

Assembly Bill No. 262—Assemblymen Parks, Perkins, Bache, de Braga, Segerblom, Anderson, Neighbors, Thomas, Buckley, Lee, Arberry, Collins, Manendo, Williams, Cegavske, Beers, Brower, Tiffany, Gustavson, Chowning, Evans, Leslie, Koivisto, Freeman, Carpenter, Parnell, Gibbons, Goldwater, McClain, Dini, Nolan, Price, Berman, Von Tobel, Claborn, Mortenson, Giunchigliani, Humke and Hettrick

CHAPTER.....

AN ACT relating to juveniles; revising provisions concerning notification of a parent, guardian or custodian of a child who is taken into custody for committing an offense; and providing other matters properly relating thereto.

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

Section 1. NRS 62.040 is hereby amended to read as follows:

62.040 1. Except if the child involved is subject to the exclusive jurisdiction of an Indian tribe, and except as otherwise provided in this chapter, the court has exclusive original jurisdiction in proceedings:

(a) Concerning any child living or found within the county who is in need of supervision because he:

(1) Is a child who is subject to compulsory school attendance and is a habitual truant from school;

(2) Habitually disobeys the reasonable and lawful demands of his parents, guardian or other custodian, and is unmanageable; or

(3) Deserts, abandons or runs away from his home or usual place of abode,
and is in need of care or rehabilitation. The child must not be considered a delinquent.

(b) Concerning any child living or found within the county who has committed a delinquent act. A child commits a delinquent act if he violates a county or municipal ordinance or any rule or regulation having the force of law, or he commits an act designated a crime under the law of the State of Nevada.

(c) Concerning any child in need of commitment to an institution for the mentally retarded.

2. For the purposes of subsection 1, each of the following acts shall be deemed not to be a delinquent act, and the court does not have jurisdiction of a person who is charged with committing such an act:

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

(b) Sexual assault or attempted sexual assault involving the use or threatened use of force or violence against the victim and any other related

offense arising out of the same facts as the sexual assault or attempted sexual assault, regardless of the nature of the related offense, if:

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

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

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

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

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

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

3. If a child is charged with a minor traffic offense, the court may transfer the case and record to a justice's or municipal court if the judge determines that it is in the best interest of the child. If a case is so transferred:

(a) The restrictions set forth in subsection ~~4~~ 5 of NRS 62.170 are applicable in those proceedings; and

(b) The child must be accompanied at all proceedings by a parent or legal guardian.

With the consent of the judge of the juvenile division, the case may be transferred back to the juvenile court.

Sec. 2. NRS 62.170 is hereby amended to read as follows:

62.170 1. Except as otherwise provided in NRS 62.175, any peace officer or probation officer may take into custody any child who is found violating any law or ordinance or whose conduct indicates that he is a child in need of supervision. Except as otherwise provided in NRS 484.383, when a child is taken into custody, the officer shall ~~immediately~~, *without undue delay, attempt to* notify the parent, guardian or custodian of the child, if known . ~~and~~ *The facility in which the child is detained shall:*

(a) If notification by the officer was not accomplished, notify the parent, guardian or custodian of the child, if known, without undue delay; and

(b) Notify the probation officer ~~of~~ of the child without undue delay.

2. Unless it is impracticable or inadvisable or has been otherwise ordered by the court, or is otherwise provided in this section, the child must be released to the custody of his parent or other responsible adult who has signed a written agreement to bring the child to the court at a stated time or

at such time as the court may direct. The written agreement must be submitted to the court as soon as possible. If this person fails to produce the child as agreed or upon notice from the court, a writ may be issued for the attachment of the person or of the child requiring that the person or child, or both of them, be brought into the court at a time stated in the writ.

~~[2-]~~ 3. If the child is not released ~~[1]~~ as provided in subsection ~~[4-]~~ 2, the child must be taken without unnecessary delay to the court or to the place of detention designated by the court ~~[1]~~ and, as soon as possible thereafter, the fact of detention must be reported to the court. Pending further disposition of the case, the child may be released to the custody of the parent or other person appointed by the court, or may be detained in such place as is designated by the court, subject to further order. The court may authorize supervised detention at the home of the child in lieu of detention at a facility for the detention of juveniles.

