

SENATE BILL NO. 313—SENATOR OHRENSCHALL

MARCH 22, 2021

Referred to Committee on Judiciary

SUMMARY—Revises provisions regarding juvenile justice.  
(BDR 5-875)

FISCAL NOTE: Effect on Local Government: No.  
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; prohibiting the introduction of statements made by a child during certain evaluations in certain court proceedings; revising the circumstances under which a child alleged to be delinquent or in need of supervision may be detained before the disposition of the case; prohibiting a child found to be incompetent from being committed to the custody of a correctional facility; allowing a child found to be incompetent to petition to seal his or her record; limiting the length of probation for a child found to be delinquent for an offense that would be a sexual offense if committed by an adult; revising the circumstances under which a juvenile is subject to registration and community notification as a sex offender; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

- 1 Existing law prohibits the introduction of statements made by a child during the
- 2 course of an evaluation by an expert to determine the competency of the child as
- 3 evidence, except under certain limited circumstances. (NRS 62D.175) **Section 1** of
- 4 this bill prohibits statements made by a child during the course of an evaluation by
- 5 an expert done as part of an investigation into whether the child should be
- 6 prosecuted as an adult from being used as evidence: (1) on the issue of guilt in a
- 7 delinquency proceeding, unless the child introduces the statements on the issue of
- 8 guilt first; or (2) in a criminal proceeding, unless the child introduces the statements
- 9 first.
- 10 Under existing law, a child may be detained when the child poses a danger to
- 11 the community or to himself or herself. (NRS 62C.030) **Section 2** of this bill
- 12 removes the provision allowing a child to be detained because the child is a danger
- 13 to himself or herself.



Existing law provides that a child found to be incompetent may not be adjudicated delinquent or placed under the supervision of a juvenile court. (NRS 62D.190) **Section 3** of this bill provides that a child found to be incompetent may not be committed to the custody of a correctional facility. Additionally, a child found to be incompetent may request that his or her records be sealed. **Section 7** of this bill makes conforming changes to reflect the change regarding the sealing of records in **section 3**.

**Section 4** of this bill reduces the number of years a child adjudicated delinquent for an act that would be a sexual offense if committed by an adult must be under the supervision of a probation or parole officer from a minimum of 3 years to a minimum of 1 year. (NRS 62F.110)

Under existing law, if a child is adjudicated delinquent for the commission of an offense that would be a sexual offense if committed by an adult, the court may require the child to register as a sex offender and notify the community of his or her registration if he or she poses a threat to the safety of others. (NRS 62F.320, 62F.340) **Sections 5 and 6** of this bill require a court to consider specifically whether the child poses a danger to commit a subsequent sexual offense when determining whether the child should be subject to registration and community notification as a sex offender.

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

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

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

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

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

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

(a) Is charged with:

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

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



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

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

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

9 (b) The child has a substance use disorder or emotional or  
10 behavioral problems and the substance use disorder or emotional or  
11 behavioral problems may be appropriately treated through the  
12 jurisdiction of the juvenile court.

13 4. If a child is certified for criminal proceedings as an adult  
14 pursuant to subsection 1 or 2, the juvenile court shall also certify the  
15 child for criminal proceedings as an adult for any other related  
16 offense arising out of the same facts as the offense for which the  
17 child was certified, regardless of the nature of the related offense.

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

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

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

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

29 *6. Any statement made by a child during the course of an*  
30 *evaluation by an expert who is appointed by the juvenile court or*  
31 *retained by the attorney of the child to conduct an evaluation as*  
32 *part of a full investigation pursuant to this section or NRS*  
33 *62B.400, regardless of whether the child consented to the*  
34 *evaluation, is not admissible as evidence:*

35 *(a) On the issue of guilt in a delinquency proceeding, unless*  
36 *the child introduces the statement as evidence on the issue of guilt*  
37 *first; or*

38 *(b) In any criminal proceeding, unless the child introduces the*  
39 *statement as evidence first.*

40 **Sec. 2.** NRS 62C.030 is hereby amended to read as follows:

41 62C.030 1. If a child is not alleged to be delinquent or in  
42 need of supervision, the child must not, at any time, be confined or  
43 detained in:

44 (a) A facility for the secure detention of children; or



1 (b) Any police station, lockup, jail, prison or other facility in  
2 which adults are detained or confined.

