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FIRST REPRINT

A.B. 230

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

MARCH 10, 2021

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

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.

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; requiring the Legislative Committee on Child Welfare and Juvenile Justice to conduct an interim study concerning the need for and cost of infrastructure for housing certain youthful offenders; 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 the exclusions of: (1) sexual assault and attempted sexual assault
17 involving the use or threatened use of force or violence; and (2) an offense or
18 attempted offense involving the use or threatened use of a firearm from the
19 jurisdiction of the juvenile court, thereby retaining such offenses under the
20 jurisdiction of the juvenile court.

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

31 **Section 7.5** of this bill requires the Legislative Committee on Child Welfare
32 and Juvenile Justice to conduct a study during the 2021-2022 interim concerning
33 the need for and cost of infrastructure for housing certain youthful offenders.

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

1 **Section 1.** (Deleted by amendment.)

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

3 62B.330 1. Except as otherwise provided in this title, the
4 juvenile court has exclusive original jurisdiction over a child living
5 or found within the county who is alleged or adjudicated to have
6 committed a delinquent act.

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

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

12 (b) Violates any rule or regulation having the force of law; or

13 (c) Commits an act designated a criminal offense pursuant to the
14 laws of the State of Nevada.

15 3. For the purposes of this section, each of the following acts
16 shall be deemed not to be a delinquent act, and the juvenile court
17 does not have jurisdiction over a person who is charged with
18 committing such an act:

19 (a) Murder or attempted murder and any other related offense
20 arising out of the same facts as the murder or attempted murder,



1 regardless of the nature of the related offense, if the person was 16
2 years of age or older when the murder or attempted murder was
3 committed.

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

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

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

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

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

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

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

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

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

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

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



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

4 ~~[(d)]~~ (d) Any other offense if, before the offense was committed,
5 the person previously had been convicted of a criminal offense.

6 **Sec. 3.** (Deleted by amendment.)

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

8 62B.390 1. Except as otherwise provided in ~~[subsection 2~~
9 ~~and]~~ NRS 62B.400, upon a motion by the district attorney and after
10 a full investigation, the juvenile court may certify a child for proper
11 criminal proceedings as an adult to any court that would have
12 jurisdiction to try the offense if committed by an adult, if the child:

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

17 (b) Is charged with murder or attempted murder and was 13
18 years of age or older when the murder or attempted murder was
19 committed.

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

25 ~~—(a) Is charged with:~~

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

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

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

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

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

38 ~~—(b) The child has a substance use disorder or emotional or~~
39 ~~behavioral problems and the substance use disorder or emotional or~~
40 ~~behavioral problems may be appropriately treated through the~~
41 ~~jurisdiction of the juvenile court.~~

42 ~~—4.]~~ If a child is certified for criminal proceedings as an adult
43 pursuant to subsection 1, ~~[or 2,]~~ the juvenile court shall also certify
44 the child for criminal proceedings as an adult for any other related



1 offense arising out of the same facts as the offense for which the
2 child was certified, regardless of the nature of the related offense.

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

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

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

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

14 **Sec. 5.** (Deleted by amendment.)

15 **Sec. 6.** (Deleted by amendment.)

16 **Sec. 7.** (Deleted by amendment.)

17 **Sec. 7.5.** 1. *The Legislative Committee on Child Welfare*
18 *and Juvenile Justice created by NRS 218E.705 shall conduct a*
19 *study during the 2021-2022 interim concerning the need for and*
20 *cost of infrastructure associated with housing juveniles awaiting*
21 *certification for criminal proceedings as an adult in this State. The*
22 *study must include, without limitation, a review of:*

23 (a) *The current placement of juveniles awaiting certification*
24 *for criminal proceedings as an adult;*

25 (b) *The current placement of juveniles excluded from the*
26 *jurisdiction of the juvenile court pursuant to NRS 62B.330;*

27 (c) *The cost associated with the current placement of juveniles*
28 *awaiting certification for criminal proceedings as an adult;*

29 (d) *The costs associated with housing all current juveniles*
30 *excluded from the jurisdiction of the juvenile court pursuant to*
31 *NRS 62B.330;*

32 (e) *The costs associated with placing all juveniles subject to*
33 *potential transfer to the criminal justice system in a facility for*
34 *juveniles; and*

35 (f) *The facilities, services and programs available for juveniles*
36 *subject to transfer to the criminal justice system.*

37 2. *Not later than October 1, 2022, the Committee shall*
38 *prepare a report of its findings and any recommendations for*
39 *legislation to the Director of the Legislative Counsel Bureau.*

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

