2) The person intended to create a great risk of death or
4 substantial bodily harm to more than one person by means of a
5 weapon, device or course of action that would normally be
6 hazardous to the lives of more than one person.

7 (e) A category A or B felony and any other related offense
8 arising out of the same facts as the category A or B felony,
9 regardless of the nature of the related offense, if the person was at
10 least 16 years of age but less than 18 years of age when the offense
11 was committed, and:

12 (1) The person is not identified by law enforcement as
13 having committed the offense and charged before the person is at
14 least 20 years, 3 months of age, but less than 21 years of age; or

15 (2) The person is not identified by law enforcement as
16 having committed the offense until the person reaches 21 years of
17 age.

18 (f) Any other offense if, before the offense was committed, the
19 person previously had been convicted of a criminal offense.

20 **Sec. 3.** Chapter 48 of NRS is hereby amended by adding
21 thereto a new section to read as follows:

22 *1. Except as otherwise provided in subsection 2, evidence of*
23 *intimate partner battering or traumatic bonding and expert*
24 *testimony concerning the nature and effects of intimate partner*
25 *battering or traumatic bonding that is offered by the prosecution*
26 *or defense is admissible in a criminal proceeding for any relevant*
27 *purpose.*

28 *2. Expert testimony concerning the nature and effects of*
29 *intimate partner battering or traumatic bonding, including,*
30 *without limitation, the effect of physical, emotional or mental*
31 *abuse, on the beliefs, behavior and perception of the alleged victim*
32 *may not be offered against a defendant pursuant to subsection 1 to*
33 *prove the occurrence of an act which forms the basis of a criminal*
34 *charge against the defendant.*

35 *3. Expert testimony concerning the nature and effects of*
36 *intimate partner battering or traumatic bonding must not be*
37 *considered to be a new scientific technique for which the*
38 *reliability thereof has not been proven.*

39 *4. As used in this section:*

40 *(a) "Domestic violence" means the commission of any act*
41 *described in NRS 33.018.*

42 *(b) "Intimate partner battering" means severe and escalating*
43 *abuse upon a victim by a person with whom the victim shares an*
44 *intimate relationship. Such abuse includes, without limitation,*
45 *physical, sexual, emotional or mental abuse or sex trafficking.*



1 (c) “Sex trafficking” means a violation of subsection 2 of
2 NRS 201.300.

3 (d) “Sexual abuse” has the meaning ascribed to it in
4 NRS 432B.100.

5 (e) “Traumatic bonding” means a strong emotional
6 attachment between a victim of physical or sexual abuse, sex
7 trafficking or domestic violence and the person committing such
8 an act upon the victim that is formed as the result of a cycle of
9 intermittent abuse.

10 **Sec. 4.** The amendatory provisions of:

11 1. Sections 1 and 2 of this act apply to an offense committed on
12 or after October 1, 2017.

13 2. Section 3 of this act applies to a criminal proceeding
14 commenced on or after October 1, 2017.