3 2. If a child is alleged to be delinquent or in need of  
4 supervision, the child must not, before disposition of the case, be  
5 detained in a facility for the secure detention of children unless there  
6 is probable cause to believe that:

7 (a) If the child is not detained, the child is likely to commit an  
8 offense dangerous ~~[to the child or]~~ to the community ~~[.]~~ or likely to  
9 commit damage to property;

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

12 (c) The child was taken into custody and brought before a  
13 probation officer pursuant to a court order or warrant; or

14 (d) The child is a fugitive from another jurisdiction.

15 3. If a child is less than 18 years of age, the child must not, at  
16 any time, be confined or detained in any police station, lockup, jail,  
17 prison or other facility where the child has regular contact with any  
18 adult who is confined or detained in the facility and who has been  
19 convicted of a criminal offense or charged with a criminal offense,  
20 unless:

21 (a) The child is alleged to be delinquent;

22 (b) An alternative facility is not available; and

23 (c) The child is separated by sight and sound from any adults  
24 who are confined or detained in the facility.

25 4. During the pendency of a proceeding involving:

26 (a) A criminal offense excluded from the original jurisdiction of  
27 the juvenile court pursuant to NRS 62B.330; or

28 (b) A child who is certified for criminal proceedings as an adult  
29 pursuant to NRS 62B.390,

30 ↪ a child may petition the juvenile court for temporary placement in  
31 a facility for the detention of children.

32 **Sec. 3.** NRS 62D.190 is hereby amended to read as follows:

33 62D.190 *1.* If the juvenile court determines that a child is  
34 incompetent pursuant to NRS 62D.180, during the period that the  
35 child remains incompetent, the child may not be:

36 ~~[.]~~ (a) Adjudicated a delinquent child or a child in need of  
37 supervision; ~~[or]~~

38 ~~—2.]~~ (b) Placed under the supervision of the juvenile court  
39 pursuant to a supervision and consent decree pursuant to NRS  
40 62C.230 ~~[.]~~; or

41 (c) *Committed to the custody of a correctional facility.*

42 *2. If the juvenile court determines that a child is incompetent*  
43 *and unable to attain competence in the foreseeable future*  
44 *pursuant to subsection 3 of NRS 62D.185, the child may petition*  
45 *to have his or her records sealed pursuant to NRS 62H.130.*



1       **Sec. 4.** NRS 62F.110 is hereby amended to read as follows:

2       62F.110 1. In addition to any other action authorized or  
3 required pursuant to the provisions of this title and except as  
4 otherwise provided in NRS 62F.150, if a child is adjudicated  
5 delinquent for an unlawful act that would have been a sexual offense  
6 if committed by an adult or is adjudicated delinquent for a sexually  
7 motivated act, the juvenile court shall:

8       (a) Place the child under the supervision of a probation officer or  
9 parole officer, as appropriate, for a period of not less than ~~[3 years.]~~  
10 **1 year.**

11       (b) Except as otherwise provided in NRS 62F.130 and 62F.140,  
12 prohibit the child from attending a public school or private school  
13 that a victim of the sexual offense or the sexually motivated act is  
14 attending for the period ordered by the juvenile court pursuant to  
15 paragraph (a).

16       (c) Order the parent or guardian of the child to inform the  
17 probation officer or parole officer, as appropriate, assigned to the  
18 child each time the child expects to change the public school or  
19 private school that the child is attending, not later than 20 days  
20 before the expected date of the change.

21       (d) Order the parent or guardian of the child, to the extent of the  
22 financial ability of the parent or guardian, to reimburse all or part of  
23 the additional costs of transporting the child, if the costs are incurred  
24 by a county school district pursuant to NRS 392.251 to 392.271,  
25 inclusive.

26       (e) Inform the parent or guardian of the child of the  
27 requirements of NRS 62F.100 to 62F.150, inclusive, 392.251 to  
28 392.271, inclusive, and 394.162 to 394.167, inclusive.

29       2. The juvenile court may authorize a superintendent of a  
30 county school district or the executive head of a private school who  
31 receives notification from a probation officer or parole officer, as  
32 appropriate, pursuant to NRS 62F.120 to inform other appropriate  
33 educational personnel that the child has been adjudicated delinquent  
34 for a sexual offense or a sexually motivated act.

35       3. Except as otherwise provided in NRS 62F.150, the juvenile  
36 court may not terminate its jurisdiction concerning the child for the  
37 purposes of carrying out the provisions of NRS 62F.100 to 62F.150,  
38 inclusive, for the period ordered by the juvenile court pursuant to  
39 paragraph (a) of subsection 1.

