

Amendment No. 319

Assembly Amendment to Assembly Bill No. 251	(BDR 5-986)
Proposed by: Assembly Committee on Judiciary	
Amends: Summary: No 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. 251—ASSEMBLYMEN KRASNER, FLORES, C.H. MILLER;
BILBRAY-AXELROD, MCARTHUR, ~~AND~~ 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; ~~requiring a peace officer or probation officer to ensure that a child in custody consults with a parent or guardian or an attorney before the commencement of a custodial interrogation of the child;~~ establishing provisions relating to the expungement and destruction of certain records relating to children; ~~repealing and~~ revising certain provisions concerning the sealing of certain records relating to children; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

~~Existing law authorizes a peace officer or probation officer to take a child into custody if: (1) the officer has probable cause to believe that the child is violating or has violated any state or local law, ordinance, or rule or regulation having the force of law; or (2) the conduct of the child indicates that the child is in need of supervision. (NRS 62C.010) Section 1 of this bill requires a peace officer or probation officer to ensure that a child in custody consults with a parent or guardian or an attorney before the commencement of a custodial interrogation of the child.~~

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

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19 exceptions, that all records relating to a child be sealed automatically when the child reaches
20 21 years of age. (NRS 62H.140)

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

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

29 ~~[Sections 2-9]~~ Section 4 of this bill ~~[- (1) establish]~~ establishes provisions relating to the
30 expungement and destruction of certain records relating to children ~~[- (1) and (2) revise and~~
31 ~~repeal provisions relating to the sealing of certain records relating to children.~~

32 ~~— Section 4 of this bill requires every court or other agency with possession of expungable~~
33 ~~records relating to a child to destroy such records on the 18th birthday of the child, or at~~
34 ~~certain later dates, if the records relate to pending charges or relate to an unlawful act for~~
35 ~~which the child is subject to the supervision of the juvenile court or agency. Section 4 defines~~
36 ~~“expungable record” as a record relating to an unlawful act that would have been a~~
37 ~~misdemeanor if committed by an adult. Sections 2, 3, 5 and 6 of this bill make conforming~~
38 ~~changes relating to the destruction of expungable records.~~

39 ~~— Section 7 of this bill makes various changes to the existing process of sealing records~~
40 ~~relating to children. Specifically, section 7 authorizes a child, or a probation officer or parole~~
41 ~~officer on behalf of the child, to petition the juvenile court for the sealing of records if, at the~~
42 ~~time the petition is filed: (1) the child is at least 18 years of age; (2) the record does not~~
43 ~~qualify for destruction pursuant to section 4; (3) the record is not a civil judgment relating to~~
44 ~~the payment of restitution which has not been satisfied or has expired; (4) the record does not~~
45 ~~relate to a pending charge; and (5) the record does not relate to an unlawful act for which the~~
46 ~~child is subject to the supervision of a juvenile court or other agency. Section 7 authorizes the~~
47 ~~juvenile court to grant the petition by ordering the sealing of the records. Sections 8 and 9 of~~
48 ~~this bill make conforming changes by revising and repealing certain provisions concerning the~~
49 ~~sealing of records relating to children.]~~

50 Section 4 authorizes a child 18 years of age or older
51 to petition the juvenile court for an order expunging all records relating to: (1) an
52 unlawful act that, if committed by an adult, would have been a misdemeanor; and (2) an
53 act of a child in need of supervision. Under section 4, if a juvenile court enters an order
54 expunging such records: (1) all proceedings recounted in the records are deemed never
55 to have occurred; (2) the child may reply accordingly to any inquiry concerning the
56 proceedings and the acts which brought about the proceedings; and (3) all records must
57 be destroyed within 60 days of the juvenile court issuing such an order. Section 4 also:
58 (1) requires the juvenile court to notify the district attorney and the chief probation
59 officer or the Chief of the Youth Parole Bureau, as applicable, if a petition is filed
60 pursuant to section 4; and (2) authorizes certain persons who have evidence that is
61 relevant to the consideration of the petition to testify at the hearing on the petition.
62 Section 7 of this bill makes conforming changes related to the factors considered by the
63 juvenile court in the hearing on the petition. Sections 5 and 6 of this bill make
64 conforming changes to indicate the proper placement of section 4 within the Nevada
65 Revised Statutes.

