

ASSEMBLY BILL NO. 369—ASSEMBLYMEN MONROE-MORENO,
MCCURDY II, OHRENSCHALL; AND BILBRAY-AXELROD

MARCH 20, 2017

JOINT SPONSOR: SENATOR SEGERBLOM

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to juvenile courts.
(BDR 5-951)

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; eliminating the exclusion of certain offenses from the jurisdiction of the juvenile court; revising the provisions relating to the certification of a child for criminal proceedings as an adult; 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, the following offenses, with certain age-related conditions: (1) murder and attempted murder; (2) sexual assault and attempted sexual assault involving the use or threatened use of force or violence against the victim; (3) an offense or attempted offense involving the use or threatened use of a firearm; (4) certain felonies resulting in death or substantial bodily harm on the property of a school, at an activity sponsored by a school or on a school bus; (5) other category A and B felonies; and (6) any other offense if, before the offense was committed, the person previously had been convicted of a criminal offense. (NRS 62B.330) **Section 2** of this bill eliminates these exclusions from the jurisdiction of the juvenile court thereby retaining such offenses under the jurisdiction of the juvenile court.



Under existing law, the juvenile court is required to certify a child 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 a sexual assault involving the use or threatened use of force or violence against the victim or an offense or attempted offense involving the use or threatened use of a firearm; and (2) was 16 years of age or older at the time the child allegedly committed the offense. (NRS 62B.390) **Section 4** of this bill eliminates mandatory certification as an adult for these offenses, providing for the discretionary certification of a child for criminal proceedings as an adult for all offenses over which the juvenile court has exclusive jurisdiction. **Section 4** also sets forth the factors that the juvenile court must consider in determining whether to certify a child for criminal proceedings as an adult.

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

Section 1. NRS 62A.030 is hereby amended to read as follows:

62A.030 1. "Child" means:

(a) A person who is less than 18 years of age;

(b) A person who is less than 21 years of age and subject to the jurisdiction of the juvenile court for an unlawful act that was committed before the person reached 18 years of age; or

(c) A person who is otherwise subject to the jurisdiction of the juvenile court as a juvenile sex offender pursuant to the provisions of NRS 62F.200, 62F.220 and 62F.260.

2. The term does not include:

(a) ~~IA person who is excluded from the jurisdiction of the juvenile court pursuant to NRS 62B.330;~~

~~(b)~~ A person who is transferred to the district court for criminal proceedings as an adult pursuant to NRS 62B.335; or

~~(e)~~ (b) A person who is certified for criminal proceedings as an adult pursuant to NRS 62B.390 or 62B.400.

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.



~~13. 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 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;~~



1 ~~regardless of the nature of the related offense, if the person was at~~
2 ~~least 16 years of age but less than 18 years of age when the offense~~
3 ~~was committed, and:~~

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

7 ~~— (2) The person is not identified by law enforcement as~~
8 ~~having committed the offense until the person reaches 21 years of~~
9 ~~age.~~

10 ~~— (f) Any other offense if, before the offense was committed, the~~
11 ~~person previously had been convicted of a criminal offense.~~

12 **Sec. 3.** NRS 62B.370 is hereby amended to read as follows:

13 62B.370 1. Except as otherwise provided in this title, a court
14 shall transfer a case and record to the juvenile court if, during the
15 pendency of a proceeding involving a criminal offense, it is
16 ascertained that the person who is charged with the offense was less
17 than 18 years of age when the person allegedly committed the
18 offense.

19 2. A court shall not transfer a case and record to the juvenile
20 court if the proceeding involves a criminal offense ~~†~~;

21 ~~— (a) Excluded from the original jurisdiction of the juvenile court~~
22 ~~pursuant to NRS 62B.330; or~~

23 ~~— (b) Transferred†~~ *transferred* to the court pursuant to
24 NRS 62B.335.

25 3. A court making a transfer pursuant to this section shall:

26 (a) Order the child to be taken immediately to the place of
27 detention designated by the juvenile court;

28 (b) Order the child to be taken immediately to appear before the
29 juvenile court; or

30 (c) Release the child to the custody of a suitable person and
31 order the child to be brought before the juvenile court at a time
32 designated by the juvenile court.

