

Amendment No. 143

Assembly Amendment to Assembly Bill No. 230	(BDR 5-791)
Proposed by: Assembly Committee on Judiciary	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: Yes 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.

DAN/BAW



Date: 4/11/2021

A.B. No. 230—Revises provisions relating to juvenile justice. (BDR 5-791)



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 child who is
2 alleged to have committed an act designated as a delinquent act, unless the child is alleged to
3 have committed an offense for which the juvenile court may certify the child for criminal
4 proceedings as an adult and the juvenile court certifies the child for criminal proceedings as an
5 adult upon a motion by the district attorney and after a full investigation. (NRS 62B.330,
6 62B.390) Certain offenses with age-related conditions are not considered delinquent acts and
7 are therefore excluded from the jurisdiction of the juvenile court such as: (1) murder and
8 attempted murder; (2) sexual assault and attempted sexual assault involving the use or
9 threatened use of force or violence against the victim; (3) an offense or attempted offense
10 involving the use or threatened use of a firearm; (4) certain felonies resulting in death or
11 substantial bodily harm on the property of a school, at an activity sponsored by a school or on
12 a school bus; (5) other category A and B felonies; and (6) any other offense if, before the
13 offense was committed, the person previously had been convicted of a criminal offense. (NRS
14 62B.330) **Section 2** of this bill eliminates ~~these~~ the exclusions of: (1) sexual assault and
15 attempted sexual assault involving the use or threatened use of force or violence; and (2)
16 an offense or attempted offense involving the use or threatened use of a firearm from the
17 jurisdiction of the juvenile court, thereby retaining such offenses under the jurisdiction of the

18 juvenile court. ~~[Sections 1, 3 and 5-7 of this bill make conforming changes by removing~~
19 ~~references to the 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 investigation if
22 the child: (1) is charged with a sexual assault involving the use or threatened use of force or
23 violence against the victim or an offense or attempted offense involving the use or threatened
24 use of a firearm; and (2) was 16 years of age or older at the time the child allegedly committed
25 the offense. (NRS 62B.390) **Section 4** of this bill eliminates the mandatory certification of a
26 child as an adult for these offenses and provides instead for the discretionary certification of a
27 child for criminal proceedings as an adult for all offenses over which the juvenile court has
28 exclusive jurisdiction.

29 **Section 7.5 of this bill requires the Legislative Committee on Child Welfare and**
30 **Juvenile Justice to conduct a study during the 2021-2022 interim concerning the need for**
31 **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.** ~~[NRS 62A.030 is hereby amended to read as follows:~~

2 ~~62A.030 1. "Child" means:~~

3 ~~— (a) A person who is less than 18 years of age;~~

4 ~~— (b) A person who is less than 21 years of age and subject to the jurisdiction of~~
5 ~~the juvenile court for an unlawful act that was committed before the person reached~~
6 ~~18 years of age; or~~

7 ~~— (c) A person who is otherwise subject to the jurisdiction of the juvenile court as~~
8 ~~a juvenile sex offender pursuant to the provisions of NRS 62F.205 to 62F.360,~~
9 ~~inclusive.~~

10 ~~2. The term does not include:~~

11 ~~— (a) [A person who is excluded from the jurisdiction of the juvenile court~~
12 ~~pursuant to NRS 62B.330;~~

13 ~~— (b)] A person who is transferred to the district court for criminal proceedings~~
14 ~~as an adult pursuant to NRS 62B.335; or~~

15 ~~— [(c)] (b) A person who is certified for criminal proceedings as an adult~~
16 ~~pursuant to NRS 62B.390 or 62B.400.] **(Deleted by amendment.)**~~

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

18 62B.330 1. Except as otherwise provided in this title, the juvenile court has
19 exclusive original jurisdiction over a child living or found within the county who is
20 alleged or adjudicated to have committed a delinquent act.

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

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

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

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

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

32 **(a) Murder or attempted murder and any other related offense arising out of the**
33 **same facts as the murder or attempted murder, regardless of the nature of the**
34 **related offense, if the person was 16 years of age or older when the murder or**
35 **attempted murder was committed.**

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

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

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

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

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

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

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

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

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

~~(e) (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) (d) 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;~~

1 ~~— (b) Order the child to be taken immediately to appear before the juvenile court,~~
 2 ~~or~~
 3 ~~— (c) Release the child to the custody of a suitable person and order the child to~~
 4 ~~be brought before the juvenile court at a time designated by the juvenile court.]~~
 5 **(Deleted by amendment.)**

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

7 62B.390 1. Except as otherwise provided in ~~[subsection 2 and]~~ NRS
 8 62B.400, upon a motion by the district attorney and after a full investigation, the
 9 juvenile court may certify a child for proper criminal proceedings as an adult to any
 10 court that would have jurisdiction to try the offense if committed by an adult, if the
 11 child:

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

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

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

21 ~~— (a) Is charged with:~~

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

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

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

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

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

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

37 ~~— 4.]~~ If a child is certified for criminal proceedings as an adult pursuant to
 38 subsection 1, ~~[or 2,]~~ the juvenile court shall also certify the child for criminal
 39 proceedings as an adult for any other related offense arising out of the same facts as
 40 the offense for which the child was certified, regardless of the nature of the related
 41 offense.

