

BILL DRAFT REQUEST FROM LOCAL GOVERNMENT
REQUEST LIMITED TO ONE SUBJECT ONLY

FOR LCB USE ONLY

BDR#: _____

FROM: Las Vegas Metropolitan Police Department
Local Government

TO: Legislative Counsel Bureau

I Intent of Proposed Bill: (Summary of intended effect and background for request)

To allow the retention of fingerprints, palm prints and/or photographs of juveniles in fingerprint and photograph databases

II Justification for Request: (Why is this needed? Include an example in writing of positive or adverse impact of the requested legislation. Use this space to provide testimony that could be used at a legislative committee hearing.)

Estimates of the percentage of crimes committed by juveniles in America today range from 20 to 50%. The ability to search latent prints from crime scenes in databases which contain juvenile fingerprints could have an enormous impact on solving crime in Nevada. In an example from the State of Idaho, while only 4% of the fingerprint database is comprised of juvenile prints, juveniles are responsible for 30% of the positive results – that is where a latent print from a crime scene is identified to an individual as a result of a fingerprint database search.

By ignoring this resource, we are preventing law enforcement agencies in Nevada from solving crime, and this has a direct impact on the citizens of Nevada. In 2007, at the LVMPD alone, 612 people were identified from crime scenes or evidence as a result of AFIS searches. Often, as juveniles reach adulthood and are arrested, they are identified to latent prints collected from crime scenes years earlier. This illustrates that juvenile crime is on the rise and many suspects are not being identified until they reach adulthood. Juvenile crime spree continue unchecked, unless the juveniles are "caught in the act." Had they been identified earlier, many crimes could have been avoided altogether. In addition, a juvenile may have a better chance of ending criminal behavior if caught early in their career as opposed to when they have reached adulthood.

III Fiscal Impacts: (Include all known and potential impacts, e.g., County, State, Cities, and agencies, and other entities.)

Juveniles are already being fingerprinted at detention centers statewide; however they are not being entered into AFIS databases for latent searches because Nevada law prohibits it.

Because jurisdictions currently take fingerprints from juveniles and send them to the state by law, manpower and systems are already in place. Thus, the fiscal impact would be negligible.

At the state level, programming would be required to integrate the juvenile files with the adult files.

At the local levels, incompatible equipment may have to be replaced which may also require maintenance contracts. Networking issues to link juvenile detention centers with local and state databases may need to be remedied. The cost and impact to each jurisdiction would depend on their existing resources.

In the worst case scenario, should the purchase of live-scan equipment be required and monthly maintenance fees exist, the fiscal benefits would far outweigh the fiscal liability considering the cost of juvenile crime to Nevada and Clark County in particular. Auto thefts, burglaries, robberies, homicides, hospital bills, police man-hours and court time would be positively impacted should juvenile crime be reduced any appreciable amount.

IV Non Fiscal Impacts: (List all affected agencies, customer groups, public or private associations, other government entities, etc., who will oppose/support this and why?)

Human rights or defense organizations may oppose this legislation for obvious reasons. However, fingerprints and photographs are only a source of identification and do not become part of the adversarial process unless a crime has been committed. Indeed, solving crime using a method of identification could prevent innocent people from being accused.

One must be photographed for a driver's license. Many must be fingerprinted to obtain employment. Fingerprints and photographs are used for identification purposes and criminal background checks for a large number of law abiding citizens. Photographs and fingerprints constitute a record of identification, not a piece of evidence that should be governed by the rules of evidence.

In truth, all Nevadans would benefit from such a law. Our children could be caught early in life and sanctioned before becoming accustomed to a life of crime. The public would be relieved of a large portion of the rising crime population today. Law enforcement investigations would be boosted dramatically in a day where their resources are stretched to the limit

V NRS Title, Chapter and Section Affected: (If applicable)

62H.010 addresses fingerprints and photographs, but no specific mention is made of fingerprint or photograph databases. In fact, it speaks of secured files where the prints and photographs are hidden for investigative purposes unless the child is already identified as a suspect. In a world where children are committing adult crimes and are often being mistaken for adults, their identification records are separate and inaccessible from normal law enforcement tools.

