

ASSEMBLY BILL NO. 158—ASSEMBLYMEN HAMBRICK, KRASNER,
ELLISON; KRAMER, LEAVITT AND WHEELER

FEBRUARY 15, 2019

JOINT SPONSORS: SENATORS HANSEN; PARKS AND PICKARD

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing criminal procedures for certain juvenile offenders who are also victims of certain crimes. (BDR 14-143)

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; authorizing a court to take certain actions when determining the sentence of a person convicted as an adult for an offense committed when the person was less than 18 years of age if the person was a victim of sex trafficking or sexual assault and committed the offense against the abuser; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that if a person is convicted as an adult for an offense that the person committed when he or she was less than 18 years of age, the court: (1) is required to consider the differences between juvenile and adult offenders; and (2) after considering such differences, is authorized to reduce the person's sentence. (NRS 176.017) **Section 1** of this bill additionally provides that if a person is convicted as an adult for an offense that the person committed when he or she was less than 18 years of age and the court finds by clear and convincing evidence that, during the 1-year period immediately preceding the commission of the offense, the person was a victim of sex trafficking or sexual assault and committed the offense against his or her abuser, the court is authorized to: (1) depart from any mandatory minimum sentence or mandatory additional penalty; (2) suspend any portion of an otherwise applicable sentence; or (3) if the person is less than 21 years of age, deem the person to have committed a delinquent act and transfer the case to the juvenile court for proper disposition.



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Section 3 of this bill specifies that such provisions apply to an offense committed: (1) on or after October 1, 2019; and (2) before October 1, 2019, if the person is convicted on or after October 1, 2019.

WHEREAS, In the United States, child protective services agencies have estimated that 63,000 children each year are victims of sexual abuse; and

WHEREAS, It is estimated that one in every 9 girls and one in every 53 boys under 18 years of age in the United States experience sexual abuse or sexual assault by an adult;

WHEREAS, In 93 percent of reported cases involving the sexual abuse of a child in the United States, the victim knows the abuser; and

WHEREAS, The National Center for Missing and Exploited Children has estimated that at least 100,000 children in the United States are victims of commercial sexual exploitation each year; and

WHEREAS, It is estimated that victims of child sexual abuse are four times more likely to abuse drugs, four times more likely to experience post-traumatic stress disorder as adults and three times more likely to experience a major depressive episode as adults; and

WHEREAS, Persons who traffic or sexually abuse children often subject their victims to prolonged stages of grooming by targeting a victim, gaining the victim's trust, filling a need of the victim, isolating the victim, sexualizing the relationship with the victim and maintaining control of the victim; and

WHEREAS, The Legislature finds that children who are victims of sex trafficking or sexual assault and commit crimes against their abusers should not be subject to lengthy prison sentences, but should instead be treated as victims and receive appropriate treatment and services; and

WHEREAS, The Legislature finds that, for the purpose of ensuring that a more just solution can be found, judges should be given greater flexibility in cases involving children who are victims of sex trafficking or sexual assault and commit crimes against their abusers; and

WHEREAS, Children who are victims of sex trafficking or sexual assault and commit crimes against their abusers are subject to punishment that is extreme, and it is the intent of the Legislature to prevent future injustice against such victims; now, therefore,



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

Section 1. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding any other provision of law, if a person is convicted as an adult for an offense that the person committed when he or she was less than 18 years of age and the court finds by clear and convincing evidence that, at any time during the 1-year period immediately preceding the commission of the offense, the person against whom the offense was committed trafficked the person who committed the offense in violation of subsection 2 of NRS 201.300 or sexually assaulted the person who committed the offense in violation of NRS 200.366, the court may, in its discretion:

1. Take either or both of the following actions:

(a) Depart from any mandatory minimum sentence or mandatory additional penalty; or

(b) Suspend any portion of an otherwise applicable sentence; or

2. If the person is less than 21 years of age, deem the person to have committed a delinquent act and transfer the case to the juvenile court for proper disposition.

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



1 16 years of age or older when the murder or attempted murder was
2 committed.

3 (b) Sexual assault or attempted sexual assault involving the use
4 or threatened use of force or violence against the victim and any
5 other related offense arising out of the same facts as the sexual
6 assault or attempted sexual assault, regardless of the nature of the
7 related offense, if:

8 (1) The person was 16 years of age or older when the sexual
9 assault or attempted sexual assault was committed; and

10 (2) Before the sexual assault or attempted sexual assault was
11 committed, the person previously had been adjudicated delinquent
12 for an act that would have been a felony if committed by an adult.

13 (c) An offense or attempted offense involving the use or
14 threatened use of a firearm and any other related offense arising out
15 of the same facts as the offense or attempted offense involving the
16 use or threatened use of a firearm, regardless of the nature of the
17 related offense, if:

18 (1) The person was 16 years of age or older when the offense
19 or attempted offense involving the use or threatened use of a firearm
20 was committed; and

21 (2) Before the offense or attempted offense involving the use
22 or threatened use of a firearm was committed, the person previously
23 had been adjudicated delinquent for an act that would have been a
24 felony if committed by an adult.

25 (d) A felony resulting in death or substantial bodily harm to the
26 victim and any other related offense arising out of the same facts as
27 the felony, regardless of the nature of the related offense, if:

28 (1) The felony was committed on the property of a public or
29 private school when pupils or employees of the school were present
30 or may have been present, at an activity sponsored by a public or
31 private school or on a school bus while the bus was engaged in its
32 official duties; and

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

37 (e) A category A or B felony and any other related offense
38 arising out of the same facts as the category A or B felony,
39 regardless of the nature of the related offense, if the person was at
40 least 16 years of age but less than 18 years of age when the offense
41 was committed, and:

42 (1) The person is not identified by law enforcement as
43 having committed the offense and charged before the person is at
44 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. The amendatory provisions of sections 1 and 2 of this act apply to:

1. An offense committed on or after October 1, 2019; and

2. An offense committed before October 1, 2019, if the person is convicted on or after October 1, 2019.