66 Section 7.5 of this bill replaces the requirement in existing law that certain records
67 relating to a child be sealed automatically when the child reaches 21 years of age with
68 the requirement that such records be sealed automatically: (1) within 60 days of the date
69 the child reaches 18 years of age; or (2) if the records relate to a delinquent or unlawful
70 act, criminal charge or act of a child in need of supervision for which a child is subject to
71 the jurisdiction of a juvenile court or other agency when the child reaches 18 years of
72 age, within 60 days of the termination of the jurisdiction of the juvenile court or other
agency.

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

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

~~1. A peace officer or probation officer who takes a child into custody pursuant to NRS 62C.010 shall ensure that the child consults with his or her parent or guardian or an attorney before the commencement of a custodial interrogation.~~

~~2. As used in this section:~~

~~(a) "Custodial interrogation" means an interrogation of a child while the child is in custody.~~

~~(b) "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.] (Deleted by amendment.)~~

~~Sec. 2. [NRS 62E.275 is hereby amended to read as follows:~~

~~62E.275 1. If a child is less than 18 years of age and has been adjudicated delinquent for an unlawful act listed in subsection 2, the child may petition the juvenile court for an order:~~

~~(a) Vacating the adjudication; and~~

~~(b) Sealing all records relating to the adjudication.~~

~~2. A child may file a petition pursuant to subsection 1 if the child was adjudicated delinquent for an unlawful act in violation of:~~

~~(a) NRS 201.354, for engaging in prostitution or solicitation for prostitution, provided that the child was not alleged to be a customer of a prostitute;~~

~~(b) NRS 207.200, for unlawful trespass;~~

~~(c) Paragraph (b) of subsection 1 of NRS 463.350, for loitering; or~~

~~(d) A county, city or town ordinance, for loitering for the purpose of solicitation or prostitution.~~

~~3. The juvenile court may grant a petition filed pursuant to subsection 1 if:~~

~~(a) The petitioner was adjudicated delinquent for an unlawful act described in subsection 2;~~

~~(b) The participation of the petitioner in the unlawful act was the result of the petitioner having been a victim of:~~

~~(1) Trafficking in persons as described in the Trafficking Victims Protection Act of 2000, 22 U.S.C. §§ 7101 et seq.; or~~

~~(2) Involuntary servitude as described in NRS 200.463 or 200.4631; and~~

~~(c) The petitioner files a petition pursuant to subsection 1 with due diligence after the petitioner has ceased being a victim of trafficking or involuntary servitude or has sought services for victims of such trafficking or involuntary servitude.~~

~~4. Before the court decides whether to grant a petition filed pursuant to subsection 1, the court shall:~~

~~(a) Notify the district attorney and the chief probation officer or the Chief of the Youth Parole Bureau and allow any person who has evidence that is relevant to consideration of the petition to testify at the hearing on the petition; and~~

~~(b) Take into consideration any reasonable concerns for the safety of the petitioner, family members of the petitioner or other victims that may be jeopardized by the granting of the petition.~~

~~5. If the court grants a petition filed pursuant to subsection 1, the court shall:~~

~~1 (a) Vacate the adjudication and dismiss the accusatory pleading; and~~

~~2 (b) Order sealed all records relating to the adjudication.~~

~~3 6. [H] Except as otherwise provided in subsection 8, if a petition filed
4 pursuant to subsection 1 does not satisfy the requirements of NRS 62H.130 or the
5 juvenile court determines that the petition is otherwise deficient with respect to the
6 sealing of the petitioner's record, the juvenile court may enter an order to vacate the
7 adjudication and dismiss the accusatory pleading if the petitioner satisfies all
8 requirements necessary for the adjudication to be vacated.~~