40       **Sec. 5.** NRS 62F.320 is hereby amended to read as follows:

41       62F.320 1. Notwithstanding any other provision of law and  
42 except as otherwise provided in this subsection, upon a motion by a  
43 child, the juvenile court may exempt the child from community  
44 notification or exclude the child from placement on the community  
45 notification website, or both, if the juvenile court finds by clear and



1 convincing evidence that the child is not likely to pose a threat to  
2 ~~[the safety of others.]~~ *commit a subsequent sexual offense.* The  
3 juvenile court shall not exempt a child from community notification  
4 or exclude the child from placement on the community notification  
5 website if the child is adjudicated delinquent for committing an  
6 aggravated sexual offense.

7 2. At the hearing held on a motion pursuant to this section, the  
8 juvenile court may consider any evidence, reports, statements or  
9 other material which the juvenile court determines is relevant and  
10 helpful to determine whether to grant the motion.

11 3. In determining at the hearing whether the child is likely to  
12 pose a threat to ~~[the safety of others.]~~ *commit a subsequent sexual*  
13 *offense,* the juvenile court shall consider the following factors:

14 (a) The number, date, nature and gravity of the act or acts  
15 committed by the child, including, without limitation, whether the  
16 act or acts were characterized by repetitive and compulsive  
17 behavior.

18 (b) The family controls in place over the child.

19 (c) The plan for providing counseling, therapy or treatment to  
20 the child.

21 (d) The history of the child with the juvenile court, including,  
22 without limitation, reports concerning any unlawful acts which the  
23 child has admitted committing, any acts for which the juvenile court  
24 placed the child under a supervision and consent decree pursuant to  
25 NRS 62C.230 and any prior adjudication of delinquency or need of  
26 supervision.

27 (e) The results of any psychological or psychiatric profiles of the  
28 child and whether those profiles indicate a risk of recidivism.

29 (f) Any physical conditions that minimize the risk of recidivism,  
30 including, without limitation, physical disability or illness.

31 (g) The impact of the unlawful act on the victim and any  
32 statements made by the victim.

33 (h) The safety of the community and the need to protect the  
34 public.

35 (i) The impact that registration and community notification  
36 pursuant to NRS 179D.010 to 179D.550, inclusive, and 62F.205 to  
37 62F.360, inclusive, will have on the treatment of the child.

38 (j) Any other factor that the juvenile court finds relevant to the  
39 determination of whether the child is likely to pose a threat to ~~[the~~  
40 ~~safety of others.]~~ *commit a subsequent sexual offense.*

41 4. If the juvenile court exempts a child from community  
42 notification or excludes a child from placement on the community  
43 notification website, or both, the juvenile court shall notify the  
44 Central Repository so that the Central Repository may carry out the  
45 determination of the juvenile court.



1 5. Upon good cause shown, the juvenile court may reconsider  
2 the granting or denial of a motion pursuant to this section, and  
3 reverse, modify or affirm its determination. In determining whether  
4 to reverse, modify or affirm its determination, the juvenile court:

5 (a) Shall consider:

6 (1) The factors set forth in subsection 3;

7 (2) The extent to which the child has received counseling,  
8 therapy or treatment and the response of the child to any such  
9 counseling, therapy or treatment; and

10 (3) The behavior of the child while subject to the jurisdiction  
11 of the juvenile court, including, without limitation, the behavior of  
12 the child during any period of confinement.

13 (b) Shall not exempt a child from community notification or  
14 exclude a child from placement on the community notification  
15 website unless the juvenile court finds by clear and convincing  
16 evidence that the child is not likely to pose a threat to ~~the safety of~~  
17 ~~others.]~~ *commit a subsequent sexual offense.*

18 **Sec. 6.** NRS 62F.340 is hereby amended to read as follows:

19 62F.340 Except as otherwise provided in NRS 62F.205 to  
20 62F.360, inclusive:

21 1. If a child has been adjudicated delinquent for a sexual  
22 offense, the juvenile court shall hold a hearing when the child  
23 reaches 21 years of age, or at a time reasonably near the date on  
24 which the child reaches 21 years of age, to determine whether the  
25 child should be subject to registration and community notification  
26 pursuant to NRS 179D.010 to 179D.550, inclusive.

27 2. At the hearing pursuant to this section, the juvenile court  
28 may consider any evidence, reports, statements or other material  
29 which the juvenile court determines is relevant and helpful to  
30 determine whether the child has been rehabilitated to the satisfaction  
31 of the juvenile court and is not likely to pose a threat to ~~the safety~~  
32 ~~of others.]~~ *commit a subsequent sexual offense.*

33 3. If the juvenile court finds by clear and convincing evidence  
34 at the hearing that the child has been rehabilitated to the satisfaction  
35 of the juvenile court and that the child is not likely to pose a threat  
36 to ~~the safety of others,]~~ *commit a subsequent sexual offense,* the  
37 juvenile court may relieve the child from being subject to  
38 registration and community notification pursuant to NRS 179D.010  
39 to 179D.550, inclusive.