42 ~~[5.]~~ 3. If a child has been certified for criminal proceedings as an adult
 43 pursuant to subsection 1 ~~[or 2]~~ and the child's case has been transferred out of the
 44 juvenile court:

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

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

49 (c) If the child's case is transferred back to the juvenile court, the juvenile
 50 court shall determine whether the exceptional circumstances warrant accepting
 51 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, if, pursuant to~~
3 ~~this title, a child or a parent or guardian of a child is ordered by the juvenile court to~~
4 ~~pay a fine or restitution or to make any other payment and the fine, restitution or~~
5 ~~other payment or any part of it remains unpaid after the time established by the~~
6 ~~juvenile court for its payment, the juvenile court may enter a civil judgment against~~
7 ~~the child or the parent or guardian of the child for the amount due in favor of the~~
8 ~~victim, the state or local entity to whom the amount is owed or both. The juvenile~~
9 ~~court may not enter a civil judgment against a person who is a child unless the~~
10 ~~person has attained the age of 18 years, the person is a child who is determined to~~
11 ~~be outside the jurisdiction of the juvenile court pursuant to NRS ~~[62B.230 or]~~~~
12 ~~62B.335 or the person is a child who is certified for proper criminal proceedings as~~
13 ~~an adult pursuant to NRS 62B.290.~~

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

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

27 ~~4. In addition to attempting to collect the judgment through any other lawful~~
28 ~~means, a victim, a representative of the victim or a state or local entity that is~~
29 ~~responsible for collecting a civil judgment entered pursuant to subsection 1 may~~
30 ~~take any or all of the following actions:~~

31 ~~(a) Except as otherwise provided in this paragraph, report the judgment to~~
32 ~~reporting agencies that assemble or evaluate information concerning credit. If the~~
33 ~~judgment was entered against a person who was less than 21 years of age at the~~
34 ~~time the judgment was entered, the judgment cannot be reported pursuant to this~~
35 ~~paragraph until the person reaches 21 years of age.~~

36 ~~(b) Request that the juvenile court take appropriate action pursuant to~~
37 ~~subsection 5.~~

38 ~~(c) Contract with a collection agency licensed pursuant to NRS 649.075 to~~
39 ~~collect the judgment.~~

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

44 ~~(a) Order the suspension of the driver's license of a child for a period not to~~
45 ~~exceed 1 year. If the child is already the subject of a court order suspending the~~
46 ~~driver's license of the child, the juvenile court may order the additional suspension~~
47 ~~to apply consecutively with the previous order. At the time the juvenile court issues~~
48 ~~an order suspending the driver's license of a child pursuant to this paragraph, the~~
49 ~~juvenile court shall require the child to surrender to the juvenile court all driver's~~
50 ~~licenses then held by the child. The juvenile court shall, within 5 days after issuing~~
51 ~~the order, forward to the Department of Motor Vehicles the licenses, together with~~
52 ~~a copy of the order. The Department of Motor Vehicles shall report a suspension~~
53 ~~pursuant to this paragraph to an insurance company or its agent inquiring about the~~

1 driving record of a child, but such a suspension must not be considered for the
2 purpose of rating or underwriting.

3 ~~— (b) If a child does not possess a driver's license, prohibit the child from
4 applying for a driver's license for a period not to exceed 1 year. If the child is
5 already the subject of a court order delaying the issuance of a license to drive, the
6 juvenile court may order any additional delay in the ability of the child to apply for
7 a driver's license to apply consecutively with the previous order. At the time the
8 juvenile court issues an order pursuant to this paragraph delaying the ability of a
9 child to apply for a driver's license, the juvenile court shall, within 5 days after
10 issuing the order, forward to the Department of Motor Vehicles a copy of the order.~~

11 ~~— (c) If the civil judgment was issued for a delinquent fine, order the confinement
12 of the person in the appropriate prison, jail or detention facility, as provided in NRS
13 176.065 and 176.075.~~

