

Amendment No. 314

Assembly Amendment to Assembly Bill No. 132	(BDR 5-783)
<b>Proposed by:</b> Assembly Committee on Judiciary	
<b>Amends:</b> Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.





ASSEMBLY BILL NO. 132—ASSEMBLYMEN FLORES, TORRES, GONZÁLEZ; ANDERSON, BROWN-MAY, CONSIDINE, DURAN, MARTINEZ, SUMMERS-ARMSTRONG AND THOMAS

FEBRUARY 15, 2021

JOINT SPONSOR: SENATOR DONATE

Referred to Committee on Judiciary

SUMMARY—~~[Revises]~~ **Establishes** provisions ~~[governing juvenile justice.]~~ **relating to custodial interrogations of children.** (BDR 5-783)

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; ~~[requiring the electronic recording of an interrogation of a child under certain circumstances; requiring a child to be represented by an attorney under certain circumstances; requiring a juvenile court to presume a child is indigent for the purpose of appointing an attorney to represent the child; directing the Juvenile Justice Oversight Commission to review and study the effects of certain provisions relating to juvenile justice;]~~ **requiring a peace officer or probation officer who takes a child into custody to make certain disclosures to the child before initiating a custodial interrogation;** and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 ~~[Section 1 of this]~~ **This** bill requires a peace officer or probation officer ~~[to make an~~  
2 ~~electronic recording of an interrogation if the peace officer or probation officer interrogates a~~  
3 ~~child under 15 years of age who is in custody and is suspected of committing certain acts.~~  
4 Section 1 exempts a peace officer or probation officer from the requirement to make an  
5 electronic recording if: (1) exigent circumstances exist which present a serious and immediate  
6 threat of safety to the child or to the safety of others; or (2) the peace officer or probation  
7 officer makes contact with the child in the course of performing certain duties related to the  
8 supervision or placement of the child or providing services or other care to the child. Lastly,  
9 section 1 requires a child to be represented by an attorney during the electronic recording of  
10 such an interrogation.  
11 — Existing law requires a juvenile court to advise the child and the parent or guardian of the  
12 child that the child is entitled to be represented by an attorney at all stages of the proceedings  
13 if the child is alleged to be delinquent or in need of supervision. If a parent or guardian of such  
14 a child is indigent, existing law: (1) authorizes the parent or guardian to request the  
15 appointment of an attorney to represent the child; and (2) requires the juvenile court to appoint  
16 an attorney for the child if the parent or guardian of the child does not retain an attorney for

17 the child and is not likely to retain an attorney. (NRS 62D.030) Section 2 of this bill requires  
 18 the juvenile court to: (1) presume a child is indigent for the purpose of appointing an attorney  
 19 in juvenile proceedings and; (2) not require an affidavit concerning the financial disability of  
 20 the child. Section 3 of this bill makes a conforming change.  
 21 ~~Existing law establishes the Juvenile Justice Oversight Commission which performs~~  
 22 ~~certain functions relating to the juvenile system. (NRS 62B.600) Section 4 of this bill requires~~  
 23 ~~the Commission to hold one or more meetings to review and study the effectiveness of the~~  
 24 ~~juvenile justice system as a result of the provisions enacted and amended in this bill.] who~~  
 25 ~~takes a child into custody to make certain disclosures to the child concerning his or her~~  
 26 ~~constitutional rights relating to custodial interrogations before initiating a custodial~~  
 27 ~~interrogation.~~

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

1 **Section 1.** Chapter 62C of NRS is hereby amended by adding thereto a new  
 2 section to read as follows:

3 *1. ~~[Except as otherwise provided in subsection 2, a] A peace officer or~~*  
 4 *probation officer who takes a child ~~[under 15 years of age] into custody pursuant~~*  
 5 *to NRS 62C.010 shall ~~[make an electronic recording of any] , before initiating a~~*  
 6 *custodial interrogation ~~[if the child is alleged to have committed]~~.*

7 ~~—(a) An act deemed not to be a delinquent act pursuant to subsection 3 of NRS~~  
 8 ~~62B.330; or~~

9 ~~—(b) An offense for which the child may or must be certified for proper~~  
 10 ~~criminal proceedings as an adult pursuant to NRS 62B.300.~~

11 ~~2. A peace officer or probation officer is not required to make an electronic~~  
 12 ~~recording pursuant to subsection 1 if:~~

13 ~~—(a) Exigent circumstances exist, including without limitation, a serious and~~  
 14 ~~immediate threat to the safety of the child or to the safety of others; or~~

15 ~~—(b) The peace officer or probation officer makes contact with the child in the~~  
 16 ~~course of performing any normal or routine duties related to the supervision or~~  
 17 ~~placement of the child or providing services or other care to the child.~~

18 ~~3. If a peace officer or probation officer makes an electronic recording of a~~  
 19 ~~custodial interrogation pursuant to subsection 1, the child must be represented by~~  
 20 ~~an attorney during the custodial interrogation.~~

21 ~~4.] , disclose to the child:~~

22 (a) You have the right to remain silent, which means you do not have to say  
 23 anything to me unless you want to. It is your choice.

