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ASSEMBLY BILL NO. 202—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON  
CHILD WELFARE AND JUVENILE JUSTICE)

MARCH 4, 2013

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Referred to Committee on Judiciary

**SUMMARY**—Revises various provisions relating to juveniles charged as adults for committing certain crimes. (BDR 5-64)

**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.

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AN ACT relating to juvenile justice; revising the list of offenses that are excluded from the original jurisdiction of the juvenile court; authorizing a child who is certified for adult criminal proceedings to petition the court for placement in a state juvenile detention facility during the pendency of the proceeding; requiring a child who is sentenced to a term of imprisonment to serve the term in a state juvenile detention facility until he or she reaches the age of 18 years; providing for parole eligibility at the age of 25 years for certain prisoners; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law provides that the juvenile court has exclusive jurisdiction over a child who is alleged to have committed an act designated as a criminal offense unless: (1) the criminal offense is excluded from the jurisdiction of the juvenile court; or (2) the child is alleged to have committed an offense for which the juvenile court may certify the child for criminal proceedings as an adult and the juvenile court certifies the child for criminal proceedings as an adult upon a motion by the district attorney and after a full investigation. (NRS 62B.330, 62B.390)

Under existing law, the offenses excluded from the jurisdiction of the juvenile court include, without limitation, murder, attempted murder, offenses or attempted offenses involving the use or threatened use of a firearm which are committed by certain juveniles who were 16 years of age or older when the offense or attempted offense was committed, certain felonies resulting in death or substantial bodily



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13 harm to the victim which involve school property or school-related activities, and  
14 other serious offenses. (NRS 62B.330) **Section 1** of this bill provides that: (1)  
15 murder and attempted murder are excluded from the jurisdiction of the juvenile  
16 court only if the offense was committed by a child who was 16 years of age or older  
17 when he or she committed the offense; (2) offenses or attempted offenses involving  
18 the use or threatened use of a firearm committed by certain children who were 16  
19 years of age or older when the offense or attempted offense was committed are not  
20 excluded from the jurisdiction of the juvenile court; and (3) certain felonies  
21 resulting in death or substantial bodily harm to the victim which involve school  
22 property or school-related activities are not excluded from the jurisdiction of the  
23 juvenile court.

24 Under existing law, during the pendency of the proceeding, a child who is  
25 charged with a crime which is excluded from the original jurisdiction of the  
26 juvenile court may petition the juvenile court for temporary placement in a facility  
27 for the detention of children. (NRS 62C.030) **Section 2** of this bill authorizes a  
28 child who is certified for criminal proceedings as an adult to petition the juvenile  
29 court for temporary placement in a facility for the detention of children during the  
30 pendency of the proceeding.

31 **Section 3** of this bill requires a person who is less than 18 years of age and who  
32 is sentenced as an adult to a term of imprisonment for committing a crime to serve  
33 the term in a state juvenile detention facility until the person reaches the age of 18  
34 years, unless the court determines that he or she may be dangerous to another  
35 juvenile.

36 **Section 4** of this bill provides that certain prisoners who were sentenced to  
37 terms of imprisonment as an adult for nonhomicide crimes they committed when  
38 they were less than 18 years of age become eligible for release from prison on  
39 parole at the age of 25 years.

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

1 **Section 1.** NRS 62B.330 is hereby amended to read as  
2 follows:

3 62B.330 1. Except as otherwise provided in this title, the  
4 juvenile court has exclusive original jurisdiction over a child living  
5 or found within the county who is alleged or adjudicated to have  
6 committed a delinquent act.

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

- 9 (a) Violates a county or municipal ordinance;  
10 (b) Violates any rule or regulation having the force of law; or  
11 (c) Commits an act designated a criminal offense pursuant to the  
12 laws of the State of Nevada.

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

- 17 (a) Murder or attempted murder and any other related offense  
18 arising out of the same facts as the murder or attempted murder,



1 regardless of the nature of the related offense ~~H~~ *if the person was*  
2 *16 years of age or older when the murder or attempted murder was*  
3 *committed.*

4 (b) Sexual assault or attempted sexual assault involving the use  
5 or threatened use of force or violence against the victim and any  
6 other related offense arising out of the same facts as the sexual  
7 assault or attempted sexual assault, regardless of the nature of the  
8 related offense, if:

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

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

14 ~~(c) [An offense or attempted offense involving the use or~~  
15 ~~threatened use of a firearm and any other related offense arising out~~  
16 ~~of the same facts as the offense or attempted offense involving the~~  
17 ~~use or threatened use of a firearm, regardless of the nature of the~~  
18 ~~related offense, if:~~

19 ~~—— (1) The person was 16 years of age or older when the offense~~  
20 ~~or attempted offense involving the use or threatened use of a firearm~~  
21 ~~was committed; and~~

22 ~~—— (2) Before the offense or attempted offense involving the use~~  
23 ~~or threatened use of a firearm was committed, the person previously~~  
24 ~~had been adjudicated delinquent for an act that would have been a~~  
25 ~~felony if committed by an adult.~~

