

SENATE BILL NO. 108—COMMITTEE ON JUDICIARY
(ON BEHALF OF THE COMMISSION ON STATEWIDE
JUVENILE JUSTICE REFORM)

FEBRUARY 11, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing juvenile justice.
(BDR 5-518)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to juvenile justice; providing that a child who violates certain local ordinances relating to curfews and loitering is to be treated by the juvenile court as a child in need of supervision rather than as a delinquent child; decreasing the length of time a child may remain in detention or shelter care pending the filing of a petition alleging delinquency or need of supervision; authorizing the juvenile court to order the Department of Motor Vehicles to issue a restricted driver's license to a child in certain circumstances; revising the statement of state policy concerning a probation program of special supervision for certain delinquent juveniles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides that a juvenile court has exclusive jurisdiction over
2 proceedings concerning a child who is: (1) alleged or adjudicated to be in need of
3 supervision as a result of certain acts committed by the child; or (2) alleged or
4 adjudicated to have committed a delinquent act, including the violation of a county
5 or municipal ordinance. (NRS 62B.320, 62B.330) **Sections 1 and 2** of this bill
6 provide that a child who violates a county or municipal ordinance imposing a
7 curfew on or restricting loitering by a child is to be adjudicated by the juvenile
8 court as a child in need of supervision rather than as a delinquent child.
9 Under existing law, a child who is in detention or shelter care pending the filing
10 of a petition alleging delinquency or need of supervision must be released if the
11 district attorney has not filed the petition within 8 days after the complaint was



* S B 1 0 8 *

12 referred to a probation officer. (NRS 62C.100) **Section 3** of this bill decreases the
13 length of time that a child may remain in detention or shelter care pending the filing
14 of a petition by requiring a child to be released if the district attorney has not filed a
15 petition in juvenile court within 72 hours after the referral of the complaint to a
16 probation officer, excluding Saturdays, Sundays and holidays.

17 Existing law authorizes the juvenile court to suspend or delay the issuance of
18 the driver's license of a child who has been adjudicated delinquent or in need of
19 supervision for certain acts. (NRS 62E.250, 62E.430, 62E.630, 62E.640, 62E.650,
20 62E.690) Under existing law, the Department of Motor Vehicles may issue a
21 restricted driver's license permitting a child whose driver's license has been
22 revoked or suspended by the juvenile court to drive: (1) to and from work or in the
23 course of work, or both; or (2) to and from school. (NRS 483.390) **Sections 4 and 6**
24 of this bill authorize the juvenile court to order the Department of Motor Vehicles
25 to issue a restricted driver's license to a child if: (1) the juvenile court has
26 suspended or delayed the issuance of the child's driver's license because the child
27 was adjudicated delinquent for the unlawful use, possession, sale or distribution of
28 a controlled substance, or the unlawful purchase, consumption or possession of an
29 alcoholic beverage; and (2) the juvenile court finds that the suspension or delay
30 causes severe or undue hardship to the child or his or her immediate family.

31 Existing law establishes a program of special supervision of certain juveniles
32 who have been adjudicated delinquent and authorizes the Department of Health and
33 Human Services to adopt rules and distribute money to juvenile courts to carry out
34 the program. (NRS 62G.400-62G.470) **Section 5** of this bill revises the statement of
35 the state policy concerning the program.

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

1 **Section 1.** NRS 62B.320 is hereby amended to read as
2 follows:

3 62B.320 1. Except as otherwise provided in this title, the
4 juvenile court has exclusive original jurisdiction in proceedings
5 concerning any child living or found within the county who is
6 alleged or adjudicated to be in need of supervision because the
7 child:

8 (a) Is subject to compulsory school attendance and is a habitual
9 truant from school;

10 (b) Habitually disobeys the reasonable and lawful demands of
11 the parent or guardian of the child and is unmanageable;

12 (c) Deserts, abandons or runs away from the home or usual
13 place of abode of the child and is in need of care or rehabilitation;

14 ~~or~~
15 (d) Uses an electronic communication device to transmit or
16 distribute a sexual image of himself or herself to another person or
17 to possess a sexual image in violation of NRS 200.737 ~~H~~;

18 (e) *Violates a county or municipal ordinance imposing a*
19 *curfew on a child; or*

20 (f) *Violates a county or municipal ordinance restricting*
21 *loitering by a child.*



1 2. A child who is subject to the jurisdiction of the juvenile
2 court pursuant to this section must not be considered a delinquent
3 child.

4 3. As used in this section:

5 (a) "Electronic communication device" has the meaning
6 ascribed to it in NRS 200.737.

7 (b) "Sexual image" has the meaning ascribed to it in
8 NRS 200.737.

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

10 62B.330 1. Except as otherwise provided in this title, the
11 juvenile court has exclusive original jurisdiction over a child living
12 or found within the county who is alleged or adjudicated to have
13 committed a delinquent act.

