

ASSEMBLY BILL NO. 60—COMMITTEE ON JUDICIARY
(ON BEHALF OF THE DISTRICT ATTORNEY’S ASSOCIATION)

FEBRUARY 10, 2003

Referred to Committee on Judiciary

SUMMARY—Revises provisions pertaining to certification of child for criminal proceedings as adult. (BDR 5-280)

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 the juvenile court; providing an additional exception to mandatory certification of a child for criminal proceedings as an adult; providing that a decision of the juvenile court to deny certification of a child for criminal proceedings as an adult may be appealed; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 62.080 is hereby amended to read as follows:
2 62.080 1. Except as otherwise provided in subsection 2 and
3 NRS 62.081, if:
4 (a) A child is charged with an offense that would be a felony if
5 committed by an adult; and
6 (b) The child was 14 years of age or older at the time he
7 allegedly committed the offense,
8 the juvenile court, upon a motion by the district attorney and after a
9 full investigation, may retain jurisdiction or certify the child for
10 proper criminal proceedings to any court that would have
11 jurisdiction to try the offense if committed by an adult.
12 2. If a child:
13 (a) Is charged with:



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

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

5 (b) Was 14 years of age or older at the time he allegedly
6 committed the offense,

7 the juvenile court, upon a motion by the district attorney and after a
8 full investigation, shall certify the child for proper criminal
9 proceedings to any court that would have jurisdiction to try the
10 offense if committed by an adult, unless the court specifically finds
11 by clear and convincing evidence that *the child is developmentally*
12 *or mentally incompetent to understand his situation and the*
13 *proceedings of the court or to aid his attorney in those proceedings*
14 *or that* the child's actions were substantially the result of his
15 substance abuse or emotional or behavioral problems and such
16 substance abuse or problems may be appropriately treated through
17 the jurisdiction of the juvenile court.

18 3. If a child is certified for criminal proceedings as an adult
19 pursuant to subsection 1 or 2, the court shall also certify the child
20 for criminal proceedings as an adult for any other related offense
21 arising out of the same facts as the offense for which the child was
22 certified, regardless of the nature of the related offense.

23 4. If a child has been certified for criminal proceedings as an
24 adult pursuant to subsection 1 or 2 and his case has been transferred
25 out of the juvenile court, original jurisdiction of his person for that
26 case rests with the court to which the case has been transferred, and
27 the child may petition for transfer of his case back to the juvenile
28 court only upon a showing of exceptional circumstances. If the
29 child's case is transferred back to the juvenile court, the judge of
30 that court shall determine whether the exceptional circumstances
31 warrant accepting jurisdiction.

32 **Sec. 2.** NRS 62.291 is hereby amended to read as follows:

33 62.291 **1.** Appeals from the orders of the court may be taken
34 to the Supreme Court in the same manner as appeals in civil cases
35 are taken.

36 **2.** *For the purposes of this section, a decision to deny*
37 *certification of a child for criminal proceedings as an adult is a*
38 *final judgment from which an appeal may be taken.*

39 **Sec. 3.** The amendatory provisions of this act apply to a
40 decision to deny certification of a child for criminal proceedings as
41 an adult that is made on or after October 1, 2003.