26 ~~—— (d) A felony resulting in death or substantial bodily harm to the~~  
27 ~~victim and any other related offense arising out of the same facts as~~  
28 ~~the felony, regardless of the nature of the related offense, if:~~

29 ~~—— (1) The felony was committed on the property of a public or~~  
30 ~~private school when pupils or employees of the school were present~~  
31 ~~or may have been present, at an activity sponsored by a public or~~  
32 ~~private school or on a school bus while the bus was engaged in its~~  
33 ~~official duties; and~~

34 ~~—— (2) The person intended to create a great risk of death or~~  
35 ~~substantial bodily harm to more than one person by means of a~~  
36 ~~weapon, device or course of action that would normally be~~  
37 ~~hazardous to the lives of more than one person.~~

38 ~~—— (e) A category A or B felony and any other related offense~~  
39 ~~arising out of the same facts as the category A or B felony,~~  
40 ~~regardless of the nature of the related offense, if the person was at~~  
41 ~~least 16 years of age but less than 18 years of age when the offense~~  
42 ~~was committed, and:~~

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



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

4 ~~(f)~~ (d) Any other offense if, before the offense was committed,  
5 the person previously had been convicted of a criminal offense.

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

7 62C.030 1. If a child is not alleged to be delinquent or in  
8 need of supervision, the child must not, at any time, be confined or  
9 detained in:

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

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

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

17 (a) If the child is not detained, the child is likely to commit an  
18 offense dangerous to the child or to the community, or likely to  
19 commit damage to property;

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

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

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

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

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

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

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

35 4. During the pendency of a proceeding involving ~~(f)~~ :

36 (a) A criminal offense excluded from the original jurisdiction of  
37 the juvenile court pursuant to NRS 62B.330 ~~(f)~~ ; or

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

40 *↪ a child may petition the juvenile court for temporary placement in*  
41 *a facility for the detention of children.*

42 **Sec. 3.** Chapter 176 of NRS is hereby amended by adding  
43 thereto a new section to read as follows:

44 **1. *If a person who is less than 18 years of age is sentenced to***  
45 ***serve a term of imprisonment in the state prison, the court must***



1 *order the person to be housed in a state facility for the detention of*  
2 *children until he or she reaches the age of 18 years, except that*  
3 *the court may order the person to be immediately placed in the*  
4 *custody of the Department of Corrections if the court determines*  
5 *that the person may present a danger to others in the state facility*  
6 *for the detention of children.*

7 2. *As soon as practicable after a person who is housed in a*  
8 *state facility for the detention of children pursuant to subsection 1*  
9 *reaches the age of 18 years, the state facility for the detention of*  
10 *children shall transfer the person to the custody of the Department*  
11 *of Corrections.*

12 3. *As used in this section, "state facility for the detention of*  
13 *children" has the meaning ascribed to it in NRS 62A.330.*

14 **Sec. 4.** Chapter 213 of NRS is hereby amended by adding  
15 thereto a new section to read as follows:

16 1. *Unless eligible for parole sooner pursuant to this section*  
17 *and NRS 213.107 to 213.157, inclusive, a prisoner who was*  
18 *convicted of one or more nonhomicide crimes committed when the*  
19 *prisoner was less than 18 years of age is eligible for parole when*  
20 *the prisoner reaches 25 years of age, regardless of whether the*  
21 *prisoner has served the minimum term of imprisonment to which*  
22 *he or she was sentenced and regardless of whether a concurrent*  
23 *or consecutive sentence remains to be served, if the prisoner was*  
24 *sentenced to:*

25 (a) *A minimum term of imprisonment of not less than 10*  
26 *years; or*

27 (b) *A minimum aggregate sentence of not less than 10 years.*

28 2. *A prisoner described in subsection 1 is eligible for release*  
29 *on parole upon reaching 25 years of age if:*

30 (a) *The prisoner has completed a program of general*  
31 *education or an industrial or vocational training program, unless*  
32 *this requirement has been waived because of the prisoner's*  
33 *disability as shown by:*

34 (1) *The individualized education program of the prisoner;*

35 (2) *The accommodation plan of the prisoner created*  
36 *pursuant to section 504 of the federal Rehabilitation Act of 1973,*  
37 *29 U.S.C. § 794; or*

38 (3) *A psychological evaluation of the prisoner;*

39 (b) *The prisoner has not been identified as a member of a*  
40 *group that poses a security threat pursuant to the procedures for*  
41 *identifying security threats established by the Department of*  
42 *Corrections; and*

43 (c) *The prisoner has not, within the immediately preceding 24*  
44 *months:*



1           (1) *Committed a major violation of the regulations of the*  
2 *Department of Corrections; or*

3           (2) *Been housed in disciplinary segregation.*

4           3. *If the Board grants parole to a prisoner pursuant to this*  
5 *section:*

6           (a) *The Board must prescribe any conditions necessary for the*  
7 *orderly conduct of the parolee upon his or her release.*

8           (b) *The parolee must be supervised closely by the Division, in*  
9 *accordance with the plan for supervision developed by the Chief*  
10 *pursuant to NRS 213.122.*

11       **Sec. 5.** NRS 213.107 is hereby amended to read as follows:

12       213.107 As used in NRS 213.107 to 213.157, inclusive, *and*  
13 *section 4 of this act*, unless the context otherwise requires:

14       1. "Board" means the State Board of Parole Commissioners.