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

16 (a) Violates a county or municipal ordinance ~~H~~ *other than*
17 *those specified in paragraph (e) or (f) of subsection 1 of*
18 *NRS 62B.320;*

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

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

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

26 (a) Murder or attempted murder and any other related offense
27 arising out of the same facts as the murder or attempted murder,
28 regardless of the nature of the related offense.

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

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

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

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



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

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

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

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

16 (2) The person intended to create a great risk of death or
17 substantial bodily harm to more than one person by means of a
18 weapon, device or course of action that would normally be
19 hazardous to the lives of more than one person.

20 (e) A category A or B felony and any other related offense
21 arising out of the same facts as the category A or B felony,
22 regardless of the nature of the related offense, if the person was at
23 least 16 years of age but less than 18 years of age when the offense
24 was committed, and:

25 (1) The person is not identified by law enforcement as
26 having committed the offense and charged before the person is at
27 least 20 years, 3 months of age, but less than 21 years of age; or

28 (2) The person is not identified by law enforcement as
29 having committed the offense until the person reaches 21 years of
30 age.

31 (f) Any other offense if, before the offense was committed, the
32 person previously had been convicted of a criminal offense.

33 **Sec. 3.** NRS 62C.100 is hereby amended to read as follows:

34 62C.100 1. When a complaint is made alleging that a child is
35 delinquent or in need of supervision:

36 (a) The complaint must be referred to a probation officer of the
37 appropriate county; and

38 (b) The probation officer shall conduct a preliminary inquiry to
39 determine whether the best interests of the child or of the public:

40 (1) Require that a petition be filed; or

41 (2) Would better be served by placing the child under
42 informal supervision pursuant to NRS 62C.200.

43 2. If, after conducting the preliminary inquiry, the probation
44 officer recommends the filing of a petition, the district attorney shall
45 determine whether to file the petition.



1 3. If, after conducting the preliminary inquiry, the probation
2 officer does not recommend the filing of a petition or that the child
3 be placed under informal supervision, the probation officer must
4 notify the complainant regarding the complainant's right to seek a
5 review of the complaint by the district attorney.

6 4. If the complainant seeks a review of the complaint by the
7 district attorney, the district attorney shall:

8 (a) Review the facts presented by the complainant;

9 (b) Consult with the probation officer; and

10 (c) File the petition with the juvenile court if the district attorney
11 believes that the filing of the petition is necessary to protect the
12 interests of the child or of the public.

13 5. The determination of the district attorney concerning
14 whether to file the petition is final.

15 6. Except as otherwise provided in NRS 62C.060, if a child is
16 in detention or shelter care, the child must be released immediately
17 if a petition alleging that the child is delinquent or in need of
18 supervision is not:

19 (a) Approved by the district attorney; or

20 (b) Filed within ~~18 days~~ **72 hours** after the ~~date~~ **time** the
21 complaint was referred to the probation officer ~~11~~ **, excluding**
22 **Saturdays, Sundays and holidays.**

23 **Sec. 4.** NRS 62E.630 is hereby amended to read as follows:

24 62E.630 1. Except as otherwise provided in this section, if a
25 child is adjudicated delinquent for the unlawful act of using,
26 possessing, selling or distributing a controlled substance, or
27 purchasing, consuming or possessing an alcoholic beverage in
28 violation of NRS 202.020, the juvenile court shall:

29 (a) If the child possesses a driver's license, issue an order
30 suspending the driver's license of the child for at least 90 days but
31 not more than 2 years; or

32 (b) If the child does not possess a driver's license and the child
33 is or will be eligible to receive a driver's license within the 2 years
34 immediately following the date of the order, issue an order
35 prohibiting the child from receiving a driver's license for a period
36 specified by the juvenile court which must be at least 90 days but
37 not more than 2 years:

38 (1) Immediately following the date of the order, if the child
39 is eligible to receive a driver's license; or

40 (2) After the date the child will be eligible to receive a
41 driver's license, if the child is not eligible to receive a driver's
42 license on the date of the order.

43 2. If the child is already the subject of a court order suspending
44 or delaying the issuance of the driver's license of the child, the



1 juvenile court shall order the additional suspension or delay, as
2 appropriate, to apply consecutively with the previous order.

3 **3. If the juvenile court finds that a suspension or delay in the**
4 **issuance of the driver's license of a child pursuant to this section**
5 **would cause or is causing a severe or undue hardship to the child**
6 **or his or her immediate family and that the child is otherwise**
7 **eligible to receive a driver's license, the juvenile court may order**
8 **the Department of Motor Vehicles to issue a restricted driver's**
9 **license to the child pursuant to NRS 483.490.**

10 **4. If the juvenile court issues an order requiring the**
11 **Department of Motor Vehicles to issue a restricted driver's license**
12 **to a child pursuant to subsection 3, not later than 5 days after**
13 **issuing the order, the juvenile court shall forward to the**
14 **Department of Motor Vehicles a copy of the order.**

15 **Sec. 5.** NRS 62G.410 is hereby amended to read as follows:

16 62G.410 1. It is the policy of this state to ~~rehabilitate~~
17 ~~delinquent children, to effect a more even administration of justice~~
18 ~~and to increase}~~ **effectuate a system of youth interventions, in a**
19 **civil arena, to improve outcomes for juveniles, to diminish juvenile**
20 **criminality, to facilitate juvenile accountability and to improve**
21 **juvenile health and welfare, fairly and equally in the best interest**
22 **of the child and in furtherance of** the public welfare of the citizens
23 of this state.

