

ASSEMBLY BILL NO. 473—ASSEMBLYMEN MCCLAIN, MANENDO, COLLINS, CLABORN, LESLIE, KOIVISTO, ANDERSON, EVANS, NOLAN, BEERS, PARNELL, TIFFANY, FREEMAN, BACHE, GIUNCHIGLIANI, WILLIAMS, PARKS, VON TOBEL, CHOWNING, HUMKE, OHRENSCHALL, DE BRAGA, PERKINS, LEE, NEIGHBORS, MORTENSON, SEGERBLOM, GIBBONS, BUCKLEY, ARBERRY AND CARPENTER

MARCH 11, 1999

Referred to Committee on Judiciary

SUMMARY—Revises provisions concerning juveniles who are taken into custody for committing certain offenses. (BDR 5-1011)

FISCAL NOTE: Effect on Local Government: Yes.
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; providing that a juvenile who is taken into custody for committing a battery that constitutes domestic violence must remain in custody for at least 12 hours; revising provisions concerning when a peace officer or probation officer who has taken a juvenile into custody for committing an offense must provide notice to a parent, guardian or custodian and probation officer of the juvenile; 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;

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

3 (3) Deserts, abandons or runs away from his home or usual place of
4 abode,

5 and is in need of care or rehabilitation. The child must not be considered a
6 delinquent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 62.170 1. Except as otherwise provided in NRS 62.175, any peace
13 officer or probation officer may take into custody any child who is found
14 violating any law or ordinance or whose conduct indicates that he is a child
15 in need of supervision. Except as otherwise provided in NRS 484.383,
16 when a child is taken into custody, the officer shall ~~immediately~~, *when*
17 *practicable and without undue delay*, notify the parent, guardian or
18 custodian of the child, if known, and the probation officer. Unless it is
19 impracticable or inadvisable or has been otherwise ordered by the court, or
20 is otherwise provided in this section, the child must be released to the
21 custody of his parent or other responsible adult who has signed a written
22 agreement to bring the child to the court at a stated time or at such time as
23 the court may direct. The written agreement must be submitted to the court
24 as soon as possible. If this person fails to produce the child as agreed or
25 upon notice from the court, a writ may be issued for the attachment of the
26 person or of the child requiring that the person or child, or both of them, be
27 brought into the court at a time stated in the writ.

28 2. *A child who is taken into custody for committing a battery that*
29 *constitutes domestic violence pursuant to NRS 33.018 must not be*
30 *released from custody sooner than 12 hours after he is taken into*
31 *custody.*

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

42 ~~{3.—A}~~

1 **4. Except as otherwise provided in subsection 2, a** child alleged to be
2 delinquent or in need of supervision must not, before disposition of the
3 case, be detained in a facility for the secure detention of juveniles unless
4 there is probable cause to believe that:

5 (a) If the child is not detained, he is likely to commit an offense
6 dangerous to himself or to the community, or likely to commit damage to
7 property;

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

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

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

13 ~~14.~~ **5.** A child not alleged to be delinquent or in need of supervision
14 must not at any time be confined or detained in a facility for the secure
15 detention of juveniles or any police station, lockup, jail, prison or other
16 facility in which adults are detained or confined.

17 ~~15.~~ **6.** A child under 18 years of age must not at any time be confined
18 or detained in any police station, lockup, jail, prison or other facility where
19 the child has regular contact with any adult convicted of a crime or under
20 arrest and charged with a crime, unless:

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

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

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

25 ~~16.~~ **7.** A child alleged to be delinquent who is taken into custody and
26 detained must be given a detention hearing, conducted by the judge or
27 master:

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

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

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

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

40 ~~17.~~ **8.** If the parent, guardian or custodian of the child appears with or
41 on behalf of the child at a detention hearing, the judge or master shall
42 provide to him a certificate of attendance which he may provide to his

1 employer. The certificate of attendance must set forth the date and time of
2 appearance and the provisions of NRS 62.900. The certificate of
3 attendance must not set forth the name of the child or the offense alleged.

4 ~~{8-}~~ 9. A child who is taken into custody and detained must, if alleged
5 to be a child in need of supervision, be released within 24 hours, excluding
6 Saturdays, Sundays and holidays, after his initial contact with a peace
7 officer to his parent, guardian or custodian, to any other person who is able
8 to provide adequate care and supervision, or to shelter care, except as
9 otherwise provided in subsection ~~{9-}~~ 10 or unless the court holds a
10 detention hearing and determines the child:

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

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

13 (c) Is accused of violating the terms of his supervision and consent
14 decree.

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

22 ~~{9-}~~ 10. A child alleged to be in need of supervision who is taken into
23 custody and detained need not be released within 24 hours, excluding
24 Saturdays, Sundays and holidays, after his initial contact with a peace
25 officer to his parent, guardian or custodian, to any other person who is able
26 to provide adequate care and supervision, or to a shelter for care, if the
27 court holds a detention hearing and determines the child:

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

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

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

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

37 ~~{10-}~~ 11. During the pendency of a criminal or quasi-criminal charge
38 of a crime excluded from the original jurisdiction of the court pursuant to
39 NRS 62.040, a child may petition the juvenile division for temporary
40 placement in a facility for the detention of juveniles.

1 ~~11.~~ 12. In determining whether to release a child pursuant to this
2 section to a person other than his parent, guardian or custodian, preference
3 must be given to any person related within the third degree of
4 consanguinity to the child who is suitable and able to provide proper care
5 and guidance for the child.

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