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ASSEMBLY BILL NO. 230—ASSEMBLYMEN C.H. MILLER, TORRES, NGUYEN, FLORES, CONSIDINE; ANDERSON, BILBRAY-AXELROD, COHEN, DURAN, GONZÁLEZ, KASAMA, KRASNER, MARTINEZ, MARZOLA, MONROE-MORENO, O’NEILL, ORENTLICHER, SUMMERS-ARMSTRONG, THOMAS AND WATTS

MARCH 10, 2021

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JOINT SPONSORS: SENATORS OHRENSCHALL, NEAL; DENIS, DONATE AND D. HARRIS

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Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to juvenile justice. (BDR 5-791)

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.

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AN ACT relating to juvenile justice; eliminating the exclusion of certain offenses from the jurisdiction of the juvenile court; revising 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:**

1 Existing law provides that the juvenile court has exclusive jurisdiction over a  
2 child who is alleged to have committed an act designated as a delinquent act, unless  
3 the child is alleged to have committed an offense for which the juvenile court may  
4 certify the child for criminal proceedings as an adult and the juvenile court certifies  
5 the child for criminal proceedings as an adult upon a motion by the district attorney  
6 and after a full investigation. (NRS 62B.330, 62B.390) Certain offenses with age-  
7 related conditions are not considered delinquent acts and are therefore excluded  
8 from the jurisdiction of the juvenile court such as: (1) murder and attempted  
9 murder; (2) sexual assault and attempted sexual assault involving the use or  
10 threatened use of force or violence against the victim; (3) an offense or attempted  
11 offense involving the use or threatened use of a firearm; (4) certain felonies  
12 resulting in death or substantial bodily harm on the property of a school, at an  
13 activity sponsored by a school or on a school bus; (5) other category A and B



14 felonies; and (6) any other offense if, before the offense was committed, the person  
15 previously had been convicted of a criminal offense. (NRS 62B.330) **Section 2** of  
16 this bill eliminates these exclusions from the jurisdiction of the juvenile court,  
17 thereby retaining such offenses under the jurisdiction of the juvenile court. **Sections**  
18 **1, 3 and 5-7** of this bill make conforming changes by removing references to the  
19 exclusions in NRS 62B.330.

20 Under existing law, the juvenile court is required to certify a child for criminal  
21 proceedings as an adult upon a motion by the district attorney and after a full  
22 investigation if the child: (1) is charged with a sexual assault involving the use or  
23 threatened use of force or violence against the victim or an offense or attempted  
24 offense involving the use or threatened use of a firearm; and (2) was 16 years of  
25 age or older at the time the child allegedly committed the offense. (NRS 62B.390)  
26 **Section 4** of this bill eliminates the mandatory certification of a child as an adult for  
27 these offenses and provides instead for the discretionary certification of a child for  
28 criminal proceedings as an adult for all offenses over which the juvenile court has  
29 exclusive jurisdiction.

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

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

3 62A.030 1. "Child" means:

- 4 (a) A person who is less than 18 years of age;
- 5 (b) A person who is less than 21 years of age and subject to the  
6 jurisdiction of the juvenile court for an unlawful act that was  
7 committed before the person reached 18 years of age; or
- 8 (c) A person who is otherwise subject to the jurisdiction of the  
9 juvenile court as a juvenile sex offender pursuant to the provisions  
10 of NRS 62F.205 to 62F.360, inclusive.

11 2. The term does not include:

- 12 (a) ~~A person who is excluded from the jurisdiction of the~~  
13 ~~juvenile court pursuant to NRS 62B.330;~~
- 14 ~~(b)~~ A person who is transferred to the district court for criminal  
15 proceedings as an adult pursuant to NRS 62B.335; or
- 16 ~~(e)~~ (b) A person who is certified for criminal proceedings as  
17 an adult pursuant to NRS 62B.390 or 62B.400.

18 **Sec. 2.** NRS 62B.330 is hereby amended to read as follows:

19 62B.330 1. Except as otherwise provided in this title, the  
20 juvenile court has exclusive original jurisdiction over a child living  
21 or found within the county who is alleged or adjudicated to have  
22 committed a delinquent act.

23 2. For the purposes of this section, a child commits a  
24 delinquent act if the child:

- 25 (a) Violates a county or municipal ordinance other than those  
26 specified in paragraph (f) or (g) of subsection 1 of NRS 62B.320 or  
27 an offense related to tobacco;



1 (b) Violates any rule or regulation having the force of law; or  
2 (c) Commits an act designated a criminal offense pursuant to the  
3 laws of the State of Nevada.

