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FIRST REPRINT

A.B. 251

ASSEMBLY BILL NO. 251—ASSEMBLYMEN KRASNER, FLORES, C.H. MILLER; BILBRAY-AXELROD, MCARTHUR, NGUYEN, O’NEILL, ORENTLICHER, ROBERTS AND THOMAS

MARCH 12, 2021

JOINT SPONSORS: SENATORS HARDY; BUCK, DONATE, D. HARRIS AND OHRENSCHALL

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to juvenile justice. (BDR 5-986)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. 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 juvenile justice; establishing provisions relating to the expungement and destruction of certain records relating to children; revising certain provisions concerning the sealing of certain records relating to children; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes a child who is less than 21 years of age, or a probation
2 officer or parole officer on behalf of the child, to petition the juvenile court for the
3 sealing of all records relating to the child if: (1) the petition is filed not earlier than
4 3 years after the child was last adjudicated in need of supervision, adjudicated
5 delinquent or placed under the supervision of the juvenile court; and (2) at the time
6 the petition is filed, the child does not have any delinquent or criminal charges
7 pending. If the petition was timely filed, the child has not been convicted of a
8 felony or of any misdemeanor involving moral turpitude and the child has been
9 rehabilitated to the satisfaction of the juvenile court, existing law: (1) authorizes the
10 juvenile court to order the sealing of all records relating to the child, if the child is
11 less than 18 years of age; and (2) requires the juvenile court to order the sealing of
12 all records relating to the child, if the child is 18 years of age or older. (NRS
13 62H.130) Existing law also directs, with certain exceptions, that all records relating
14 to a child be sealed automatically when the child reaches 21 years of age.
15 (NRS 62H.140)



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16 Under certain circumstances, however, existing law requires a child to wait
17 until he or she reaches 30 years of age to petition a juvenile court to seal his or her
18 records relating to unlawful acts which, if committed by an adult, would have
19 constituted: (1) sexual assault; (2) battery with intent to commit sexual assault; (3)
20 lewdness with a child; or (4) a felony involving the use or threatened use of force or
21 violence. (NRS 62H.150)

22 Existing law also establishes procedures which are specific to the vacation and
23 sealing of records relating to certain unlawful acts committed by children who are
24 victims of human trafficking or involuntary servitude. (NRS 62E.275)

25 **Section 4** of this bill establishes provisions relating to the expungement and
26 destruction of certain records relating to children. **Section 4** authorizes a child 18
27 years of age or older to petition the juvenile court for an order expunging all
28 records relating to: (1) an unlawful act that, if committed by an adult, would have
29 been a misdemeanor; and (2) an act of a child in need of supervision. Under **section**
30 **4**, if a juvenile court enters an order expunging such records: (1) all proceedings
31 recounted in the records are deemed never to have occurred; (2) the child may reply
32 accordingly to any inquiry concerning the proceedings and the acts which brought
33 about the proceedings; and (3) all records must be destroyed within 60 days of the
34 juvenile court issuing such an order. **Section 4** also: (1) requires the juvenile court
35 to notify the district attorney and the chief probation officer or the Chief of the
36 Youth Parole Bureau, as applicable, if a petition is filed pursuant to **section 4**; and
37 (2) authorizes certain persons who have evidence that is relevant to the
38 consideration of the petition to testify at the hearing on the petition. **Section 7** of
39 this bill makes conforming changes related to the factors considered by the juvenile
40 court in the hearing on the petition. **Sections 5 and 6** of this bill make conforming
41 changes to indicate the proper placement of **section 4** within the Nevada Revised
42 Statutes.

43 **Section 7.5** of this bill replaces the requirement in existing law that certain
44 records relating to a child be sealed automatically when the child reaches 21 years
45 of age with the requirement that such records be sealed automatically: (1) within 60
46 days of the date the child reaches 18 years of age; or (2) if the records relate to a
47 delinquent or unlawful act, criminal charge or act of a child in need of supervision
48 for which a child is subject to the jurisdiction of a juvenile court or other agency
49 when the child reaches 18 years of age, within 60 days of the termination of the
50 jurisdiction of the juvenile court or other agency.