VI Effective Date:

- Ω Default (October 1, 2009)
- Ω July 1, 2009
- Ω Upon Passage and Approval
- Ω Other

VII Suggested Language:

A juvenile taken into custody and charged with an offense in which an adult would be fingerprinted and photographed

in that jurisdiction shall be fingerprinted and photographed. This may include palm prints. Any fingerprints and/or palm prints taken shall be forwarded to local and state law enforcement agencies for retention in appropriate files and/or electronic databases such as AFIS (Automated Fingerprint Identification Systems) for fingerprint and palm prints in the same manner as adult offenders. Any photographs shall be retained by the local agency for retention in the appropriate files and/or electronic databases. If the court finds good cause it may order any fingerprints, palm prints and/or photographs to be expunged. Fingerprints, palm prints and photographs may only be used and/or disseminated for criminal justice purposes.

To Be Completed By OIS Only

VIII FISCAL NOTE:

Effect on the State or on Industrial Insurance

☐ Yes ☐ No Contains Appropriation

Executive Budget _____ Effect Less Than \$2,000

Effect on Local Government

☐ Yes ☐ No Contains Appropriation

IX Preprinting of Bill: (Subsection 3 of NRS 218.240)

May bill be preprinted? ☐ Yes ☐ No

X Name of Person to be Consulted if More Information Needed:

Name: Tom Roberts, Police Director

Telephone Number: (702) 828-5538

Fax Number:

(702) 828-1565

**XI Name, Title and Mailing Address of Person to Whom a Copy of the
Drafted Bill Request Should Be Mailed:**

Tom Roberts, Government Liaison

Office of Intergovernmental Services

Las Vegas Metropolitan Police Department
3141 E. Sunrise Avenue
Las Vegas, Nevada 89101

Signature of Representative
Las Vegas Metropolitan Police Department

Date

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I Intent of Proposed Bill: (Summary of intended effect and background for request)

Fingerprints are commonly gathered after any adult arrest in the State of Nevada. These fingerprints are transmitted electronically to the state repository in most cases. The repository then forwards the prints electronically to the Federal Bureau of Investigation for retention in the Integrated Automated Fingerprint Identification System (IAFIS). Fingerprint based NCIC records gather all names and personal identifiers provided by the fingerprinted person and compile them within one record. If an individual is arrested in one state using his/her real name, and later arrested in two other states using different fictitious information; all of the arrests and related information are stored in one record.

Currently NRS 62H.010 severely limits the gathering of fingerprints and photographs of juvenile offenders within the state of Nevada. This unnecessary restriction has resulted in numerous misidentifications of juveniles. These juvenile offenders are often incarcerated in adult jails.

In many states, fingerprints of arrested juveniles are gathered, retained locally, and disseminated to the Federal Bureau of Investigation for retention. Fingerprints of juveniles provided by other states have resulted in proper identification in Nevada under circumstances where the offender used fictitious information and was fingerprinted in an adult detention center in Nevada. Current FBI policy allows juvenile and non-felony fingerprint records to be stored within IAFIS and NCIC.

Latent fingerprints found at crime scenes are submitted to the IAFIS data base for comparison. Fingerprint identification of suspects is an effective tool in solving violent crime cases, as well as property crime cases, which result in thousands of dollars in losses to Nevada citizens and tourists that visit the state.

II Justification for Request: (Why is this needed? Include an example in writing of positive or adverse impact of the requested legislation. Use this space to provide testimony that could be used at a legislative committee hearing.)