~~9 7. If the juvenile court enters an order pursuant to subsection 6, the court shall
10 also order sealed all records of the petitioner which relate to the adjudication being
11 vacated in accordance with paragraph (b) of subsection 5, regardless of whether any
12 records relating to other adjudications are ineligible for sealing either by operation
13 of law or because of a deficiency in the petition.~~

~~14 8. A child may petition for the sealing of records pursuant to this section
15 regardless of whether the records qualify for destruction pursuant to section 4 of
16 this act. If a court grants the petition for the sealing of such records pursuant to
17 this section, the records must remain sealed until such time that the records are
18 destroyed pursuant to section 4 of this act.] (Deleted by amendment.)~~

~~19 Sec. 3. [NRS 62F.360 is hereby amended to read as follows:~~

~~20 62F.360 The records relating to a child must not be destroyed pursuant to
21 section 4 of this act or sealed pursuant to the provisions of NRS [62H.100 to
22 62H.170, inclusive.] 62H.130 while the child is subject to registration and
23 community notification pursuant to NRS 179D.010 to 179D.550, inclusive.]
24 (Deleted by amendment.)~~

~~25 Sec. 4. Chapter 62H of NRS is hereby amended by adding thereto a new
26 section to read as follows:~~

~~27 1. [Except as otherwise provided in subsection 2, every juvenile court or
28 agency with custody of an expungable record relating to a child shall destroy the
29 expungable record on the 18th birthday of the child.] A child 18 years of age or
30 older may petition the juvenile court for an order expunging all records of the
31 person relating to:~~

~~32 (a) An unlawful act that, if committed by an adult, would have been a
33 misdemeanor; and~~

~~34 (b) An act of a child in need of supervision pursuant to NRS 62B.320.~~

~~35 2. [If the expungable record relates to a pending delinquent or criminal
36 charge or an unlawful act for which the child is subject to the supervision of a
37 juvenile court or another agency, the expungable record must be destroyed by the
38 juvenile court or agency, as applicable, on the date that the charge is no longer
39 pending or on the date that the supervision of the juvenile court or agency
40 terminates, whichever is later.] If a petition is filed pursuant to subsection 1, the
41 juvenile court shall notify the district attorney and the chief probation officer or
42 the Chief of the Youth Parole Bureau, as applicable.~~

~~43 3. [Upon the destruction of an expungable record pursuant to this section:]
44 The district attorney and the chief probation officer or any of their deputies, the
45 Chief of the Youth Parole Bureau or his or her designee or any other person who
46 has evidence that is relevant to the consideration of a petition filed pursuant to
47 subsection 1 may testify at the hearing on the petition.~~

~~48 4. After the hearing on a petition filed pursuant to subsection 1, if the
49 juvenile court finds that the child has been rehabilitated to the satisfaction of the
50 juvenile court, the juvenile court shall enter an order expunging all records
51 described in subsection 1. In determining whether a child has been rehabilitated
52 to the satisfaction of the juvenile court, the juvenile court may consider the
53 factors listed in subsection 5 of NRS 62H.130.~~

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

(a) ~~All proceedings recounted in the [expungable record] records are deemed never to have occurred; [and]~~

(b) ~~The child may reply accordingly to any inquiry concerning the proceedings and the acts which brought about the proceedings [; 4. As used in this section, "expungable record" means a record relating to an unlawful act that would have been a misdemeanor if committed by an adult.]; and~~

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

(1) The juvenile court or any other court;

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

(3) Any other public officer or agency.

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

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

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

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

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

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

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

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

2. The term includes records of arrest.

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

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

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

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

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

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

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

62H.130 1. If a child is less than 21 years of age, the [Except as otherwise provided in NRS 62E.275, a] child or a probation or parole officer on behalf of the child may petition the juvenile court for an order sealing all records [any record] relating to the child. [Except as otherwise provided in NRS 62E.275, if, at the time] the petition may be [is] filed:

(a) Not earlier than 3 years after the child was last adjudicated in need of supervision, adjudicated delinquent or placed under the supervision of the juvenile court pursuant to NRS 62C.230; [The child is at least 18 years of age;] and