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.** (Deleted by amendment.)

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

4 **Sec. 4.** Chapter 62H of NRS is hereby amended by adding
5 thereto a new section to read as follows:

6 *1. A child 18 years of age or older may petition the juvenile*
7 *court for an order expunging all records of the person relating to:*

8 *(a) An unlawful act that, if committed by an adult, would have*
9 *been a misdemeanor; and*

10 *(b) An act of a child in need of supervision pursuant to*
11 *NRS 62B.320.*



1 2. *If a petition is filed pursuant to subsection 1, the juvenile*
2 *court shall notify the district attorney and the chief probation*
3 *officer or the Chief of the Youth Parole Bureau, as applicable.*

4 3. *The district attorney and the chief probation officer or any*
5 *of their deputies, the Chief of the Youth Parole Bureau or his or*
6 *her designee or any other person who has evidence that is relevant*
7 *to the consideration of a petition filed pursuant to subsection 1*
8 *may testify at the hearing on the petition.*

9 4. *After the hearing on a petition filed pursuant to subsection*
10 *1, if the juvenile court finds that the child has been rehabilitated to*
11 *the satisfaction of the juvenile court, the juvenile court shall enter*
12 *an order expunging all records described in subsection 1. In*
13 *determining whether a child has been rehabilitated to the*
14 *satisfaction of the juvenile court, the juvenile court may consider*
15 *the factors listed in subsection 5 of NRS 62H.130.*

16 5. *If the juvenile court enters an order expunging the records*
17 *of a child pursuant to this section:*

18 (a) *All proceedings recounted in the records are deemed never*
19 *to have occurred;*

20 (b) *The child may reply accordingly to any inquiry concerning*
21 *the proceedings and the acts which brought about the*
22 *proceedings; and*

23 (c) *All records must be destroyed that are in the custody of:*

24 (1) *The juvenile court or any other court;*

25 (2) *A probation officer, probation department or law*
26 *enforcement agency; or*

27 (3) *Any other public officer or agency.*

28 6. *If the juvenile court enters an order expunging the records*
29 *relating to a child filed pursuant to subsection 1, the juvenile court*
30 *shall send a copy of the order to each public officer or agency*
31 *named in the order. Not later than 60 days after receipt of the*
32 *order, each public officer or agency shall:*

33 (a) *Destroy the records in the custody of the public officer or*
34 *agency, as directed by the order;*

35 (b) *Advise the juvenile court of compliance with the order; and*

36 (c) *Destroy the copy of the order received by the public officer*
37 *or agency.*

38 **Sec. 5.** NRS 62H.100 is hereby amended to read as follows:

39 62H.100 1. As used in NRS 62H.100 to 62H.170, inclusive,
40 *and section 4 of this act*, unless the context otherwise requires,
41 “records” means any records relating to a child who is within the
42 purview of this title and who:

43 (a) Is taken into custody by a peace officer or a probation officer
44 or is otherwise taken before a probation officer; or



1 (b) Appears before the juvenile court or any other court pursuant
2 to the provisions of this title.

3 2. The term includes records of arrest.

4 **Sec. 6.** NRS 62H.110 is hereby amended to read as follows:

5 62H.110 The provisions of NRS 62H.100 to 62H.170,
6 inclusive, *and section 4 of this act* do not apply to:

7 1. Information maintained in the standardized system
8 established pursuant to NRS 62H.200;

9 2. Information that must be collected by the Division of Child
10 and Family Services pursuant to NRS 62H.220;

11 3. Records that are subject to the provisions of NRS 62F.360;
12 or

13 4. Records relating to a traffic offense that would have been a
14 misdemeanor if committed by an adult.

