

ASSEMBLY BILL NO. 165—ASSEMBLYWOMAN ANGLE (BY REQUEST)

FEBRUARY 9, 1999

Referred to Committee on Judiciary

SUMMARY—Revises various provisions concerning juveniles. (BDR 5-1054)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: 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 juveniles; requiring the court to order a child who injures another person, or the parent or guardian of the child, to provide restitution for medical expenses or to perform community service; revising the provisions governing the inspection of photographs of children; revising the provisions regarding certain evidentiary testing of children; 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 62.2245 is hereby amended to read as follows:
- 2 62.2245 1. ~~If a child is found to have committed an unlawful act in~~
- 3 ~~which the child damaged or destroyed the property of another person, in~~
- 4 ***In*** addition to any action ordered pursuant to the provisions of this chapter,
- 5 the judge, or his authorized representative, shall order ~~the~~ ***a*** child ***who is***
- 6 ***found to have committed an unlawful act in which the child:***
- 7 ***(a) Caused physical injury to another person to provide restitution to***
- 8 ***that person for medical expenses incurred as the result of the act.***
- 9 ***(b) Damaged or destroyed the property of another person*** to provide
- 10 restitution to the owner of the property.
- 11 2. If the child is not able to provide restitution, the judge, or his
- 12 authorized representative, shall order the parent or guardian of the child to
- 13 provide restitution, ~~[to the owner of the property,]~~ unless the judge, or his
- 14 authorized representative, determines that extenuating circumstances exist.

3. If the child and his parent or guardian are unable to provide restitution because of financial hardship, the judge, or his authorized representative, shall order the child or his parent or guardian, or both, to perform community service.

4. The community service must be performed for and under the supervising authority of a county, city, town or other political subdivision or agency of the State of Nevada or a charitable organization that renders service to the community or its residents.

5. The judge, or his authorized representative, may require the child or his parent or guardian, or both, to deposit with the court a reasonable sum of money to pay for the cost of a policy for insurance against liability for personal injury and damage to property or for industrial insurance, or both, during those periods in which the work is performed, unless, in the case of industrial insurance, it is provided by the authority for which the work is performed.

6. As used in this section, "property" includes real or personal property.

Sec. 2. NRS 62.350 is hereby amended to read as follows:

62.350 1. The fingerprints of a child must be taken if the child is in custody for an act that, if committed by an adult:

(a) Would be a felony, a gross misdemeanor or a sexual offense; or

(b) Would be a misdemeanor, and the act involved:

(1) The use or threatened use of force or violence against the victim;
or

(2) The possession, use or threatened use of a firearm or a deadly weapon.

2. The fingerprints of a child who is in custody but who is not subject to the provisions of subsection 1 may be taken if a law enforcement officer finds latent fingerprints during the investigation of an offense and the officer has reason to believe that the latent fingerprints are those of the child. The officer shall use the fingerprints taken from the child for the purpose of making an immediate comparison with the latent fingerprints. If the comparison is:

(a) Negative, the fingerprint card and other copies of the fingerprints taken may be immediately destroyed or may be retained for future use.

(b) Positive, the fingerprint card and other copies of the fingerprints:

(1) Must be delivered to the court for disposition if the child is referred to court.

(2) May be immediately destroyed or may be retained for future use if the child is not referred to court.

3. Fingerprints that are taken from a child pursuant to the provisions of this

section:

1 (a) May be retained in a local file or a local system for the automatic
2 retrieval of fingerprints if they are retained under special security measures
3 that limit inspection of the fingerprints to law enforcement officers who are
4 conducting criminal investigations. If the child from whom the fingerprints
5 are taken subsequently is not adjudicated delinquent, the parent or
6 guardian of the child or, when the child becomes at least 18 years of age,
7 the child, may petition the court for the removal of the fingerprints from
8 any such local file or local system.

9 (b) Must be submitted to the central repository for Nevada records of
10 criminal history if the child is adjudicated delinquent for an act that, if
11 committed by an adult, would be a felony or sexual offense, and may be
12 submitted to the central repository for any other act. The central repository
13 shall retain the fingerprints of the child under special security measures
14 that limit inspection of the fingerprints to law enforcement officers who are
15 conducting criminal investigations and to officers and employees of the
16 central repository who are assisting law enforcement officers with criminal
17 investigations or who are conducting research or performing a statistical
18 analysis.