40 4. If, pursuant to subsection 3, the juvenile court does not  
41 relieve the child from being subject to registration and community  
42 notification pursuant to NRS 179D.010 to 179D.550, inclusive, the  
43 juvenile court shall:

44 (a) Order that the child is subject to registration and community  
45 notification pursuant to NRS 179D.010 to 179D.550, inclusive;



1 (b) Notify the Central Repository of the adjudication of the child  
2 and the determination of the juvenile court that the child should be  
3 subject to registration and community notification pursuant to NRS  
4 179D.010 to 179D.550, inclusive, so that the Central Repository  
5 may carry out the provisions for registration and community  
6 notification pursuant to those sections; and

7 (c) Inform the child that he or she is subject to registration and  
8 community notification pursuant to NRS 179D.010 to 179D.550,  
9 inclusive.

10 5. In determining at the hearing whether the child has been  
11 rehabilitated to the satisfaction of the juvenile court or is likely to  
12 pose a threat to ~~[the safety of others.]~~ *commit a subsequent sexual*  
13 *offense*, the juvenile court shall consider the following factors:

14 (a) The number, date, nature and gravity of the act or acts  
15 committed by the child, including, without limitation, whether the  
16 act or acts were characterized by repetitive and compulsive  
17 behavior.

18 (b) The extent to which the child has received counseling,  
19 therapy or treatment, and the response of the child to any such  
20 counseling, therapy or treatment.

21 (c) Whether psychological or psychiatric profiles indicate a risk  
22 of recidivism.

23 (d) The behavior of the child while subject to the jurisdiction of  
24 the juvenile court, including, without limitation, the behavior of the  
25 child during any period of confinement.

26 (e) Whether the child has made any recent threats against a  
27 person or expressed any intent to commit any crimes in the future.

28 (f) Any physical conditions that minimize the risk of recidivism,  
29 including, without limitation, physical disability or illness.

30 (g) The impact of the unlawful act on the victim and any  
31 statements made by the victim.

32 (h) The safety of the community and the need to protect the  
33 public.

34 (i) Any other factor that the juvenile court finds relevant to the  
35 determination of whether the child has been rehabilitated to the  
36 satisfaction of the juvenile court and whether the child is likely to  
37 pose a threat to ~~[the safety of others.]~~ *commit a subsequent sexual*  
38 *offense*.

39 6. The juvenile court shall file written findings of fact and  
40 conclusions of law setting forth the basis and legal support for any  
41 decision pursuant to this section.

42 7. If, pursuant to this section, the juvenile court orders that a  
43 child is subject to registration and community notification pursuant  
44 to NRS 179D.010 to 179D.550, inclusive, the jurisdiction of the  
45 juvenile court terminates, and the child is subject to registration and





1 community notification pursuant to NRS 179D.010 to 179D.550,  
2 inclusive, for the period specified in NRS 179D.490.

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  
5 a probation or parole officer on behalf of the child may petition the  
6 juvenile court for an order sealing all records relating to the child.  
7 Except as otherwise provided in NRS 62E.275, the petition may be  
8 filed:

9 (a) Not earlier than 3 years after the child was last adjudicated in  
10 need of supervision, adjudicated delinquent ~~[or]~~, placed under the  
11 supervision of the juvenile court pursuant to NRS 62C.230 ~~[; and]~~  
12 *or determined to be incompetent and unlikely to attain competence*  
13 *in the foreseeable future pursuant to subsection 3 of NRS*  
14 *62D.185; and*

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

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

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

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

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

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

36 5. In determining whether a child has been rehabilitated to the  
37 satisfaction of the juvenile court pursuant to subsection 4, the  
38 juvenile court may consider:

39 (a) The age of the child;

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

42 (c) The behavior of the child after the child was last adjudicated  
43 in need of supervision or adjudicated delinquent, placed under the  
44 informal supervision of a probation officer pursuant to



1 NRS 62C.200 or placed under the supervision of the juvenile court  
2 pursuant to NRS 62C.230;

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

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

6 (f) The statement of the victim;

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

9 (h) Whether the sealing of the record would be in the best  
10 interest of the child and the State; and

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

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

20 **Sec. 8.** This act becomes effective on July 1, 2021.