15 **Sec. 7.** NRS 62H.130 is hereby amended to read as follows:

16 62H.130 1. If a child is less than 21 years of age, the child or
17 a probation or parole officer on behalf of the child may petition the
18 juvenile court for an order sealing all records relating to the child.
19 Except as otherwise provided in NRS 62E.275, the petition may be
20 filed:

21 (a) Not earlier than 3 years after the child was last adjudicated in
22 need of supervision, adjudicated delinquent or placed under the
23 supervision of the juvenile court pursuant to NRS 62C.230; and

24 (b) If, at the time the petition is filed, the child does not have
25 any delinquent or criminal charges pending.

26 2. If a petition is filed pursuant to this section, the juvenile
27 court shall notify the district attorney and, if a probation or parole
28 officer is not the petitioner, the chief probation officer or the Chief
29 of the Youth Parole Bureau.

30 3. The district attorney and the chief probation officer or any of
31 their deputies, the Chief of the Youth Parole Bureau or his or her
32 designee, or any other person who has evidence that is relevant to
33 consideration of the petition may testify at the hearing on the
34 petition.

35 4. Except as otherwise provided in subsection 6, after the
36 hearing on the petition, if the juvenile court finds that during the
37 applicable 3-year period, the child has not been convicted of a
38 felony or of any misdemeanor involving moral turpitude and the
39 child has been rehabilitated to the satisfaction of the juvenile court,
40 the juvenile court:

41 (a) May enter an order sealing all records relating to the child if
42 the child is less than 18 years of age; and

43 (b) Shall enter an order sealing all records relating to the child if
44 the child is 18 years of age or older.



1 5. In determining whether a child has been rehabilitated to the
2 satisfaction of the juvenile court pursuant to subsection 4 ~~§~~ *or*
3 *subsection 4 of section 4 of this act*, the juvenile court may
4 consider:

5 (a) The age of the child;

6 (b) The nature of the offense and the role of the child in the
7 commission of the offense;

8 (c) The behavior of the child after the child was last adjudicated
9 in need of supervision or adjudicated delinquent, placed under the
10 informal supervision of a probation officer pursuant to NRS
11 62C.200 or placed under the supervision of the juvenile court
12 pursuant to NRS 62C.230;

13 (d) The response of the child to any treatment or rehabilitation
14 program;

15 (e) The education and employment history of the child;

16 (f) The statement of the victim;

17 (g) The nature of any criminal offense for which the child was
18 convicted;

19 (h) Whether the sealing *or expungement* of the record, *as*
20 *applicable*, would be in the best interest of the child and the State;
21 and

22 (i) Any other circumstance that may relate to the rehabilitation
23 of the child.

24 6. If the juvenile court retains jurisdiction over a civil judgment
25 and a person against whom the civil judgment was entered pursuant
26 to NRS 62B.420, the case caption, case number and order entering
27 the civil judgment must not be sealed until the civil judgment is
28 satisfied or expires. After the civil judgment is satisfied or expires,
29 the child or a person named as a judgment debtor may file a petition
30 to seal such information.

31 **Sec. 7.5.** NRS 62H.140 is hereby amended to read as follows:

32 62H.140 *1.* Except as otherwise provided in *subsection 2 and*
33 *NRS 62H.130 and 62H.150*, when a child reaches ~~§~~ *18* years of
34 age, all records relating to the child must be sealed automatically ~~§~~
35 *within 60 days after the date the child reaches 18 years of age.*

36 *2. A record relating to a delinquent or unlawful act, criminal*
37 *charge or act of a child in need of supervision pursuant to NRS*
38 *62B.320 for which a child is subject to the jurisdiction of a*
39 *juvenile court or other agency when the child reaches 18 years of*
40 *age must be sealed automatically within 60 days after the*
41 *termination of the jurisdiction of the juvenile court or other*
42 *agency.*

43 **Sec. 8.** (Deleted by amendment.)

44 **Sec. 9.** (Deleted by amendment.)



1 **Sec. 10.** This act becomes effective on December 31, 2021.

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