24 (b) If you choose to talk to me, whatever you tell me I can tell a judge in  
 25 court.

26 (c) You have the right to have your parent with you while you talk to me.

27 (d) You have the right to have a lawyer with you while you talk to me. If your  
 28 family cannot pay for a lawyer, you will get a free lawyer. That lawyer is your  
 29 lawyer and can help you if you decide that you want to talk to me.

30 (e) These are your rights. Do you understand what I have told you?

31 (f) Do you want to talk to me?

32 2. As used in this section:

33 (a) “Custodial interrogation” means an interrogation of a child while the  
 34 child is in custody.

35 (b) “Electronic recording” means:

36 ~~—(1) If audiovisual recording is feasible, an audiovisual recording; or~~

37 ~~—(2) If audiovisual recording is not feasible, an audio-only recording.~~

~~1~~ ~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~32~~ ~~33~~ ~~34~~ ~~35~~ ~~36~~ ~~37~~ ~~38~~ ~~39~~ ~~40~~ ~~41~~ ~~42~~ ~~43~~ ~~44~~ ~~45~~ ~~46~~ ~~47~~ ~~48~~ ~~49~~ ~~50~~ ~~51~~ ~~52~~

~~—(c)— “Interrogation” means questioning which is initiated by a peace officer or probation officer or any words or actions on the part of a peace officer or probation officer, other than those which are ordinarily attendant to confinement or detention, that the peace officer or probation officer should know are reasonably likely to elicit an incriminating response from the child who is being questioned.~~

~~Sec. 2. [NRS 62D.030 is hereby amended to read as follows:  
62D.030 1. If a child is alleged to be delinquent or in need of supervision, the juvenile court shall [advise];~~

~~(a) Advise the child and the parent or guardian of the child that the child is entitled to be represented by an attorney at all stages of the proceedings [;~~

~~2. If a parent or guardian of a child is indigent, the parent or guardian may request the appointment];~~

~~(b) Presume the child is indigent for the purpose of appointing an attorney to represent the child pursuant to the provisions in NRS 171.188 [;~~

~~3.];~~

~~(c) Not require the child to submit an affidavit concerning the financial disability of the child; and~~

~~(d) Except as otherwise provided in this section, [the juvenile court shall] appoint an attorney for a child if the parent or guardian of the child does not retain an attorney for the child and is not likely to retain an attorney for the child.~~

~~[4.] 2. A child may waive the right to be represented by an attorney if:~~

~~(a) A petition is not filed and the child is placed under informal supervision pursuant to NRS 62C.200; or~~

~~(b) A petition is filed and the record of the juvenile court shows that the waiver of the right to be represented by an attorney is made knowingly, intelligently, voluntarily and in accordance with any applicable standards established by the juvenile court.~~

~~[5.] 3. Except as otherwise provided in NRS 424.085, if the juvenile court appoints an attorney to represent a child, the parent or guardian must not be required to pay the fees and expenses of the attorney.~~

~~[6.] 4. Each attorney, other than a public defender, who is appointed under the provisions of this section is entitled to the same compensation and expenses from the county as is provided in NRS 7.125 and 7.135 for attorneys appointed to represent persons charged with criminal offenses.] (Deleted by amendment.)~~

~~Sec. 3. [NRS 62D.035 is hereby amended to read as follows:~~

~~62D.035 Subject to the provisions of subsection [6.] 4 of NRS 62D.030 and chapter 260 of NRS, a public defender or any other attorney who represents a child in proceedings pursuant to the provisions of this title may consult with and seek appointment of:~~

~~1. Any social worker licensed pursuant to chapter 641B of NRS;~~

~~2. Any qualified mental health professional, as defined in NRS 458A.057;~~

~~3. Any educator; and~~

~~4. Any other expert the attorney deems appropriate.] (Deleted by amendment.)~~

~~Sec. 4. [1. The Juvenile Justice Oversight Commission established by NRS 62B.600 shall, during the 2025-2026 interim, review and study the effectiveness of the juvenile justice system as a result of:~~

~~(a) The provisions enacted by section 1 of this act.~~

~~(b) The provisions of NRS 62D.030, as amended by section 2 of this act.~~

~~2. The Commission shall hold one or more meetings in connection with the duties proscribed in this section.] (Deleted by amendment.)~~

1        **Sec. 5.** This act becomes effective on July 1, 2021.