~~[3-]~~ 4. A child alleged to be delinquent or in need of supervision must not, before disposition of the case, be detained in a facility for the secure detention of juveniles unless there is probable cause to believe that:

- (a) If the child is not detained, he is likely to commit an offense dangerous to himself or to the community, or likely to commit damage to property;
- (b) The child will run away or be taken away so as to be unavailable for proceedings of the court or to its officers;
- (c) The child was brought to the probation officer pursuant to a court order or warrant; or
- (d) The child is a fugitive from another jurisdiction.

~~[4-]~~ 5. A child not alleged to be delinquent or in need of supervision must not at any time be confined or detained in a facility for the secure detention of juveniles or any police station, lockup, jail, prison or other facility in which adults are detained or confined.

~~[5-]~~ 6. A child under 18 years of age must not at any time be confined or detained in any police station, lockup, jail, prison or other facility where the child has regular contact with any adult convicted of a crime or under arrest and charged with a crime, unless:

- (a) The child is alleged to be delinquent;
- (b) An alternative facility is not available; and
- (c) The child is separated by sight and sound from any adults who are confined or detained therein.

~~[6-]~~ 7. A child alleged to be delinquent who is taken into custody and detained must be given a detention hearing, conducted by the judge or master:

- (a) Within 24 hours after the child submits a written application;
- (b) In a county whose population is less than 100,000, within 24 hours after the commencement of detention at a police station, lockup, jail, prison or other facility in which adults are detained or confined;

(c) In a county whose population is 100,000 or more, within 6 hours after the commencement of detention at a police station, lockup, jail, prison or other facility in which adults are detained or confined; or

(d) Within 72 hours after the commencement of detention at a facility in which adults are not detained or confined, whichever occurs first, excluding Saturdays, Sundays and holidays. A child must not be released after a detention hearing without the written consent of the judge or master.

~~17.1~~ 8. If the parent, guardian or custodian of the child appears with or on behalf of the child at a detention hearing, the judge or master shall provide to him a certificate of attendance which he may provide to his employer. The certificate of attendance must set forth the date and time of appearance and the provisions of NRS 62.900. The certificate of attendance must not set forth the name of the child or the offense alleged.

~~18.1~~ 9. A child who is taken into custody and detained must, if alleged to be a child in need of supervision, be released within 24 hours, excluding Saturdays, Sundays and holidays, after his initial contact with a peace officer to his parent, guardian or custodian, to any other person who is able to provide adequate care and supervision, or to shelter care, except as otherwise provided in subsection ~~19.1~~ 10 or unless the court holds a detention hearing and determines the child:

- (a) Has threatened to run away from home or from the shelter;
- (b) Is accused of violent behavior at home; or
- (c) Is accused of violating the terms of his supervision and consent decree.

If the court makes such a determination, the child may be detained for an additional 24 hours after the hearing, excluding Saturdays, Sundays and holidays, if needed by the court to make an alternative placement. Such an alternative placement must be in a facility in which there are no physically restraining devices or barriers. A child must not be detained pursuant to this subsection for a total period in excess of 48 hours, excluding Saturdays, Sundays and holidays.

~~19.1~~ 10. A child alleged to be in need of supervision who is taken into custody and detained need not be released within 24 hours, excluding Saturdays, Sundays and holidays, after his initial contact with a peace officer to his parent, guardian or custodian, to any other person who is able to provide adequate care and supervision, or to a shelter for care, if the court holds a detention hearing and determines the child:

- (a) Is a ward of a federal court or held pursuant to federal statute;
- (b) Has run away from another state and a jurisdiction within the state has issued a want, warrant or request for the child; or
- (c) Is accused of violating a valid court order.

If the court makes such a determination, the child may be detained for such an additional period as necessary for the court to return the child to the jurisdiction from which he originated or to make an alternative placement.

Such an alternative placement must be in a facility in which there are no physically restraining devices or barriers.

~~10.~~ **11.** During the pendency of a criminal or quasi-criminal charge of a crime excluded from the original jurisdiction of the court pursuant to NRS 62.040, a child may petition the juvenile division for temporary placement in a facility for the detention of juveniles.

~~11.~~ **12.** In determining whether to release a child pursuant to this section to a person other than his parent, guardian or custodian, preference must be given to any person related within the third degree of consanguinity to the child who is suitable and able to provide proper care and guidance for the child.

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