

POLICY AND PROGRAM REPORT



Juvenile Justice

April 2016

The juvenile justice system applies to children who are not old enough to be held responsible as adults for criminal acts. In Nevada, "child" generally means a person who is under 18 years of age, with certain qualifications and exceptions discussed below.

In 2003, the Legislature declared that children subject to juvenile court jurisdiction must receive care and guidance, preferably in their own home, conducive to the children's welfare and the State's interests and, when a child is removed from parental control, the court must secure an equivalent or nearly equivalent level of care. The Legislature also stated that one of the purposes of juvenile justice laws is to promote programs designed to prevent children from becoming subject to juvenile court jurisdiction.

The Nevada Supreme Court has ruled that constitutional and statutory provisions related to criminal procedure are not applicable to proceedings in juvenile court, which are not criminal in nature, and that jury trials are not required in juvenile court.

Nevada has entered into the Interstate Compact for Juveniles, which promotes cooperative efforts and mutual assistance among states related to juvenile offenders who have run away from home and have left their state of residence.

JUVENILE COURTS

Nevada's district courts have jurisdiction over juvenile justice and, when exercising that jurisdiction, are known as "juvenile courts." Juvenile court expenses are charged to the county, except for expenses related to State juvenile detention facilities. The county is entitled to reimbursement from the parent or guardian of a child who becomes subject to juvenile court jurisdiction and receives ancillary medical, psychiatric, psychological, or transportation services.

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In general, the juvenile court has jurisdiction over a child who is alleged or adjudicated to be in need of supervision, to have committed a delinquent act, or to be in need of commitment to an institution for the intellectually disabled.

For the purposes of juvenile justice, a “child” is a person who is between 10 and 18 years of age, is less than 21 years of age and is subject to juvenile court jurisdiction for an unlawful act committed before the age of 18, or is subject to the jurisdiction of the juvenile court as a juvenile sex offender. Additionally, a child aged 8 and older may be charged with the crimes of murder or a sexual offense under certain circumstances.

A “child in need of supervision” is one who is habitually truant from school; habitually disobeys the reasonable demands of a parent or guardian; runs away from home and is in need of care or rehabilitation; or violates a county or municipal ordinance related to curfews, loitering, or tobacco products. A child in need of supervision is not considered a delinquent child.

A “delinquent” child is one who violates a county or municipal ordinance other than those specified above, violates a regulation or rule having the force of law, or commits a criminal offense pursuant to State law.

There are several situations in which youth offenders either may or must be handled in the adult rather than the juvenile justice system.

- For such serious crimes as murder and attempted murder, the juvenile court has no jurisdiction over a child who was 16 years of age or older when the crime was committed, thus the district court handles these cases.
- A child who is accused of committing murder or attempted murder at the age of 13 or older may be certified and tried as an adult upon a motion by the district attorney and after a full investigation and hearing by the court.
- Again upon the motion of the district attorney and after an investigation and hearing, the juvenile court may transfer certain cases involving children who were 14 years of age or older at the time of their crimes, usually felonies, to adult court. This process is known as “presumptive certification.”
- Upon the motion of the district attorney and after an investigation and hearing, the juvenile court may transfer other types of cases.
- If a child is charged with a minor traffic offense, the juvenile court may transfer the case to justice or municipal court, with some restrictions.

The following table provides additional details on situations in which adult courts handle youth offenders.