4 ~~§3.—For the purposes of this section, each of the following acts  
5 shall be deemed not to be a delinquent act, and the juvenile court  
6 does not have jurisdiction over a person who is charged with  
7 committing such an act:~~

8 ~~—(a) Murder or attempted murder and any other related offense  
9 arising out of the same facts as the murder or attempted murder,  
10 regardless of the nature of the related offense, if the person was 16  
11 years of age or older when the murder or attempted murder was  
12 committed.~~

13 ~~—(b) Sexual assault or attempted sexual assault involving the use  
14 or threatened use of force or violence against the victim and any  
15 other related offense arising out of the same facts as the sexual  
16 assault or attempted sexual assault, regardless of the nature of the  
17 related offense, if:~~

18 ~~—(1) The person was 16 years of age or older when the sexual  
19 assault or attempted sexual assault was committed; and~~

20 ~~—(2) Before the sexual assault or attempted sexual assault was  
21 committed, the person previously had been adjudicated delinquent  
22 for an act that would have been a felony if committed by an adult.~~

23 ~~—(c) An offense or attempted offense involving the use or  
24 threatened use of a firearm and any other related offense arising out  
25 of the same facts as the offense or attempted offense involving the  
26 use or threatened use of a firearm, regardless of the nature of the  
27 related offense, if:~~

28 ~~—(1) The person was 16 years of age or older when the offense  
29 or attempted offense involving the use or threatened use of a firearm  
30 was committed; and~~

31 ~~—(2) Before the offense or attempted offense involving the use  
32 or threatened use of a firearm was committed, the person previously  
33 had been adjudicated delinquent for an act that would have been a  
34 felony if committed by an adult.~~

35 ~~—(d) A felony resulting in death or substantial bodily harm to the  
36 victim and any other related offense arising out of the same facts as  
37 the felony, regardless of the nature of the related offense, if:~~

38 ~~—(1) The felony was committed on the property of a public or  
39 private school when pupils or employees of the school were present  
40 or may have been present, at an activity sponsored by a public or  
41 private school or on a school bus while the bus was engaged in its  
42 official duties; and~~

43 ~~—(2) The person intended to create a great risk of death or  
44 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.~~

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

~~—(1) The person is not identified by law enforcement as having committed the offense and charged before the person is at 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.** NRS 62B.370 is hereby amended to read as follows:

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

2. A court shall not transfer a case and record to the juvenile court if the proceeding involves a criminal offense ~~]:~~

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

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

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

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

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

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

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

62B.390 1. Except as otherwise provided in ~~[subsection 2 and]~~ 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:

(a) Except as otherwise provided in paragraph (b), is charged with an offense that would have been a felony if committed by an



1 adult and was 14 years of age or older at the time the child allegedly  
2 committed the offense; or

3 (b) Is charged with murder or attempted murder and was 13  
4 years of age or older when the murder or attempted murder was  
5 committed.

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

11 —(a) Is charged with:

12 ———(1) A sexual assault involving the use or threatened use of  
13 force or violence against the victim; or

14 ———(2) An offense or attempted offense involving the use or  
15 threatened use of a firearm; and

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

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

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

24 —(b) The child has a substance use disorder or emotional or  
25 behavioral problems and the substance use disorder or emotional or  
26 behavioral problems may be appropriately treated through the  
27 jurisdiction of the juvenile court.

28 —4. If a child is certified for criminal proceedings as an adult  
29 pursuant to subsection 1, ~~for 2,~~ the juvenile court shall also certify  
30 the child for criminal proceedings as an adult for any other related  
31 offense arising out of the same facts as the offense for which the  
32 child was certified, regardless of the nature of the related offense.

33 ~~5.~~ 3. If a child has been certified for criminal proceedings as  
34 an adult pursuant to subsection 1 ~~for 2~~ and the child's case has been  
35 transferred out of the juvenile court:

36 (a) The court to which the case has been transferred has original  
37 jurisdiction over the child;

38 (b) The child may petition for transfer of the case back to the  
39 juvenile court only upon a showing of exceptional circumstances;  
40 and

41 (c) If the child's case is transferred back to the juvenile court,  
42 the juvenile court shall determine whether the exceptional  
43 circumstances warrant accepting jurisdiction.