The need for fingerprint based identification of juveniles who are arrested or adjudicated delinquent has never been greater. It is common for suspects of violent crimes and serious property crimes to be under the age of 18. In many cases these same suspects have been taken into custody or adjudicated delinquent for a wide variety of acts that would be a crime if the person committing them was an adult. Currently the latent prints left by these juveniles at crime scenes would not result in a match because no fingerprints are gathered from juvenile offenders.

Endangered and exploited children are commonly encountered in Nevada. The number of juveniles trafficked into Nevada for purposes of prostitution is growing. The failure of law enforcement agencies to properly identify these children places the victims at an even greater risk of harm. On many occasions juvenile females from other states have provided false identifications when contacted for prostitution activity. This causes the juvenile to be incarcerated in an adult facility. When fingerprints from these arrests are compared to those from other states that properly fingerprint juveniles, the true identity of the juvenile is determined. This allows social services and mental health personnel to access the victim. It is common for juveniles arrested in Nevada to be arrested later in Nevada or any other state and misidentified as an adult. Because juvenile detention facilities in Nevada cannot gather fingerprints when the juvenile is correctly identified; those responsible for exploiting the child are free to create false identifications for the juvenile to use during subsequent arrests.

The Las Vegas Metropolitan Police Department's Vice section has encountered numerous problems with juvenile identifications that could be alleviated by amending NRS 62H.010. Incidents include:

1. A female arrested for a prostitution related offense was incarcerated in juvenile hall for several days. During this time the victim's parents were notified. After returning to her home state the victim was contacted by her pimp and was soon back in Nevada. The victim was arrested about two weeks after her release from juvenile detention for a second prostitution related offense. The victim provided an adult identity by changing one letter in her last name and her date of birth. About two days later the victim was released from the Clark County Detention Center after being fingerprinted and photographed. Those fingerprints were transmitted to the repository and IAFIS/NCIC. No match was found because the victim had not been fingerprinted as a juvenile. An adult record for the victim was established which would allow her to use the adult identity undetected in any other jurisdiction. The victim was returned to the streets where she was victimized until a detective working on another case happened upon the victim's adult booking photo and recognized her. The victim was recovered several days later in a high prostitution area where she was observed being harassed by four men believed to be pimps.
2. A juvenile was arrested in Clark County for soliciting prostitution. The victim attempted to use an adult identity. A thorough investigation revealed that the female was a 16 year old resident of California. The juvenile victim was eventually released from juvenile detention. Over the next year the victim was detained again in juvenile detention in Clark County and then returned home. Months later a detective scanning booking photos for misidentified juvenile victims recognized the victim and transported her from Clark County Detention Center to the juvenile detention center. It was determined that between her two juvenile arrests the female had been arrested using an adult identity. The victim had been arrested twice after her last release from juvenile hall using the adult identity that she had attempted to provide during her first juvenile arrest. The victim had used the fictitious adult arrest record created here during an arrest in Arizona.
3. A missing juvenile was recovered after she appeared at a relative's home almost a year after she was lured from her own home. Investigation revealed several arrests for prostitution and trespassing that resulted in the juvenile being incarcerated in the Clark County Detention Center. The juvenile had an outstanding Clark County Justice Court warrant for some of the charges. The victim was transported to the Clark County Juvenile hall. The victim indicated that she returned due to physical abuse suffered at the hands of her pimp. After her release the victim may use a fictitious identity if she is exploited again without fear of fingerprint comparison revealing her true age or victim status.
4. A juvenile victim was contacted during a sexual exploitation investigation. The victim had

a firmly established, fingerprint based, adult identity in several states. Her incarceration and correct identification in Nevada did not result in any information being transmitted via NCIC or IAFIS to the other states that had incorrect identifying information for her. The victim is believed to be a current victim of sexual exploitation in other states using the same adult identity.

Situations of misidentified juvenile victims of sex trafficking are so common that it has become a regular practice to scan adult arrests to locate both local and out of state missing juveniles. This practice is unreliable because it depends on the ability of one or two detectives to recognize known victims with different hair styles and colors and unknown victims from a missing person flyer and/or web sites.