15       2. "Chief" means the Chief Parole and Probation Officer.

16       3. "Division" means the Division of Parole and Probation of  
17 the Department of Public Safety.

18       4. "Residential confinement" means the confinement of a  
19 person convicted of a crime to his or her place of residence under  
20 the terms and conditions established by the Board.

21       5. "Sex offender" means any person who has been or is  
22 convicted of a sexual offense.

23       6. "Sexual offense" means:

24       (a) A violation of NRS 200.366, subsection 4 of NRS 200.400,  
25 NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS  
26 201.180, paragraph (a) or subparagraph (2) of paragraph (b) of  
27 subsection 1 of NRS 201.195, NRS 201.230 or 201.450, or  
28 paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of  
29 subsection 5 of NRS 201.560;

30       (b) An attempt to commit any offense listed in paragraph (a); or

31       (c) An act of murder in the first or second degree, kidnapping in  
32 the first or second degree, false imprisonment, burglary or invasion  
33 of the home if the act is determined to be sexually motivated at a  
34 hearing conducted pursuant to NRS 175.547.

35       7. "Standards" means the objective standards for granting or  
36 revoking parole or probation which are adopted by the Board or the  
37 Chief.

38       **Sec. 6.** NRS 213.1213 is hereby amended to read as follows:

39       213.1213 1. If a prisoner is sentenced pursuant to NRS  
40 176.035 to serve two or more concurrent sentences, whether or not  
41 the sentences are identical in length or other characteristics,  
42 eligibility for parole from any of the concurrent sentences must be  
43 based on the sentence which requires the longest period before the  
44 prisoner is eligible for parole.



1 2. Notwithstanding any other provision of law, if a prisoner is  
2 sentenced pursuant to NRS 176.035 to serve two or more  
3 consecutive sentences of life imprisonment with the possibility of  
4 parole:

5 (a) For offenses committed on or after July 1, 2009:

6 (1) All minimum sentences for such offenses must be  
7 aggregated;

8 (2) The prisoner shall be deemed to be eligible for parole  
9 from all such sentences after serving the minimum aggregate  
10 sentence; and

11 (3) The Board is not required to consider the prisoner for  
12 parole until the prisoner has served the minimum aggregate sentence  
13 **H**, *unless the prisoner becomes eligible for parole pursuant to*  
14 *section 4 of this act.*

15 (b) For offenses committed before July 1, 2009, in cases in  
16 which the prisoner has not previously been considered for parole for  
17 any such offenses:

18 (1) The prisoner may, by submitting a written request to the  
19 Director of the Department of Corrections, make an irrevocable  
20 election to have the minimum sentences for such offenses  
21 aggregated; and

22 (2) If the prisoner makes such an irrevocable election to have  
23 the minimum sentences for such offenses aggregated, the Board is  
24 not required to consider the prisoner for parole until the prisoner has  
25 served the minimum aggregate sentence **H**, *unless the prisoner*  
26 *becomes eligible for parole pursuant to section 4 of this act.*

27 **Sec. 7.** NRS 213.122 is hereby amended to read as follows:

28 213.122 The Chief shall develop a statewide plan for the strict  
29 supervision of parolees released pursuant to NRS 213.1215 **H** *or*  
30 *section 4 of this act.* In addition to such other provisions as the  
31 Chief deems appropriate, the plan must provide for the supervision  
32 of such parolees by assistant parole and probation officers whose  
33 caseload allows for enhanced supervision of the parolees under their  
34 charge unless, because of the remoteness of the community to which  
35 the parolee is released, enhanced supervision is impractical.

36 **Sec. 8.** NRS 213.1519 is hereby amended to read as follows:

37 213.1519 1. Except as otherwise provided in subsection 2, a  
38 parolee whose parole is revoked by decision of the Board for a  
39 violation of any rule or regulation governing his or her conduct:

40 (a) Forfeits all credits for good behavior previously earned to  
41 reduce his or her sentence pursuant to chapter 209 of NRS; and

42 (b) Must serve such part of the unexpired maximum term of his  
43 or her original sentence as may be determined by the Board.

44 ➔ The Board may restore any credits forfeited under this  
45 subsection.



1 2. A parolee released on parole pursuant to NRS 213.1215 *and*  
2 *section 4 of this act* whose parole is revoked for having been  
3 convicted of a new felony:

4 (a) Forfeits all credits for good behavior previously earned to  
5 reduce his or her sentence pursuant to chapter 209 of NRS;

6 (b) Must serve the entire unexpired maximum term of his or her  
7 original sentence; and

8 (c) May not again be released on parole during his or her term of  
9 imprisonment.

10 **Sec. 9.** The amendatory provisions of:

11 1. Section 3 of this act apply to a person convicted of a crime  
12 on or after October 1, 2013.

13 2. Section 4 of this act apply to a person convicted of a crime  
14 before, on or after October 1, 2013.