1       **Sec. 5.** NRS 62B.420 is hereby amended to read as follows:

2       62B.420 1. Except as otherwise provided in this subsection,  
3 if, pursuant to this title, a child or a parent or guardian of a child is  
4 ordered by the juvenile court to pay a fine or restitution or to make  
5 any other payment and the fine, restitution or other payment or any  
6 part of it remains unpaid after the time established by the juvenile  
7 court for its payment, the juvenile court may enter a civil judgment  
8 against the child or the parent or guardian of the child for the  
9 amount due in favor of the victim, the state or local entity to whom  
10 the amount is owed or both. The juvenile court may not enter a civil  
11 judgment against a person who is a child unless the person has  
12 attained the age of 18 years, the person is a child who is determined  
13 to be outside the jurisdiction of the juvenile court pursuant to NRS  
14 ~~62B.330 or~~ 62B.335 or the person is a child who is certified for  
15 proper criminal proceedings as an adult pursuant to NRS 62B.390.

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

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

32       4. In addition to attempting to collect the judgment through any  
33 other lawful means, a victim, a representative of the victim or a state  
34 or local entity that is responsible for collecting a civil judgment  
35 entered pursuant to subsection 1 may take any or all of the following  
36 actions:

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

43       (b) Request that the juvenile court take appropriate action  
44 pursuant to subsection 5.



1 (c) Contract with a collection agency licensed pursuant to NRS  
2 649.075 to collect the judgment.

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

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

23 (b) If a child does not possess a driver's license, prohibit the  
24 child from applying for a driver's license for a period not to exceed  
25 1 year. If the child is already the subject of a court order delaying  
26 the issuance of a license to drive, the juvenile court may order any  
27 additional delay in the ability of the child to apply for a driver's  
28 license to apply consecutively with the previous order. At the time  
29 the juvenile court issues an order pursuant to this paragraph  
30 delaying the ability of a child to apply for a driver's license, the  
31 juvenile court shall, within 5 days after issuing the order, forward to  
32 the Department of Motor Vehicles a copy of the order.

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

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

41 **Sec. 6.** NRS 62C.030 is hereby amended to read as follows:

42 62C.030 1. If a child is not alleged to be delinquent or in  
43 need of supervision, the child must not, at any time, be confined or  
44 detained in:

45 (a) A facility for the secure detention of children; or



1 (b) Any police station, lockup, jail, prison or other facility in  
2 which adults are detained or confined.

3 2. If a child is alleged to be delinquent or in need of  
4 supervision, the child must not, before disposition of the case, be  
5 detained in a facility for the secure detention of children unless there  
6 is probable cause to believe that:

7 (a) If the child is not detained, the child is likely to commit an  
8 offense dangerous to the child or to the community, or likely to  
9 commit damage to property;

10 (b) The child will run away or be taken away so as to be  
11 unavailable for proceedings of the juvenile court or to its officers;

12 (c) The child was taken into custody and brought before a  
13 probation officer pursuant to a court order or warrant; or

14 (d) The child is a fugitive from another jurisdiction.

15 3. If a child is less than 18 years of age, the child must not, at  
16 any time, be confined or detained in any police station, lockup, jail,  
17 prison or other facility where the child has regular contact with any  
18 adult who is confined or detained in the facility and who has been  
19 convicted of a criminal offense or charged with a criminal offense,  
20 unless:

21 (a) The child is alleged to be delinquent;

22 (b) An alternative facility is not available; and

23 (c) The child is separated by sight and sound from any adults  
24 who are confined or detained in the facility.

25 4. During the pendency of a proceeding involving ~~f:~~

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

28 ~~—(b) A] a~~ child who is certified for criminal proceedings as an  
29 adult pursuant to NRS 62B.390,

30 ~~f→-a]~~ *the* child may petition the juvenile court for temporary  
31 placement in a facility for the detention of children.

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

33 62D.415 1. An instrument of restraint may be used on a child  
34 during a court proceeding only if the restraint is necessary to prevent  
35 the child from:

36 (a) Inflicting physical harm on himself or herself or another  
37 person; or

38 (b) Escaping from the courtroom.

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

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

43 (b) Prosecuting attorney an opportunity to be heard regarding  
44 whether the use of an instrument of restraint is necessary pursuant to  
45 subsection 1.





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

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

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

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

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

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

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

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

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

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

19 4. The determination of the judge pursuant to subsection 2  
20 must contain specific findings of fact and conclusions of law  
21 supporting the determination.

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

25 6. As used in this section, "instrument of restraint" includes,  
26 without limitation, handcuffs, chains, irons and straightjackets.

27 **Sec. 8.** The amendatory provisions of this act apply to an  
28 offense committed on or after October 1, 2021.