Crime	Age of Child	Who Has Jurisdiction?	Process
Murder, attempted murder	16 years or older	Adult court	<i>Nevada Revised Statutes (NRS) 62B.330, 62B.390, 194.010</i>
	13-16 years	Adult court, if certified as an adult by the juvenile court	
	8-12 years	Juvenile court	
Sexual assault or attempted sexual assault involving use or threat of force or violence	16 years or older at time of offense	Adult court, if the child was previously adjudicated delinquent for an act that would have been a felony if committed by an adult	Automatic NRS 62B.330
		Otherwise, adult court, after certification for proceedings as an adult by the juvenile court	Nondiscretionary NRS 62B.390 ¹
Offense or attempted offense involving use or threat of use of firearm	16 years or older at time of offense	Adult court, if the child was previously adjudicated delinquent for an act that would have been a felony if committed by an adult	Automatic NRS 62B.330
		Otherwise, adult court, after certification for proceedings as an adult by the juvenile court	Nondiscretionary NRS 62B.390 ²
Felony resulting in death or substantial bodily harm committed on school property when pupils or employees present, at an activity sponsored by a school, or on a school bus, with intent to create a great risk of death or severe bodily harm to more than one person	Any	Adult court	Automatic NRS 62B.330
Category A or B felony	At least 16 years but less than 18 years when offense committed, but not identified by law enforcement and charged before age of 20 years and 3 months but less than 21 years, or not identified by law enforcement until reaching 21 years	Adult court	Automatic NRS 62B.330

Crime	Age of Child	Who Has Jurisdiction?	Process
Offense that would have been a felony if committed by an adult	At least 14 years at time of offense	Adult court, if certified for proceedings as an adult by the juvenile court	At the discretion of the juvenile court NRS 62B.390
Escape or attempted escape from lawful custody in facility for detention or correctional care of children ³	At least 14 years at time of escape or attempted escape	Adult court, if certified for proceedings as an adult by the juvenile court	At the discretion of the juvenile court NRS 62B.400

¹However, the juvenile court must not certify a child for criminal proceedings as an adult if the court finds by clear and convincing evidence that the child is developmentally or mentally incompetent to understand the situation and the court proceedings or to aid the child's attorney in those proceedings, or the child has substance abuse or emotional or behavioral problems that may be appropriately treated through the jurisdiction of the juvenile court.

²See note 1.

³But only if the child was committed to the facility because the child had been charged with or had been adjudicated delinquent for an unlawful act that would have been a felony if committed by an adult or the child or another person aiding the child used a dangerous weapon to facilitate the escape or attempted escape.

JUVENILE PROCEDURE

Initial Custody and Detention

A peace officer or probation officer may take a child into custody if the officer has probable cause to believe the child has violated a State or local law, ordinance, regulation, or rule having the force of law, or if the child's conduct indicates the child is in need of supervision. The officer must attempt to notify the child's parent or guardian without delay, and the detention facility must notify a probation officer and attempt to notify the parent or guardian if that person has not already been contacted.

The child usually must be released to the custody of a parent, guardian, or other responsible adult who agrees, in writing, to bring the child before the juvenile court as the court specifies. If the child is not released, he or she must either be taken to juvenile court or the court must be notified of the detention, at which time the court may order the child detained, released to the custody of a parent or guardian, or conditionally released for supervised detention at home.

For some offenses involving domestic violence or violation of a protective order, the child must remain in custody for at least 12 hours, unless another appropriate alternative is available.

If a child is not alleged to be delinquent or in need of supervision, the child must not be detained in a detention facility, jail, or police station. If a child is alleged to be delinquent or in need of supervision, the child must not be detained in a secure facility unless: (1) the child is a fugitive; (2) the child was taken into custody pursuant to a warrant; or (3) there is probable cause to believe that the child will commit another offense, run away, or be taken away. A child under 18 years of

age may not be detained at a jail or police station unless no alternative is available and the child is kept separate from adults who are detained there.

Complaint and Petition

When a child, parent, peace officer, school official, or other person alleges or complains that a child is delinquent or in need of supervision, a probation officer must investigate the complaint to determine whether a petition alleging delinquency or need of supervision should be filed with the juvenile court or the interests of the child or the public would be better served by placing the child under informal supervision. If the probation officer recommends filing of a petition, the district attorney has final authority to determine whether to file the petition.