(b) If, at the time the petition is filed, the child does not have any [The record;

(1) Is not;

(2) Subject to destruction pursuant to section 4 of this act; or

~~(II) A civil judgment entered pursuant to NRS 62B.420 which has not been satisfied or has expired; and~~

~~(2) Does not relate to:~~

~~(I) A] delinquent or criminal charges [e]charge] pending ~~;~~ ~~for~~~~

~~(II) An unlawful act for which the child is subject to the supervision of a juvenile court or other agency.]~~

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

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

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

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

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

5. In determining whether a child has been rehabilitated to the satisfaction of the juvenile court [to seal the records relating to the child] pursuant to subsection 4 ~~[or subsection 4 of section 4 of this act,~~ the juvenile court may consider:

(a) The age of the child;

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

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

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

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

(f) The statement of the victim;

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

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

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

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

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

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

2. A record relating to a delinquent or unlawful act, criminal charge or act of a child in need of supervision pursuant to NRS 62B.320 for which a child is subject to the jurisdiction of a juvenile court or other agency when the child

reaches 18 years of age must be sealed automatically within 60 days after the termination of the jurisdiction of the juvenile court or other agency.

~~Sec. 8. [NRS 62H.160 is hereby amended to read as follows:~~

~~62H.160 1. If the juvenile court enters an order sealing the records relating to a child, [for the records are sealed automatically, all] the records relating to the child must be sealed that are in the custody of:~~

~~(a) The juvenile court or any other court;~~

~~(b) A probation officer, probation department or law enforcement agency; or~~

~~(c) Any other public officer or agency;~~

~~2. If the juvenile court enters an order sealing the records relating to a child, the juvenile court shall send a copy of the order to each public officer or agency named in the order. Not later than 5 days after receipt of the order, each public officer or agency shall:~~

~~(a) Seal the records in the custody of the public officer or agency, as directed by the order;~~

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

~~(c) Seal the copy of the order received by the public officer or agency.]~~

(Deleted by amendment.)

~~Sec. 9. [NRS 62H.140 and 62H.150 are hereby repealed.]~~ (Deleted by amendment.)

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

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TEXT OF REPEALED SECTIONS

~~62H.140 Automatic sealing of records when child reaches 21 years of age; exception. Except as otherwise provided in NRS 62H.130 and 62H.150, when a child reaches 21 years of age, all records relating to the child must be sealed automatically.~~

~~62H.150 Limitations on sealing records related to certain delinquent acts:~~

~~1. If a child is adjudicated delinquent for an unlawful act listed in subsection 6 and the records relating to that unlawful act have not been sealed by the juvenile court pursuant to NRS 62H.130 before the child reaches 21 years of age, unless the records have not been sealed pursuant to subsection 6 of NRS 62H.130, those records must not be sealed before the child reaches 30 years of age.~~

~~2. After the child reaches 30 years of age, the child may petition the juvenile court for an order sealing those records.~~

~~3. If a petition is filed pursuant to this section, the juvenile court shall notify the district attorney and the chief probation officer or the Chief of the Youth Parole Bureau.~~

~~4. The district attorney and the chief probation officer or any of their deputies, the Chief of the Youth Parole Bureau or his or her designee, or any other person who has evidence that is relevant to consideration of the petition may testify at the hearing on the petition.~~

~~5. After the hearing on the petition, the juvenile court may enter an order sealing the records relating to the child if the juvenile court finds that, during the period since the child reached 21 years of age, the child has not been convicted of any offense, except for minor moving or standing traffic offenses.~~

~~6. The provisions of this section apply to any of the following unlawful acts:~~

~~(a) An unlawful act which, if committed by an adult, would have constituted:~~

~~(1) Sexual assault pursuant to NRS 200.366;~~

~~_____ (2) Battery with intent to commit sexual assault pursuant to NRS 200.400;
or
_____ (3) Lewdness with a child pursuant to NRS 201.230;
_____ (b) An unlawful act which would have been a felony if committed by an adult
and which involved the use or threatened use of force or violence.]~~