

SENATE BILL NO. 174—SENATORS OHRENSCHALL,
DONATE, NEAL AND SPEARMAN

MARCH 8, 2021

JOINT SPONSORS: ASSEMBLYMEN TORRES AND FLORES

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to juvenile justice.
(BDR 5-874)

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; revising provisions relating to the certification of a child for criminal proceedings as an adult; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides that upon a motion by the district attorney and a full
2 investigation, the juvenile court may certify a child for criminal proceedings as an
3 adult if the child: (1) is charged with an offense that would have been a felony if
4 committed by an adult and was 14 years of age or older at the time the child
5 allegedly committed the offense; or (2) is charged with murder or attempted murder
6 and was 13 years of age or older when the murder or attempted murder was
7 committed. (NRS 62B.390) **Section 1** of this bill provides instead that the juvenile
8 court may certify a child for criminal proceedings as an adult if the child is charged
9 with an offense that would have been a felony if committed by an adult and was at
10 least 17 years of age at the time the child allegedly committed the offense.

11 Under existing law, upon a motion by the district attorney and a full
12 investigation, the juvenile court may certify a child for criminal proceedings as an
13 adult if the child was 14 years of age or older at the time of an escape or attempted
14 escape and: (1) the child was committed to the facility from which the child
15 escaped or attempted to escape because the child had been charged with or already
16 adjudicated delinquent for an act that would have been a felony if committed by an
17 adult; or (2) the child or a person aiding the child used a dangerous weapon to
18 facilitate the escape or attempted escape. (NRS 62B.400) **Section 2** of this bill
19 provides instead that the juvenile court may certify a child for criminal proceedings



20 as an adult if the child was at least 17 years of age when he or she escaped or
21 attempted to escape from a facility.

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

1 **Section 1.** NRS 62B.390 is hereby amended to read as
2 follows:

3 62B.390 1. Except as otherwise provided in subsection 2 and
4 NRS 62B.400, upon a motion by the district attorney and after a full
5 investigation, the juvenile court may certify a child for proper
6 criminal proceedings as an adult to any court that would have
7 jurisdiction to try the offense if committed by an adult, if the child:

8 (a) Except as otherwise provided in paragraph (b), is charged
9 with an offense that would have been a felony if committed by an
10 adult and was ~~H4~~ 17 years of age or older at the time the child
11 allegedly committed the offense; or

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

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

20 (a) Is charged with:

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

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

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

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

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

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

37 4. If a child is certified for criminal proceedings as an adult
38 pursuant to subsection 1 or 2, the juvenile court shall also certify the
39 child for criminal proceedings as an adult for any other related



1 offense arising out of the same facts as the offense for which the
2 child was certified, regardless of the nature of the related offense.

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

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

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

11 (c) If the child's case is transferred back to the juvenile court,
12 the juvenile court shall determine whether the exceptional
13 circumstances warrant accepting jurisdiction.

14 **Sec. 2.** NRS 62B.400 is hereby amended to read as follows:

15 62B.400 1. A child shall be deemed to be a prisoner who has
16 escaped or attempted to escape from lawful custody in violation of
17 NRS 212.090, and proceedings may be brought against the child
18 pursuant to the provisions of this section, if the child:

19 (a) Is committed to or otherwise is placed in a public or private
20 facility for the detention or correctional care of children, including,
21 but not limited to, all state, regional and local facilities for the
22 detention of children; and

23 (b) Escapes or attempts to escape from such a facility.

24 2. Upon a motion by the district attorney and after a full
25 investigation, the juvenile court may certify the child for criminal
26 proceedings as an adult pursuant to subsection 1 of NRS 62B.390 if
27 the child was ~~14~~ 17 years of age or older at the time of the escape
28 or attempted escape and:

29 (a) The child was committed to or placed in the facility from
30 which the child escaped or attempted to escape because the child
31 had been charged with or had been adjudicated delinquent for an
32 unlawful act that would have been a felony if committed by an
33 adult; or

34 (b) The child or another person aiding the child used a
35 dangerous weapon to facilitate the escape or attempted escape.

36 3. If the child is certified for criminal proceedings as an adult
37 pursuant to subsection 2, the juvenile court shall also certify the
38 child for criminal proceedings as an adult for any other related
39 offense arising out of the same facts as the escape or attempted
40 escape, regardless of the nature of the related offense.

41 4. If the child is not certified for criminal proceedings as an
42 adult pursuant to subsection 2 or otherwise is not subject to the
43 provisions of subsection 2, the escape or attempted escape shall be
44 deemed to be a delinquent act, and proceedings may be brought
45 against the child pursuant to the provisions of this title.



1 **Sec. 3.** The amendatory provisions of this act apply to an
2 offense committed on or after October 1, 2021.

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