Informal Supervision

A child may be placed under the informal supervision of a probation officer if the child voluntarily admits participation in the acts alleged in the complaint and, if the alleged acts would constitute a gross misdemeanor or felony if committed by an adult, the district attorney gives written approval. The terms and conditions of informal supervision must be stated in writing and may require the child to perform community service or provide restitution. The period of informal supervision must not exceed 180 days. If the child successfully completes the supervision, the court may dismiss any petition filed against the child.

Supervision and Consent Decree

If the district attorney files a petition with the juvenile court and the court does not refer the child for informal supervision, the court may place the child under the supervision of the court pursuant to a consent decree without a formal adjudication of delinquency, upon the recommendation of the probation officer and with the consent of the district attorney and the child's parent or guardian.

Rights of Children

A child alleged to be delinquent or in need of supervision is entitled to be represented by an attorney at all stages of the proceedings. If the child's parent or guardian is indigent, the court must appoint an attorney and may order the parent or guardian to reimburse the county or the State in accordance with his or her ability to pay.

At intake and in juvenile court, children must be advised of their rights, informed of the allegations against them, and given the opportunity to affirm or deny the allegations. If a child denies the allegations, the court must conduct a hearing and determine whether the allegations have been established.

Juvenile Competency

In 2015, the Legislature adopted Nevada's first stand-alone juvenile competency standard via Assembly Bill 138 (Chapter 364, *Statutes of Nevada*). The bill establishes procedures both a juvenile

court and a person who makes a motion for the evaluation of a child must follow in determining the question of competence. If the court suspends a case to consider the question of competency, then the court must appoint one or more qualified experts to make an evaluation. The measure also provides guidelines and considerations that must be taken into account as part of the evaluation such as age, developmental maturity, and other factors that affect a child's competence.

Upon the receipt of required written reports from the experts, the court must hold an expedited hearing to determine competency. If the child is determined to be incompetent, the court is required to make additional determinations, issue all appropriate recommendations and orders, and conduct a periodic review to determine whether the child has attained competence.

After a periodic review is conducted, depending on its findings, the court will:

- Proceed with the case if the child has attained competence;
- Order appropriate treatment if the child has not attained competence; or
- Consider the best interests of the child and the safety of the community if the child has not attained competence and is not likely to attain competence in the foreseeable future.

If the court determines a child to be incompetent, during the period that the child remains incompetent the child may not be adjudicated a delinquent child or a child in need of supervision or placed under the supervision of the court. No statement made by a child to an expert during an evaluation is admissible as evidence on the issue of guilt or in a criminal proceeding unless the child first introduces the statement as evidence.

Rights of Parents and Guardians

A parent or guardian of a child alleged to be delinquent or in need of supervision may also be represented by an attorney at all stages of the proceedings. The parent or guardian must be given written notice of any proceedings after the initial detention hearing. It is unlawful for an employer to terminate, or threaten to terminate, an employee who gives the employer notice of an appearance with or on behalf of a child in any court. A person who is unlawfully discharged may commence a civil action against the employer for attorney's fees, damages, lost wages and benefits, and reinstatement.

Disposition of Cases

When a child is adjudicated in accordance with these procedures, the juvenile court may:

- Place the child in the custody of a suitable person for supervision in the child's home or another home;
- Commit the child to the custody of a licensed public or private institution or agency authorized to care for children;

- Permit the child to reside in a residence without the immediate supervision of an adult, if the child is at least 16 years of age, would benefit from the arrangement, and is under the strict supervision of the court;
- Order the child, the child's parent or guardian, or both, to perform community service;
- If the child was not previously found delinquent or in need of supervision and the offense did not involve the use or threatened use of force or violence, order the child to complete a program of cognitive training and human development, a program for the arts, or a program of sports or physical fitness;
- Order the child's driver's license to be suspended for at least 90 days but not more than two years;
- Impose a fine;
- Order medical, psychiatric, psychological, or other care, examination, or treatment in the best interests of the child; or
- Order the parent or guardian to refrain from any conduct the court believes has caused the child to come under the court's jurisdiction.

