

SENATE BILL NO. 408—SENATOR OHRENSCHALL

MARCH 27, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions regarding juvenile justice.  
(BDR 5-1014)

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 ~~for omitted material~~ is material to be omitted.

AN ACT relating to juvenile justice; revising provisions relating to the certification of a child for criminal proceedings as an adult; revising provisions governing registration and community notification of persons adjudicated delinquent for committing certain sexual offenses; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law provides that a juvenile court has exclusive jurisdiction over a child who is alleged to have committed an act designated as a delinquent act, unless: (1) 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 (2) the juvenile court certifies the child for criminal proceedings as an adult. (NRS 62B.330, 62B.390) Existing law provides that, upon a motion by the district attorney and after a full investigation, the juvenile court may certify a child for criminal proceedings as an adult if the child is charged with: (1) an offense that would have been a felony if committed by an adult and was 14 years of age or older at the time the child allegedly committed the offense; or (2) murder or attempted murder and was 13 years of age or older when the murder or attempted murder was committed. (NRS 62B.390) **Section 1** of this bill provides instead that the juvenile court may certify a child for criminal proceedings as an adult if the child is charged with a violent offense and was 16 years of age or older at the time the child allegedly committed the offense. **Section 1** defines the term “violent offense” to mean: (1) an unlawful act which, if committed by an adult, would have constituted sexual assault or battery with intent to commit sexual assault; or (2) 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.

Existing law enacts provisions governing the registration and community notification of juvenile sex offenders. (NRS 62F.205-62F.360) When a child who has been adjudicated delinquent for a sexual offense reaches 21 years of age, existing law requires the juvenile court to hold a hearing to determine whether to:



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(1) relieve the child from requirements relating to registration and community notification; or (2) subject the child to registration and community notification in the manner provided for adult sex offenders. At such a hearing, if the juvenile court finds by clear and convincing evidence that the child has been rehabilitated and does not pose a threat to the safety of others, the juvenile court is required to relieve the child from requirements relating to registration and community notification. However, if the juvenile court determines that the child has not been rehabilitated or poses a threat to the safety of others, the juvenile court is required to order that the child is subject to registration and community notification in the manner provided for adult sex offenders. (NRS 62F.340) **Section 2** of this bill revises requirements relating to such a hearing by requiring the juvenile court to relieve the child from requirements relating to registration and community notification unless the prosecution proves by clear and convincing evidence that the child is likely to pose a threat to the safety of others.

**Section 3** of this bill provides that this bill applies only to an offense committed by a juvenile on or after October 1, 2023.

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

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**Section 1.** NRS 62B.390 is hereby amended to read as follows:

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

~~—(a) Except as otherwise provided in paragraph (b),~~ is charged with ~~[an]~~ *a violent* offense ~~[that would have been a felony if committed by an adult]~~ and was ~~[14]~~ *16* years of age or older at the time the child allegedly committed the offense. ~~;~~ ~~or~~

~~—(b) Is charged with murder or attempted murder and was 13 years of age or older when the murder or attempted murder was committed.]~~

2. If a child is certified for criminal proceedings as an adult pursuant to subsection 1, 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.

3. If a child has been certified for criminal proceedings as an adult pursuant to subsection 1 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.

*4. As used in this section, "violent offense" means:*

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

*(1) Sexual assault pursuant to NRS 200.366; or*

*(2) Battery with intent to commit sexual assault pursuant to NRS 200.400.*

*(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.*

**Sec. 2.** NRS 62F.340 is hereby amended to read as follows:

62F.340 Except as otherwise provided in NRS 62F.205 to 62F.360, inclusive:

1. If a child has been adjudicated delinquent for a sexual offense, the juvenile court shall hold a hearing when the child reaches 21 years of age, or at a time reasonably near the date on which the child reaches 21 years of age, to determine whether the child should be subject to registration and community notification pursuant to NRS 179D.010 to 179D.550, inclusive.

2. At the hearing pursuant to this section, the juvenile court ~~[may]~~ :

*(a) May* consider any evidence, reports, statements or other material which the juvenile court determines is relevant and helpful to determine whether the child ~~[has been rehabilitated to the satisfaction of the juvenile court and]~~ is ~~[not]~~ likely to pose a threat to the safety of others ~~[-~~

~~—3. If the juvenile court finds]~~ ; and

*(b) Shall relieve the child from being subject to registration and community notification pursuant to NRS 179D.010 to 179D.550, inclusive, unless the prosecution proves* by clear and convincing evidence at the hearing that the child ~~[has been rehabilitated to the satisfaction of the juvenile court and that the child]~~ is ~~[not]~~ likely to pose a threat to the safety of others . ~~[-, the juvenile court may relieve the child from being subject to registration and community notification pursuant to NRS 179D.010 to 179D.550, inclusive.~~

~~—4.]~~ **3.** If, pursuant to subsection ~~[3.]~~ **2**, the juvenile court does not relieve the child from being subject to registration and community notification pursuant to NRS 179D.010 to 179D.550, inclusive, the juvenile court shall:

(a) Order that the child is subject to registration and community notification pursuant to NRS 179D.010 to 179D.550, inclusive;



(b) Notify the Central Repository of the adjudication of the child and the determination of the juvenile court that the child should be subject to registration and community notification pursuant to NRS 179D.010 to 179D.550, inclusive, so that the Central Repository may carry out the provisions for registration and community notification pursuant to those sections; and

(c) Inform the child that he or she is subject to registration and community notification pursuant to NRS 179D.010 to 179D.550, inclusive. ~~f.~~

~~—5. In determining at the hearing whether the child has been rehabilitated to the satisfaction of the juvenile court or is likely to pose a threat to the safety of others, the juvenile court shall consider the following factors:~~

~~—(a) The number, date, nature and gravity of the act or acts committed by the child, including, without limitation, whether the act or acts were characterized by repetitive and compulsive behavior.~~

~~—(b) The extent to which the child has received counseling, therapy or treatment, and the response of the child to any such counseling, therapy or treatment.~~

~~—(c) Whether psychological or psychiatric profiles indicate a risk of recidivism.~~

~~—(d) The behavior of the child while subject to the jurisdiction of the juvenile court, including, without limitation, the behavior of the child during any period of confinement.~~

~~—(e) Whether the child has made any recent threats against a person or expressed any intent to commit any crimes in the future.~~

~~—(f) Any physical conditions that minimize the risk of recidivism, including, without limitation, physical disability or illness.~~

~~—(g) The impact of the unlawful act on the victim and any statements made by the victim.~~

~~—(h) The safety of the community and the need to protect the public.~~

~~—(i) Any other factor that the juvenile court finds relevant to the determination of whether the child has been rehabilitated to the satisfaction of the juvenile court and whether the child is likely to pose a threat to the safety of others.~~

~~—6. The juvenile court shall file written findings of fact and conclusions of law setting forth the basis and legal support for any decision pursuant to this section.~~

~~—7.]~~ **4.** If, pursuant to this section, the juvenile court orders that a child is subject to registration and community notification pursuant to NRS 179D.010 to 179D.550, inclusive, the jurisdiction of the juvenile court terminates, and the child is subject to registration and



1 community notification pursuant to NRS 179D.010 to 179D.550,  
2 inclusive, for the period specified in NRS 179D.490.

3 **Sec. 3.** The amendatory provisions of this act apply to an  
4 offense committed on or after October 1, 2023.

