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Juveniles; fingerprints—retaining records

NEV. REV. STAT. § 62.350 (amended).

AB 84 (Committee on Judiciary); 1989 STAT. Ch. 18

Existing law provides that any child¹ who is fourteen or older can be fingerprinted by law enforcement officers if the child is charged with a crime which would constitute a felony if committed by an adult.² Chapter 18 allows the fingerprints to be retained in a local file, or deposited in a state depository.³

Existing law provides that if a law enforcement officer has reason to believe that latent fingerprints found during an investigation are those of a child in custody, the officer can fingerprint the child regardless of the child's age or the offense.⁴ Chapter 18 provides that if the child is under fourteen, and the comparison is negative, or the child has not been referred to the court, the fingerprints must be immediately destroyed.⁵ If the comparison is positive, and the child has been referred to the court,⁶ the fingerprints must be delivered to the court for disposition.⁷ However, if the child is fourteen or over, the fingerprints are to be retained whether the comparison is negative or positive.⁸

KMS

1. See NEV. REV. STAT. § 62.020 2 (definition of a child).

2. *Id.* § 62.350 1 (amended by 1989 Nev. Stat. ch. 18, sec. 1, at ____). If the juvenile is innocent, then the fingerprints are destroyed. *Id.* See also *id.* § 62.020 1 (definition of an adult). See generally *In Re Pedro Q*, 82 Misc.2d 167, 169, 369 N.Y.S.2d 269, 271 (1975) (following a lawful arrest, a juvenile's consent to fingerprinting is not required).

3. 1989 Nev. Stat. ch. 18, sec. 1, at ____ (amending NEV. REV. STAT. § 62.350). The fingerprints must be separated from the adult fingerprints, and only in an investigation of a crime may law enforcement officers or staff of the depository inspect the files. *Id.* A child under fourteen may only be fingerprinted with a court order. *Id.*

4. NEV. REV. STAT. § 62.350 2. The fingerprints must be taken for purposes of comparison with the latent prints. *Id.*

5. 1989 Nev. Stat. ch. 18, sec. 1 at ____ (amending NEV. REV. STAT. § 63.350).

6. NEV. REV. STAT. § 62.020 3 (definition of a court).

7. 1989 Nev. Stat. ch. 18, sec. 1 at ____ (amending NEV. REV. STAT. § 62.350).

8. 1989 Nev. Stat. ch. 18, sec. 1, at ____ (enacting NEV. REV. STAT. § 62.350). See *id.* (the fingerprints may not be submitted to the Federal Bureau of Investigation or Criminal Identification and Investigation Bureau of California unless the child is found to have committed a crime that would be a felony if committed by an adult). Cf. FLA. STAT. ANN. (1986) § 39.031 (comprehensive statute permitting fingerprints to be taken of juveniles and maintained in files). See generally, Ferster, *The Beginning of Juvenile Justice, Police Practices and the Juvenile Offender*, 22 VAND. L. REV. 567, 598-599 (1969); (explaining why some states may want to maintain fingerprint files).