If the case involves a child who is or is alleged to be in need of supervision, the court must:

- Admonish the child and refer the child to counseling or other similar services if the child has not previously been under the purview of the juvenile court; and
- Impose a fine or order community service and suspend the child's driver's license if the child is found to be a habitual truant.

If the case involves a child who is adjudicated delinquent, the court may:

- Commit the child to a detention facility if the child is at least 12 years of age;
- Commit the child to the custody of the Division of Child and Family Services (DCFS), Department of Health and Human Services (DHHS), for suitable placement;
- Order the child, the parent or guardian, or both, to provide restitution to the victim;
- In some circumstances, order the child to undergo an evaluation to determine whether the child is an abuser of alcohol or other drugs; or
- Take other actions specified in State law.

Confidentiality

With some exceptions, the records of any case brought before the juvenile court may be opened to inspection to persons who have a legitimate interest in the records only by court order. Upon the request of a child's attorney, a district attorney, a court appointed special advocate, or other specified person, the director of juvenile services, a chief juvenile probation officer, or the Chief of the Youth Parole Bureau, DCFS, may share appropriate juvenile justice information for the purposes of ensuring the child's safety, permanent placement, rehabilitation, educational success, or well-being. If a child is under 21 years of age, the child, a probation officer, or parole officer may petition the juvenile court for an order sealing all records relating to the child. The district attorney, the chief probation officer, or a designee may testify at the hearing on the petition to seal the records. If the juvenile court finds that it has been three years since the child was adjudicated or placed under supervision or the child does not have any delinquent or criminal charges pending, then:

- If the child is less than 18 years of age, the juvenile court *may* enter an order sealing all records relating to the child; or
- If the child is 18 years of age or older, the juvenile court *shall* enter an order sealing all records relating to the child.

The law also sets guidelines requiring the juvenile court to determine whether a child has been rehabilitated. The juvenile court retains jurisdiction over civil judgments, case captions, and case numbers, and orders entering civil judgments must not be sealed until the civil judgment is satisfied or expires.

If circumstances warrant, in addition to notifying the district attorney and the chief probation officer, the Chief of the Youth Parole Bureau must be notified of the filing of a petition to seal a juvenile record and may testify at the hearing on the petition. Personal identifying information from sealed juvenile records may be used by entities performing bona fide outcome and recidivism studies.

When a child reaches 21 years of age, all records must be automatically sealed, except for records related to sex offenses or acts that would have been a felony if committed by an adult and that involved the use or threatened use of force or violence, which must not be sealed before the child reaches 30 years of age. Once a person's records are sealed, all proceedings covered in the records are deemed never to have occurred, and the person may reply accordingly to any inquiry concerning the proceedings.

Youth Parole

After a child has been committed to a State detention facility, the superintendent of the facility may grant parole, if the child is eligible and parole would be in the child's best interests. The superintendent must first consult with the Chief of the Youth Parole Bureau. Upon being released on parole, the child is under the supervision of the Chief. Each child who is paroled must be placed in a home and an educational program or work program. After a child has been paroled, the Chief must

apply to the juvenile court for a dismissal of all proceedings against the child if the child has made an acceptable adjustment outside the facility or is no longer amenable to treatment as a juvenile. If there is probable cause to believe that a child has violated parole, a peace officer may take the child into custody on the written order of the Chief, pending the child's return to juvenile court.

JUVENILE PROBATION

County juvenile probation departments have jurisdiction over children placed on probation who are in need of supervision or who have committed delinquent acts. The requirements for county juvenile probation departments vary, depending on the county's population. Unlike adult probation, juvenile probation is a county function.