24 2. It is the purpose of NRS 62G.400 to 62G.470, inclusive, to
25 reduce the necessity for commitment of delinquent children to a
26 state facility for the detention of children by strengthening and
27 improving local supervision of children placed on probation by the
28 juvenile court.

29 **Sec. 6.** NRS 483.490 is hereby amended to read as follows:

30 483.490 1. Except as otherwise provided in this section, after
31 a driver's license has been suspended or revoked for an offense
32 other than a second violation within 7 years of NRS 484C.110, and
33 one-half of the period during which the driver is not eligible for a
34 license has expired, the Department may, unless the statute
35 authorizing the suspension prohibits the issuance of a restricted
36 license, issue a restricted driver's license to an applicant permitting
37 the applicant to drive a motor vehicle:

38 (a) To and from work or in the course of his or her work, or
39 both; or

40 (b) To acquire supplies of medicine or food or receive regularly
41 scheduled medical care for himself, herself or a member of his or
42 her immediate family.

43 ➤ Before a restricted license may be issued, the applicant must
44 submit sufficient documentary evidence to satisfy the Department
45 that a severe hardship exists because the applicant has no alternative



1 means of transportation and that the severe hardship outweighs the
2 risk to the public if the applicant is issued a restricted license.

3 2. A person who has been ordered to install a device in a motor
4 vehicle pursuant to NRS 484C.460:

5 (a) Shall install the device not later than 21 days after the date
6 on which the order was issued; and

7 (b) May not receive a restricted license pursuant to this section
8 until:

9 (1) After at least 1 year of the period during which the person
10 is not eligible for a license, if the person was convicted of:

11 (I) A violation of NRS 484C.430 or a homicide resulting
12 from driving or being in actual physical control of a vehicle while
13 under the influence of intoxicating liquor or a controlled substance
14 or resulting from any other conduct prohibited by NRS 484C.110,
15 484C.130 or 484C.430; or

16 (II) A violation of NRS 484C.110 that is punishable as a
17 felony pursuant to NRS 484C.410 or 484C.420;

18 (2) After at least 180 days of the period during which the
19 person is not eligible for a license, if the person was convicted of a
20 violation of subsection 6 of NRS 484B.653; or

21 (3) After at least 45 days of the period during which the
22 person is not eligible for a license, if the person was convicted of a
23 first violation within 7 years of NRS 484C.110.

24 3. If the Department has received a copy of an order requiring a
25 person to install a device in a motor vehicle pursuant to NRS
26 484C.460, the Department shall not issue a restricted driver's
27 license to such a person pursuant to this section unless the applicant
28 has submitted proof of compliance with the order and subsection 2.

29 4. ~~After~~ *Except as otherwise provided in NRS 62E.630, after*
30 a driver's license has been revoked or suspended pursuant to title 5
31 of NRS, the Department may issue a restricted driver's license to an
32 applicant permitting the applicant to drive a motor vehicle:

33 (a) If applicable, to and from work or in the course of his or her
34 work, or both; or

35 (b) If applicable, to and from school.

36 5. After a driver's license has been suspended pursuant to NRS
37 483.443, the Department may issue a restricted driver's license to an
38 applicant permitting the applicant to drive a motor vehicle:

39 (a) If applicable, to and from work or in the course of his or her
40 work, or both;

41 (b) To receive regularly scheduled medical care for himself,
42 herself or a member of his or her immediate family; or

43 (c) If applicable, as necessary to exercise a court-ordered right to
44 visit a child.



1 6. A driver who violates a condition of a restricted license
2 issued pursuant to subsection 1 or by another jurisdiction is guilty of
3 a misdemeanor and, if the license of the driver was suspended or
4 revoked for:

5 (a) A violation of NRS 484C.110, 484C.210 or 484C.430;

6 (b) A homicide resulting from driving or being in actual
7 physical control of a vehicle while under the influence of
8 intoxicating liquor or a controlled substance or resulting from any
9 other conduct prohibited by NRS 484C.110, 484C.130 or 484C.430;
10 or

11 (c) A violation of a law of any other jurisdiction that prohibits
12 the same or similar conduct as set forth in paragraph (a) or (b),

13 → the driver shall be punished in the manner provided pursuant to
14 subsection 2 of NRS 483.560.

15 7. The periods of suspensions and revocations required
16 pursuant to this chapter and NRS 484C.210 must run consecutively,
17 except as otherwise provided in NRS 483.465 and 483.475, when
18 the suspensions must run concurrently.

19 8. Whenever the Department suspends or revokes a license, the
20 period of suspension, or of ineligibility for a license after the
21 revocation, begins upon the effective date of the revocation or
22 suspension as contained in the notice thereof.