33 **Sec. 4.** NRS 62B.390 is hereby amended to read as follows:

34 62B.390 1. Except as otherwise provided in ~~†subsection 2~~
35 ~~and†~~ NRS 62B.400, upon a motion by the district attorney and after
36 a full investigation, the juvenile court may certify a child for proper
37 criminal proceedings as an adult to any court that would have
38 jurisdiction to try the offense if committed by an adult, if the child:

39 (a) Except as otherwise provided in ~~†paragraph†~~ *paragraphs* (b)
40 ~~††~~ *and (d)*, is charged with an offense that would have been a felony
41 if committed by an adult and was 14 years of age or older at the time
42 the child allegedly committed the offense; ~~†or†~~

43 (b) Is charged with murder or attempted murder and was 13
44 years of age or older when the murder or attempted murder was
45 committed ~~††~~;



1 *(c) Is charged with an offense or attempted offense involving*
2 *the use of a firearm that would have been a misdemeanor if*
3 *committed by an adult and was 16 years of age or older when the*
4 *child allegedly committed the offense; or*

5 *(d) Is charged with any other offense if, before the offense was*
6 *committed, the child previously had been convicted of a criminal*
7 *offense.*

8 ~~2. Except as otherwise provided in subsection 3, upon a~~
9 ~~motion by the district attorney and after a full investigation, the~~
10 ~~juvenile court shall certify a child for proper criminal proceedings as~~
11 ~~an adult to any court that would have jurisdiction to try the offense~~
12 ~~if committed by an adult, if the child:~~

13 ~~—(a) Is charged with:~~

14 ~~—(1) A sexual assault involving the use or threatened use of~~
15 ~~force or violence against the victim; or~~

16 ~~—(2) An offense or attempted offense involving the use or~~
17 ~~threatened use of a firearm; and~~

18 ~~—(b) Was 16 years of age or older at the time the child allegedly~~
19 ~~committed the offense.~~

20 ~~—3. The juvenile court shall not certify a child for criminal~~
21 ~~proceedings as an adult pursuant to subsection 2 if the juvenile court~~
22 ~~specifically finds by clear and convincing evidence that:~~

23 ~~—(a) The child is developmentally or mentally incompetent to~~
24 ~~understand the situation and the proceedings of the court or to aid~~
25 ~~the child's attorney in those proceedings; or~~

26 ~~—(b) The child has substance abuse or emotional or behavioral~~
27 ~~problems and the substance abuse or emotional or behavioral~~
28 ~~problems may be appropriately treated through the jurisdiction of~~
29 ~~the juvenile court.~~

30 ~~—4.† In determining whether to certify a child for criminal~~
31 ~~proceedings as an adult, the juvenile court shall consider:~~

32 *(a) The degree of criminal sophistication exhibited by the*
33 *child, giving weight to any relevant factor, including, without*
34 *limitation:*

35 *(1) The age, maturity and intellectual capacity of the child*
36 *at the time of the alleged offense;*

37 *(2) The physical, mental and emotional health of the child*
38 *at the time of the alleged offense;*

39 *(3) The impetuosity of the child;*

40 *(4) The failure of the child to appreciate the risks and*
41 *consequences of criminal behavior;*

42 *(5) The effect of familial, adult or peer pressure on the*
43 *actions of the child;*

44 *(6) The effect of the child's familial and community*
45 *environment on the criminal sophistication of the child; and*



(7) *The effect of childhood trauma on the criminal sophistication of the child.*

(b) *Whether the child can be rehabilitated before the expiration of the jurisdiction of the juvenile court over the child, giving weight to any relevant factor, including, without limitation, the potential of the child to grow and mature.*

(c) *The history of delinquency of the child, giving weight to any relevant factor, including, without limitation:*

(1) *The seriousness of the history of delinquency of the child;*

(2) *The effect of the child's familial and community environment on the previous delinquent behavior of the child; and*

(3) *The effect of childhood trauma on the previous delinquent behavior of the child.*

(d) *The success of previous attempts by the juvenile court to rehabilitate the child, giving weight to any relevant factor, including, without limitation, the adequacy of services previously provided to address the needs of the child.*