19 (c) Must not be submitted to the Federal Bureau of Investigation unless
20 the child is adjudicated delinquent for an act that, if committed by an adult,
21 would be a felony or a sexual offense.

22 4. A child who is in custody must be photographed for the purpose of
23 identification. Except as otherwise provided in this subsection, the
24 photographs of the child must be kept in the file pertaining to the child
25 under special security measures *which provide* that ~~limit inspection of~~ the
26 photographs ~~to law enforcement officers who are~~ *may be inspected only*
27 *for the purpose of* conducting criminal investigations ~~to~~, *including,*
28 *without limitation, using the photographs for the purpose of conducting*
29 *a photographic lineup.* If a court subsequently determines that the child is
30 not delinquent, the court shall order the photographs to be destroyed.

31 5. Any person who willfully violates any provision of this section is
32 guilty of a misdemeanor.

33 **Sec. 3.** NRS 484.383 is hereby amended to read as follows:

34 484.383 1. Except as otherwise provided in subsections 3 and 4, any
35 person who drives or is in actual physical control of a vehicle on a
36 highway or on premises to which the public has access shall be deemed to
37 have given his consent to an evidentiary test of his blood, urine, breath or
38 other bodily substance for the purpose of determining the alcoholic content
39 of his blood or breath or the presence of a controlled substance when such
40 a test is administered at the direction of a police officer having reasonable
41 grounds to believe that the person to be tested was driving or in actual
42 physical control of a vehicle while under the influence of intoxicating
43 liquor or a controlled substance.

2. If the person to be tested pursuant to subsection 1 is dead or unconscious, the officer shall direct that samples of blood from the person be tested.

3. Any person who is afflicted with hemophilia or with a heart condition requiring the use of an anticoagulant as determined by a physician is exempt from any blood test which may be required pursuant to this section but must, when appropriate pursuant to the provisions of this section, be required to submit to a breath or urine test.

4. If the alcoholic content of the blood or breath of the person to be tested is in issue:

(a) Except as otherwise provided in this section, the person may refuse to submit to a blood test if means are reasonably available to perform a breath test.

(b) The person may request a blood test, but if means are reasonably available to perform a breath test when the blood test is requested, and the person is subsequently convicted, he must pay for the cost of the blood test, including the fees and expenses of witnesses in court.

(c) A police officer may direct the person to submit to a blood test as set forth in subsection 7 if the officer has reasonable grounds to believe that the person:

(1) Caused death or substantial bodily harm to another person as a result of driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance; or

(2) Has been convicted within the previous 7 years of:

(I) A violation of NRS 484.379, 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420 or a law of another jurisdiction that prohibits the same or similar conduct; or

(II) Any other offense in this state or another jurisdiction in which death or substantial bodily harm to another person resulted from driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance.

5. If the presence of a controlled substance in the blood of the person is in issue, the officer may direct him to submit to a blood or urine test, or both, in addition to the breath test.

6. Except as otherwise provided in subsections 3 and 5, a police officer shall not direct a person to submit to a urine test.

7. If a person to be tested fails to submit to a required test as directed by a police officer pursuant to this section and the officer has reasonable grounds to believe that the person to be tested was driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor or a controlled substance, the officer may direct that reasonable force be used to the extent necessary to obtain samples of blood

1 from the person to be tested. Not more than three such samples may be
2 taken during the 5-hour period immediately following the time of the
3 initial arrest. In such a circumstance, the officer is not required to provide
4 the person with a choice of tests for determining the alcoholic content or
5 presence of a controlled substance in his blood.

6 8. If a person who is less than 18 years of age is directed to submit to
7 an evidentiary test pursuant to this section, the officer ~~{shall,}~~ **is not**
8 **required,** before testing the person, ~~{make a reasonable attempt}~~ to notify
9 the parent, guardian or custodian of the person . ~~{, if known.}~~

10 **Sec. 4.** The amendatory provisions of section 1 of this act apply to
11 offenses that are committed on or after October 1, 1999.

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