

ASSEMBLY BILL NO. 262—ASSEMBLYMEN PARKS, PERKINS, BACHE, DE BRAGA, SEGERBLUM, 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

FEBRUARY 16, 1999

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing notification of parent, guardian or custodian of child taken into custody for committing offense. (BDR 5-1279)

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; 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:

- 1 **Section 1.** NRS 62.040 is hereby amended to read as follows:
2 62.040 1. Except if the child involved is subject to the exclusive
3 jurisdiction of an Indian tribe, and except as otherwise provided in this
4 chapter, the court has exclusive original jurisdiction in proceedings:
5 (a) Concerning any child living or found within the county who is in
6 need of supervision because he:
7 (1) Is a child who is subject to compulsory school attendance and is a
8 habitual truant from school;
9 (2) Habitually disobeys the reasonable and lawful demands of his
10 parents, guardian or other custodian, and is unmanageable; or

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

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

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

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

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

18 (b) Sexual assault or attempted sexual assault involving the use or
19 threatened use of force or violence against the victim and any other related
20 offense arising out of the same facts as the sexual assault or attempted
21 sexual assault, regardless of the nature of the related offense, if:

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

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

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

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

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

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

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

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

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

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

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

8 62.170 1. Except as otherwise provided in NRS 62.175, any peace
9 officer or probation officer may take into custody any child who is found
10 violating any law or ordinance or whose conduct indicates that he is a child
11 in need of supervision. Except as otherwise provided in NRS 484.383,
12 when a child is taken into custody, the officer shall ~~immediately~~, **without**
13 **undue delay, attempt to** notify the parent, guardian or custodian of the
14 child, if known. ~~and~~ **The facility in which the child is detained shall:**

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

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

19 2. Unless it is impracticable or inadvisable or has been otherwise
20 ordered by the court, or is otherwise provided in this section, the child
21 must be released to the custody of his parent or other responsible adult who
22 has signed a written agreement to bring the child to the court at a stated
23 time or at such time as the court may direct. The written agreement must
24 be submitted to the court as soon as possible. If this person fails to produce
25 the child as agreed or upon notice from the court, a writ may be issued for
26 the attachment of the person or of the child requiring that the person or
27 child, or both of them, be brought into the court at a time stated in the writ.

28 ~~2~~ 3. If the child is not released ~~as~~ as provided in subsection ~~1~~ 2,
29 the child must be taken without unnecessary delay to the court or to the
30 place of detention designated by the court ~~and~~ and, as soon as possible
31 thereafter, the fact of detention must be reported to the court. Pending
32 further disposition of the case, the child may be released to the custody of
33 the parent or other person appointed by the court, or may be detained in
34 such place as is designated by the court, subject to further order. The court
35 may authorize supervised detention at the home of the child in lieu of
36 detention at a facility for the detention of juveniles.

37 ~~3~~ 4. A child alleged to be delinquent or in need of supervision must
38 not, before disposition of the case, be detained in a facility for the secure
39 detention of juveniles unless there is probable cause to believe that:

40 (a) If the child is not detained, he is likely to commit an offense
41 dangerous to himself or to the community, or likely to commit damage to
42 property;

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

3 (c) The child was brought to the probation officer pursuant to a court
4 order or warrant; or

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

6 ~~14.1~~ 5. A child not alleged to be delinquent or in need of supervision
7 must not at any time be confined or detained in a facility for the secure
8 detention of juveniles or any police station, lockup, jail, prison or other
9 facility in which adults are detained or confined.

10 ~~15.1~~ 6. A child under 18 years of age must not at any time be confined
11 or detained in any police station, lockup, jail, prison or other facility where
12 the child has regular contact with any adult convicted of a crime or under
13 arrest and charged with a crime, unless:

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

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

16 (c) The child is separated by sight and sound from any adults who are
17 confined or detained therein.

18 ~~16.1~~ 7. A child alleged to be delinquent who is taken into custody and
19 detained must be given a detention hearing, conducted by the judge or
20 master:

21 (a) Within 24 hours after the child submits a written application;

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

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

28 (d) Within 72 hours after the commencement of detention at a facility in
29 which adults are not detained or confined,

30 whichever occurs first, excluding Saturdays, Sundays and holidays. A
31 child must not be released after a detention hearing without the written
32 consent of the judge or master.

33 ~~17.1~~ 8. If the parent, guardian or custodian of the child appears with or
34 on behalf of the child at a detention hearing, the judge or master shall
35 provide to him a certificate of attendance which he may provide to his
36 employer. The certificate of attendance must set forth the date and time of
37 appearance and the provisions of NRS 62.900. The certificate of
38 attendance must not set forth the name of the child or the offense alleged.

39 ~~18.1~~ 9. A child who is taken into custody and detained must, if alleged
40 to be a child in need of supervision, be released within 24 hours, excluding
41 Saturdays, Sundays and holidays, after his initial contact with a peace
42 officer to his parent, guardian or custodian, to any other person who is able

1 to provide adequate care and supervision, or to shelter care, except as
2 otherwise provided in subsection ~~9~~ 10 or unless the court holds a
3 detention hearing and determines the child:

4 (a) Has threatened to run away from home or from the shelter;

5 (b) Is accused of violent behavior at home; or

6 (c) Is accused of violating the terms of his supervision and consent
7 decree.

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

15 ~~9~~ 10. A child alleged to be in need of supervision who is taken into
16 custody and detained need not be released within 24 hours, excluding
17 Saturdays, Sundays and holidays, after his initial contact with a peace
18 officer to his parent, guardian or custodian, to any other person who is able
19 to provide adequate care and supervision, or to a shelter for care, if the
20 court holds a detention hearing and determines the child:

21 (a) Is a ward of a federal court or held pursuant to federal statute;

22 (b) Has run away from another state and a jurisdiction within the state
23 has issued a want, warrant or request for the child; or

24 (c) Is accused of violating a valid court order.

25 If the court makes such a determination, the child may be detained for such
26 an additional period as necessary for the court to return the child to the
27 jurisdiction from which he originated or to make an alternative placement.
28 Such an alternative placement must be in a facility in which there are no
29 physically restraining devices or barriers.

30 ~~10~~ 11. During the pendency of a criminal or quasi-criminal charge
31 of a crime excluded from the original jurisdiction of the court pursuant to
32 NRS 62.040, a child may petition the juvenile division for temporary
33 placement in a facility for the detention of juveniles.

34 ~~11~~ 12. In determining whether to release a child pursuant to this
35 section to a person other than his parent, guardian or custodian, preference
36 must be given to any person related within the third degree of
37 consanguinity to the child who is suitable and able to provide proper care
38 and guidance for the child.