(e) *The circumstances and gravity of the offense which is alleged to have been committed by the child, giving weight to any relevant factor, including, without limitation:*

(1) *The behavior of the child;*

(2) *The mental state of the child;*

(3) *The child's degree of involvement in the offense;*

(4) *The level of harm caused by the child; and*

(5) *The mental and emotional development of the child.*

3. If a child is certified for criminal proceedings as an adult pursuant to subsection 1 , ~~for 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-~~ 4. If a child has been certified for criminal proceedings as an adult pursuant to subsection 1 ~~for 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. 5. NRS 62B.420 is hereby amended to read as follows:

62B.420 1. Except as otherwise provided in this subsection, if, pursuant to this title, a child or a parent or guardian of a child is



1 ordered by the juvenile court to pay a fine, administrative
2 assessment, fee or restitution or to make any other payment and the
3 fine, administrative assessment, fee, restitution or other payment or
4 any part of it remains unpaid after the time established by the
5 juvenile court for its payment, the juvenile court may enter a civil
6 judgment against the child or the parent or guardian of the child for
7 the amount due in favor of the victim, the state or local entity to
8 whom the amount is owed or both. The juvenile court may not enter
9 a civil judgment against a person who is a child unless the person
10 has attained the age of 18 years, the person is a child who is
11 determined to be outside the jurisdiction of the juvenile court
12 pursuant to NRS ~~62B.330 or~~ 62B.335 or the person is a child who
13 is certified for proper criminal proceedings as an adult pursuant to
14 NRS 62B.390.

15 2. Notwithstanding the termination of the jurisdiction of the
16 juvenile court pursuant to NRS 62B.410 or the termination of any
17 period of supervision or probation ordered by the juvenile court, the
18 juvenile court retains jurisdiction over any civil judgment entered
19 pursuant to subsection 1 and retains jurisdiction over the person
20 against whom a civil judgment is entered pursuant to subsection 1.
21 The juvenile court may supervise the civil judgment and take any of
22 the actions authorized by the laws of this State.

23 3. A civil judgment entered pursuant to subsection 1 may be
24 enforced and renewed in the manner provided by law for the
25 enforcement and renewal of a judgment for money rendered in a
26 civil action. A judgment which requires a parent or guardian of a
27 child to pay restitution does not expire until the judgment is
28 satisfied. An independent action to enforce a judgment that requires
29 a parent or guardian of a child to pay restitution may be commenced
30 at any time.

31 4. If the juvenile court enters a civil judgment pursuant to
32 subsection 1, the person or persons against whom the judgment is
33 issued is liable for a collection fee, to be imposed by the juvenile
34 court at the time the civil judgment is issued, of:

35 (a) Not more than \$100, if the amount of the judgment is less
36 than \$2,000.

37 (b) Not more than \$500, if the amount of the judgment is \$2,000
38 or greater, but is less than \$5,000.

39 (c) Ten percent of the amount of the judgment, if the amount of
40 the judgment is \$5,000 or greater.

41 5. In addition to attempting to collect the judgment through any
42 other lawful means, a victim, a representative of the victim or a state
43 or local entity that is responsible for collecting a civil judgment
44 entered pursuant to subsection 1 may take any or all of the following
45 actions:



(a) Except as otherwise provided in this paragraph, report the judgment to reporting agencies that assemble or evaluate information concerning credit. If the judgment was entered against a person who was less than 21 years of age at the time the judgment was entered, the judgment cannot be reported pursuant to this paragraph until the person reaches 21 years of age.

(b) Request that the juvenile court take appropriate action pursuant to subsection 6.

(c) Contract with a collection agency licensed pursuant to NRS 649.075 to collect the judgment and the collection fee. The collection agency must be paid as compensation for its services an amount not greater than the amount of the collection fee imposed pursuant to subsection 4, in accordance with the provisions of the contract.