The Legislature has authorized special supervision programs to improve and strengthen local supervision of children placed on probation and reduce the necessity for commitment of delinquent children to State detention facilities. Such programs include an unusually high level of supervision and the use of new techniques. The juvenile court in each county may apply to the DHHS for a share of the costs of a special supervision program.

JUVENILE SEX OFFENDERS

If a child is adjudicated delinquent for an unlawful act and the juvenile court determines at a hearing that the act was sexually motivated, or if a child is adjudicated delinquent for an act that would have been a sexual offense if committed by an adult, the court must place the child under the supervision of a parole or probation officer for at least three years and must impose a number of other conditions concerning attendance at school and community notification. For more information, see the April 2016 *Policy and Program Report* titled, "Justice System: Focus on Sex Offenders."

FACILITIES FOR JUVENILE DETENTION

There are local, regional, and State facilities for the detention of children. The individual counties administer local facilities. Regional facilities, administered by or for the benefit of more than one government entity, include the Spring Mountain Youth Camp and Red Rock Academy in Clark County, the China Springs Youth Camp in Douglas County, and the Western Nevada Regional Youth Center in Lyon County.

ACTIVITIES DURING THE 2015-2016 INTERIM

The Legislative Committee on Child Welfare and Juvenile Justice will meet and consider such matters as statewide juvenile justice reform, the crossover of issues affecting both child welfare and juvenile justice, evidence based reforms to juvenile justice, and child welfare services.

The Commission on Statewide Juvenile Justice Reform is co-chaired by the Chief Justice and one associate justice of the Nevada Supreme Court and includes the Attorney General, district court judges, justices of the peace, members of the Legislature, State and local government staff members,

and representatives of the nonprofit community. The Commission will study and evaluate the continuum of care, possible reorganization of Nevada's correctional commitment facilities, limiting State commitments to the most serious youth offenders, stabilization of long-term funding, and related subjects.

SOURCES OF ADDITIONAL INFORMATION

Commission on Statewide Juvenile Justice Reform: [http://nvcourts.gov/AOC/Committees and Commissions/Juvenile Justice Reform/News/2/19/16 Commission on Statewide Juvenile Justice Reform Meeting/](http://nvcourts.gov/AOC/Committees_and_Commissions/Juvenile_Justice_Reform/News/2/19/16_Commission_on_Statewide_Juvenile_Justice_Reform_Meeting/).

Legislative Committee on Child Welfare and Juvenile Justice: <http://www.leg.state.nv.us/Interim/78th2015/Committee/StatCom/ChildWelfare/?ID=15>.

Clark County Department of Juvenile Justice Services: <http://www.clarkcountynv.gov/jjs/Pages/default.aspx>.

National Council of Juvenile and Family Court Judges: <http://www.ncjfcj.org/>.

National Court Appointed Special Advocate Association: <http://www.casaforchildren.org>.

State of Nevada Juvenile Justice Commission, Division of Child and Family Services: <http://dcfs.nv.gov/Programs/JJS/JJCommission/>.

Washoe County Juvenile Services: <https://www.washoecounty.us/juvenilesvs/>.

Legislative committees have studied juvenile justice in Nevada and have published their findings in Legislative Counsel Bureau bulletins since 1961. Some of the more recent bulletins on this subject include:

- Bulletin No. 99-11, *System of Juvenile Justice in Nevada*, January 1999;
- Bulletin No. 01-11, *Commission on School Safety and Juvenile Violence*, January 2001;
- Bulletin No. 01-13, *Study of the System of Juvenile Justice in Nevada*, January 2001;
- Bulletin No. 05-6, *Study of Juvenile Justice System*, January 2005;
- Bulletin No. 11-16, *Legislative Committee on Child Welfare and Juvenile Justice*, January 2011;
- Bulletin No. 13-15, *Legislative Committee on Child Welfare and Juvenile Justice*, January 2013; and
- Bulletin No. 15-10, *Child Welfare and Juvenile Justice*, January 2015.

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