

(Reprinted with amendments adopted on May 19, 2021)

SECOND 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 records concerning children. (BDR 5-986)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

~

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 of certain records relating to children; revising provisions concerning the sealing of records relating to children; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes various provisions relating to the sealing of records relating to children. (NRS 62E.275, 62H.100-62H.170) If such records are sealed, existing law provides that: (1) the proceedings recounted in the records are deemed never to have occurred; and (2) the person may reply accordingly to any inquiry concerning the proceedings and the acts which brought about the proceedings. However, existing law authorizes a juvenile court to order the inspection of sealed records by certain persons under certain circumstances. (NRS 62H.170)

Section 4 of this bill establishes provisions relating to the expungement of certain records relating to children. **Section 4** authorizes a child 18 years of age or older to petition the juvenile court for an order expunging all records relating to: (1) an unlawful act that, if committed by an adult, would have been a misdemeanor; and (2) an act of a child in need of supervision. Under **section 4**, if a juvenile court enters an order expunging such records: (1) all proceedings recounted in the records are deemed never to have occurred; (2) the child may reply accordingly to any inquiry concerning the proceedings and the acts which brought about the proceedings; (3) all records in the custody of a probation officer, probation department or law enforcement agency, or any other public officer or agency, must



18 be destroyed within 60 days after the juvenile court issues such an order; and (4) all
19 records in the custody of the juvenile court or any other court must be expunged.
20 **Section 4** also: (1) requires the juvenile court to notify the district attorney and the
21 chief probation officer or the Chief of the Youth Parole Bureau, as applicable, if a
22 petition is filed pursuant to **section 4**; and (2) authorizes certain persons who have
23 evidence that is relevant to the consideration of the petition to testify at the hearing
24 on the petition. **Section 7** of this bill makes conforming changes related to the
25 factors considered by the juvenile court in the hearing on the petition. **Sections 5**
26 **and 6** of this bill make conforming changes to indicate the proper placement of
27 **section 4** within the Nevada Revised Statutes.

28 When a child reaches 21 years of age, existing law requires the automatic
29 sealing of records relating to the child unless the records relate to: (1) a civil
30 judgment which has not expired or been satisfied; or (2) unlawful acts which, if
31 committed by an adult, would have constituted sexual assault, battery with intent to
32 commit sexual assault, lewdness with a child or a felony involving the use or
33 threatened use of force or violence. (NRS 62H.130-62H.150) While retaining the
34 existing exceptions to the automatic sealing provisions, **section 7.5** of this bill
35 requires that such records be sealed automatically: (1) within 60 days after the date
36 the child reaches 18 years of age; or (2) if the records relate to a delinquent or
37 unlawful act, criminal charge or act of a child in need of supervision for which a
38 child is subject to the jurisdiction of a juvenile court or other agency when the child
39 reaches 18 years of age, within 60 days after the termination of the jurisdiction of of
40 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.*

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

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

20 *4. After the hearing on a petition filed pursuant to subsection*
21 *1, if the juvenile court finds that the child has been rehabilitated to*



1 *the satisfaction of the juvenile court, the juvenile court shall enter*
2 *an order expunging all records described in subsection 1. In*
3 *determining whether a child has been rehabilitated to the*
4 *satisfaction of the juvenile court, the juvenile court may consider*
5 *the factors listed in subsection 5 of NRS 62H.130.*

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

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

10 *(b) The child may reply accordingly to any inquiry concerning*
11 *the proceedings and the acts which brought about the*
12 *proceedings;*

13 *(c) All records must be:*

14 *(1) Expunged that are in the custody of the juvenile court*
15 *or any other court; and*

16 *(2) Destroyed that are in the custody of:*

17 *(I) A probation officer, probation department or law*
18 *enforcement agency; or*

19 *(II) Any other public officer or agency.*

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

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

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

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

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

31 62H.100 1. As used in NRS 62H.100 to 62H.170, inclusive,
32 *and section 4 of this act*, unless the context otherwise requires,
33 "records" means any records relating to a child who is within the
34 purview of this title and who:

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

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

39 2. The term includes records of arrest.

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

41 62H.110 The provisions of NRS 62H.100 to 62H.170,
42 inclusive, *and section 4 of this act* do not apply to:

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



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

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

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

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

8 62H.130 1. If a child is less than 21 years of age, the child or
9 a probation or parole officer on behalf of the child may petition the
10 juvenile court for an order sealing all records relating to the child.
11 Except as otherwise provided in NRS 62E.275, the petition may be
12 filed:

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

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

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

22 3. The district attorney and the chief probation officer or any of
23 their deputies, the Chief of the Youth Parole Bureau or his or her
24 designee, or any other person who has evidence that is relevant to
25 consideration of the petition may testify at the hearing on the
26 petition.

27 4. Except as otherwise provided in subsection 6, after the
28 hearing on the petition, if the juvenile court finds that during the
29 applicable 3-year period, the child has not been convicted of a
30 felony or of any misdemeanor involving moral turpitude and the
31 child has been rehabilitated to the satisfaction of the juvenile court,
32 the juvenile court:

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

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

37 5. In determining whether a child has been rehabilitated to the
38 satisfaction of the juvenile court pursuant to subsection 4 **H** or
39 **subsection 4 of section 4 of this act**, the juvenile court may
40 consider:

41 (a) The age of the child;

42 (b) The nature of the offense and the role of the child in the
43 commission of the offense;

44 (c) The behavior of the child after the child was last adjudicated
45 in need of supervision or adjudicated delinquent, placed under the



1 informal supervision of a probation officer pursuant to NRS
2 62C.200 or placed under the supervision of the juvenile court
3 pursuant to NRS 62C.230;

4 (d) The response of the child to any treatment or rehabilitation
5 program;

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

7 (f) The statement of the victim;

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

10 (h) Whether ~~[the sealing of the record]~~ *granting the petition*
11 would be in the best interest of the child and the State; and

12 (i) Any other circumstance that may relate to the rehabilitation
13 of the child.

14 6. If the juvenile court retains jurisdiction over a civil judgment
15 and a person against whom the civil judgment was entered pursuant
16 to NRS 62B.420, the case caption, case number and order entering
17 the civil judgment must not be sealed until the civil judgment is
18 satisfied or expires. After the civil judgment is satisfied or expires,
19 the child or a person named as a judgment debtor may file a petition
20 to seal such information.

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

22 62H.140 *1.* Except as otherwise provided in *subsection 2 and*
23 NRS 62H.130 and 62H.150, when a child reaches ~~[21]~~ *18* years of
24 age, all records relating to the child must be sealed automatically ~~[.]~~
25 *within 60 days after the date the child reaches 18 years of age.*

26 *2. A record relating to a delinquent or unlawful act, criminal*
27 *charge or act of a child in need of supervision pursuant to NRS*
28 *62B.320 for which a child is subject to the jurisdiction of a*
29 *juvenile court or other agency when the child reaches 18 years of*
30 *age, including, without limitation, a record relating to a pending*
31 *delinquent or criminal charge, must be sealed automatically*
32 *within 60 days after the termination of the jurisdiction of the*
33 *juvenile court or other agency.*

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

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

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

