

Amendment No. 661

Senate Amendment to Assembly Bill No. 251 First Reprint	(BDR 5-986)
Proposed by: Senate Committee on Judiciary	
Amends: 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. 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.~~ records concerning children. (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 officer or~~
2 ~~parole officer on behalf of the child, to petition the juvenile court for the sealing of all records~~
3 ~~relating to the child if: (1) the petition is filed not earlier than 3 years after the child was last~~
4 ~~adjudicated in need of supervision, adjudicated delinquent or placed under the supervision of~~
5 ~~the juvenile court; and (2) at the time the petition is filed, the child does not have any~~
6 ~~delinquent or criminal charges pending. If the petition was timely filed, the child has not been~~
7 ~~convicted of a felony or of any misdemeanor involving moral turpitude and the child has been~~
8 ~~rehabilitated to the satisfaction of the juvenile court, existing law: (1) authorizes the juvenile~~
9 ~~court to order the sealing of all records relating to the child, if the child is less than 18 years of~~
10 ~~age; and (2) requires the juvenile court to order the sealing of all records relating to the child,~~
11 ~~if the child is 18 years of age or older. (NRS 62H.130) Existing law also directs, with certain~~
12 ~~exceptions, that all records relating to a child be sealed automatically when the child reaches~~
13 ~~21 years of age. (NRS 62H.140)~~
14 ~~Under certain circumstances, however, existing law requires a child to wait until he or she~~
15 ~~reaches 30 years of age to petition a juvenile court to seal his or her records relating to~~
16 ~~unlawful acts which, if committed by an adult, would have constituted: (1) sexual assault; (2)~~
17 ~~battery with intent to commit sexual assault; (3) lewdness with a child; or (4) a felony~~
18 ~~involving the use or threatened use of force or violence. (NRS 62H.150)~~
19 ~~Existing law also establishes procedures which are specific to the vacation and sealing of~~
20 ~~records relating to certain unlawful acts committed by children who are victims of human~~
21 ~~trafficking or involuntary servitude. (NRS 62E.275)}~~

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 ~~and destruction~~ 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; ~~and~~ (3) all records in the custody of a probation officer, probation department or law enforcement agency, or any other public officer or agency, must be destroyed within 60 days after the juvenile court issues such an order ~~;~~ and (4) all records in the custody of the juvenile court or any other court must be expunged. **Section 4** also: (1) requires the juvenile court to notify the district attorney and the chief probation officer or the Chief of the Youth Parole Bureau, as applicable, if a petition is filed pursuant to **section 4**; and (2) authorizes certain persons who have evidence that is relevant to the consideration of the petition to testify at the hearing on the petition. **Section 7** of this bill makes conforming changes related to the factors considered by the juvenile court in the hearing on the petition. **Sections 5 and 6** of this bill make conforming changes to indicate the proper placement of **section 4** within the Nevada Revised Statutes.

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

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

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

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

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

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

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

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

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

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

16 (a) All proceedings recounted in the records are deemed never to have
17 occurred;

18 (b) The child may reply accordingly to any inquiry concerning the
19 proceedings and the acts which brought about the proceedings; ~~and~~

20 (c) All records must be ~~destroyed~~;

21 (1) Expunged that are in the custody of the juvenile court or any other
22 court; and

23 (2) Destroyed that are in the custody of:

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

25 ~~(2)~~ (1) A probation officer, probation department or law enforcement
26 agency; or

27 ~~(3)~~ (II) Any other public officer or agency.

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

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

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

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

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

37 62H.100 1. As used in NRS 62H.100 to 62H.170, inclusive, **and section 4**
38 **of this act**, unless the context otherwise requires, "records" means any records
39 relating to a child who is within the purview of this title and who:

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

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

44 2. The term includes records of arrest.

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

46 62H.110 The provisions of NRS 62H.100 to 62H.170, inclusive, **and section**
47 **4 of this act** do not apply to:

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

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

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

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

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

4 62H.130 1. If a child is less than 21 years of age, the child or a probation or
5 parole officer on behalf of the child may petition the juvenile court for an order
6 sealing all records relating to the child. Except as otherwise provided in NRS
7 62E.275, the petition may be filed:

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

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

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

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

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

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

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

29 5. In determining whether a child has been rehabilitated to the satisfaction of
30 the juvenile court pursuant to subsection 4 ~~H~~ *or subsection 4 of section 4 of this*
31 *act*, the juvenile court may consider:

32 (a) The age of the child;

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

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

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

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

41 (f) The statement of the victim;

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

43 (h) Whether ~~[the sealing or expungement of the record, as applicable,]~~
44 *granting the petition* would be in the best interest of the child and the State; and

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

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

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

2 62H.140 *1.* Except as otherwise provided in *subsection 2 and* NRS
3 62H.130 and 62H.150, when a child reaches ~~21~~ 18 years of age, all records
4 relating to the child must be sealed automatically ~~1~~ *within 60 days after the date*
5 *the child reaches 18 years of age.*

6 *2. A record relating to a delinquent or unlawful act, criminal charge or act*
7 *of a child in need of supervision pursuant to NRS 62B.320 for which a child is*
8 *subject to the jurisdiction of a juvenile court or other agency when the child*
9 *reaches 18 years of age , including, without limitation, a record relating to a*
10 *pending delinquent or criminal charge, must be sealed automatically within 60*
11 *days after the termination of the jurisdiction of the juvenile court or other*
12 *agency.*

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

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

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