6. If the juvenile court determines that a child or the parent or guardian of a child against whom a civil judgment has been entered pursuant to subsection 1 has failed to make reasonable efforts to satisfy the civil judgment, the juvenile court may take any of the following actions:

(a) Order the suspension of the driver's license of a child for a period not to exceed 1 year. If the child is already the subject of a court order suspending the driver's license of the child, the juvenile court may order the additional suspension to apply consecutively with the previous order. At the time the juvenile court issues an order suspending the driver's license of a child pursuant to this paragraph, the juvenile court shall require the child to surrender to the juvenile court all driver's licenses then held by the child. The juvenile court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles the licenses, together with a copy of the order. The Department of Motor Vehicles shall report a suspension pursuant to this paragraph to an insurance company or its agent inquiring about the driving record of a child, but such a suspension must not be considered for the purpose of rating or underwriting.

(b) If a child does not possess a driver's license, prohibit the child from applying for a driver's license for a period not to exceed 1 year. If the child is already the subject of a court order delaying the issuance of a license to drive, the juvenile court may order any additional delay in the ability of the child to apply for a driver's license to apply consecutively with the previous order. At the time the juvenile court issues an order pursuant to this paragraph delaying the ability of a child to apply for a driver's license, the juvenile court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles a copy of the order.



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(c) If the civil judgment was issued for a delinquent fine or administrative assessment, order the confinement of the person in the appropriate prison, jail or detention facility, as provided in NRS 176.065 and 176.075.

(d) Enter a finding of contempt against a child or the parent or guardian of a child and punish the child or the parent or guardian for contempt in the manner provided in NRS 62E.040. A person who is indigent may not be punished for contempt pursuant to this subsection.

7. Money collected from a collection fee imposed pursuant to subsection 4 must be deposited and used in the manner set forth in subsection 4 of NRS 176.064.

Sec. 6. 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 ~~1:~~

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



1 ~~—(b) A~~ **a** child who is certified for criminal proceedings as an
2 adult pursuant to NRS 62B.390,
3 ~~†→a~~ **the** child may petition the juvenile court for temporary
4 placement in a facility for the detention of children.

5 **Sec. 7.** NRS 62D.415 is hereby amended to read as follows:

6 62D.415 1. An instrument of restraint may be used on a child
7 during a court proceeding only if the restraint is necessary to prevent
8 the child from:

9 (a) Inflicting physical harm on himself or herself or another
10 person; or

11 (b) Escaping from the courtroom.

12 2. Whenever practical, the judge shall provide the:

13 (a) Child and his or her attorney an opportunity to be heard
14 regarding the use of an instrument of restraint before the judge
15 orders the use of an instrument of restraint.

16 (b) Prosecuting attorney an opportunity to be heard regarding
17 whether the use of an instrument of restraint is necessary pursuant to
18 subsection 1.

19 3. In making a determination pursuant to subsection 2 as to
20 whether an instrument of restraint is necessary pursuant to
21 subsection 1, the court shall consider the following factors:

22 (a) Any previous escapes or attempted escapes by the child.

23 (b) Evidence of a present plan of escape by the child.

24 (c) A credible threat by the child to harm himself or herself or
25 another person.

26 (d) A history of self-destructive tendencies by the child.

27 (e) Any credible threat of an attempt to escape by a person not in
28 custody.

29 (f) Whether the child is subject to a proceeding ~~†:~~

30 ~~—(1) That is not in the jurisdiction of the juvenile court~~
31 ~~pursuant to subsection 3 of NRS 62B.330; or~~

32 ~~—(2) For~~ **for** transfer or certification for criminal proceedings
33 as an adult pursuant to NRS 62B.335, 62B.390 or 62B.400.

34 (g) Any other factor that is relevant in determining whether the
35 use of an instrument of restraint on the child is necessary pursuant to
36 subsection 1.

37 4. The determination of the judge pursuant to subsection 2
38 must contain specific findings of fact and conclusions of law
39 supporting the determination.

40 5. If an instrument of restraint is used on a child, the restraint
41 must allow the child limited movement of his or her hands to hold
42 any document or writing necessary to participate in the proceeding.

43 6. As used in this section, “instrument of restraint” includes,
44 without limitation, handcuffs, chains, irons and straightjackets.



1 **Sec. 8.** The amendatory provisions of sections 1 to 7,
2 inclusive, of this act apply to an offense committed on or after
3 October 1, 2017.

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