14 ~~— (d) Enter a finding of contempt against a child or the parent or guardian of a
15 child and punish the child or the parent or guardian for contempt in the manner
16 provided in NRS 62E.040. A person who is indigent may not be punished for
17 contempt pursuant to this paragraph.~~ **(Deleted by amendment.)**

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

19 ~~— 62C.030 1. If a child is not alleged to be delinquent or in need of
20 supervision, the child must not, at any time, be confined or detained in:~~

21 ~~— (a) A facility for the secure detention of children; or~~

22 ~~— (b) Any police station, lockup, jail, prison or other facility in which adults are
23 detained or confined.~~

24 ~~— 2. If a child is alleged to be delinquent or in need of supervision, the child
25 must not, before disposition of the case, be detained in a facility for the secure
26 detention of children unless there is probable cause to believe that:~~

27 ~~— (a) If the child is not detained, the child is likely to commit an offense
28 dangerous to the child or to the community, or likely to commit damage to
29 property;~~

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

32 ~~— (c) The child was taken into custody and brought before a probation officer
33 pursuant to a court order or warrant; or~~

34 ~~— (d) The child is a fugitive from another jurisdiction.~~

35 ~~— 3. If a child is less than 18 years of age, the child must not, at any time, be
36 confined or detained in any police station, lockup, jail, prison or other facility
37 where the child has regular contact with any adult who is confined or detained in
38 the facility and who has been convicted of a criminal offense or charged with a
39 criminal offense, unless:~~

40 ~~— (a) The child is alleged to be delinquent;~~

41 ~~— (b) An alternative facility is not available; and~~

42 ~~— (c) The child is separated by sight and sound from any adults who are confined
43 or detained in the facility.~~

44 ~~— 4. During the pendency of a proceeding involving [:~~

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

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

49 ~~— a] the child may petition the juvenile court for temporary placement in a facility
50 for the detention of children.]~~ **(Deleted by amendment.)**

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

52 ~~— 62D.415 1. An instrument of restraint may be used on a child during a court
53 proceeding only if the restraint is necessary to prevent the child from:~~

~~(a) Inflicting physical harm on himself or herself or another person; or~~
~~(b) Escaping from the courtroom.~~
~~2. Whenever practical, the judge shall provide the:~~
~~(a) Child and his or her attorney an opportunity to be heard regarding the use of an instrument of restraint before the judge orders the use of an instrument of restraint;~~
~~(b) Prosecuting attorney an opportunity to be heard regarding whether the use of an instrument of restraint is necessary pursuant to subsection 1.~~
~~2. In making a determination pursuant to subsection 2 as to whether an instrument of restraint is necessary pursuant to subsection 1, the court shall consider the following factors:~~
~~(a) Any previous escapes or attempted escapes by the child;~~
~~(b) Evidence of a present plan of escape by the child;~~
~~(c) A credible threat by the child to harm himself or herself or another person;~~
~~(d) A history of self-destructive tendencies by the child;~~
~~(e) Any credible threat of an attempt to escape by a person not in custody;~~
~~(f) Whether the child is subject to a proceeding [:~~
~~(1) That is not in the jurisdiction of the juvenile court pursuant to subsection 3 of NRS 62B.230; or~~
~~(2) For] for transfer or certification for criminal proceedings as an adult pursuant to NRS 62B.235, 62B.290 or 62B.400.~~
~~(g) Any other factor that is relevant in determining whether the use of an instrument of restraint on the child is necessary pursuant to subsection 1.~~
~~4. The determination of the judge pursuant to subsection 2 must contain specific findings of fact and conclusions of law supporting the determination.~~
~~5. If an instrument of restraint is used on a child, the restraint must allow the child limited movement of his or her hands to hold any document or writing necessary to participate in the proceeding.~~
~~6. As used in this section, "instrument of restraint" includes, without limitation, handcuffs, chains, irons and straightjackets. **(Deleted by amendment.)**~~

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

- (a) The current placement of juveniles awaiting certification for criminal proceedings as an adult;**
- (b) The current placement of juveniles excluded from the jurisdiction of the juvenile court pursuant to NRS 62B.330;**
- (c) The cost associated with the current placement of juveniles awaiting certification for criminal proceedings as an adult;**
- (d) The costs associated with housing all current juveniles excluded from the jurisdiction of the juvenile court pursuant to NRS 62B.330;**
- (e) The costs associated with placing all juveniles subject to potential transfer to the criminal justice system in a facility for juveniles; and**
- (f) The facilities, services and programs available for juveniles subject to transfer to the criminal justice system.**

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

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