On several occasions adults have purposefully provided false identifying information indicating that they were less than 18 years old. Many times these adults believe that they will be quickly released from juvenile hall without the need for bail by simply providing a friend or family member's name to act as a guardian. These persons often cannot be fingerprinted under the current law to determine true identity and age. This puts the entire juvenile detention population at risk as they are housed with an unknown adult.

Juveniles responsible for residential burglaries, robberies, and auto theft, cannot be identified from prior arrests for crimes like shoplifting and trespassing, because no prints are gathered for those arrests if the person committing the crime is under 18.

The requested amendments do not strip privacy guarantees from the law. Juvenile fingerprint records would be subject to the same access and security controls enjoyed by current records. The amount of information available concerning circumstances of arrest or crimes charged would not be expanded. The records already available by easily falsified names and dates of birth would be matched to unique fingerprints to avoid misidentification.

The requested amendments to the current law would bring Nevada in line with other states that have progressively expanded the gathering and retention of fingerprints. These amendments will make Nevada a good neighbor to other states. Missing persons will be recovered and suspects of major crimes identified.

Nevada has an obligation to victims of crime including exploited children. The misidentification of juveniles which results in unlawful incarceration in adult facilities could often be avoided with the requested changes. The ability to identify suspects who have committed crimes against Nevada citizens, including murder, would be greatly expanded. Juveniles lured from Nevada could be located in other states using fingerprint and photograph comparisons. All of this could be accomplished without compromising the privacy of any person due to the security and restricted access to fingerprint records that currently exists.

III Fiscal Impacts: (Include all known and potential impacts, e.g., County, State, Cities, and agencies, and other entities.)

Juvenile Detention Centers in each county would provide fingerprint records to the Central Repository. The Central Repository would send these records to the FBI for matching and recording purposes. The equipment and resources to accomplish these tasks should already be in place. Currently juvenile detention centers must fingerprint those juveniles accused of certain crimes. The Central Repository in Nevada sends the fingerprints it receives to the FBI. County and city detention facilities may see a reduction in population as juveniles are correctly identified and transferred to juvenile detention facilities. Law enforcement agencies at all levels would benefit from increased solvability of crimes committed by juveniles where fingerprints were recovered. This change may prevent lawsuits from juveniles and guardians caused by juveniles

being misidentified and incarcerated in adult facilities. In one recent case a 16 year old female was incarcerated in an adult prison in another state after arrests in Nevada and the other state using an adult identity. Fingerprints taken during any of her juvenile contacts in Nevada could have prevented the incarceration by offering the correct juvenile identity matched to her fingerprints during her attempted use of the adult identity.

IV Non Fiscal Impacts: (List all affected agencies, customer groups, public or private associations, other government entities, etc., who will oppose/support this and why?)

This change should receive support from law enforcement and victim's advocacy groups statewide. Detention facilities and prisons should support such a measure as well. Groups that support the separation of juvenile and adult judicial proceedings, including the ACLU, should support such a change as it helps prevent children from facing adult court proceedings due to accidental misidentification or purposeful deception concerning the true age of the person involved. This change also decreases the likelihood of an adult being incarcerated in a juvenile detention facility where they may victimize children. Opposition may come from criminal defense attorneys due to the evidentiary value of latent fingerprints at crime scenes.

V NRS Title, Chapter and Section Affected: (If applicable)

NRS 62H.010 Fingerprinting or photographing of child who is in custody; conditions and limitations on use and retention of fingerprints and photographs; penalty.

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

(a) A felony, gross misdemeanor or sexual offense; or

(b) A misdemeanor and the unlawful 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 to make 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 juvenile court for disposition if the child is referred to the juvenile court.

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

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

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

(b) Must be submitted to the Central Repository if the child is adjudicated delinquent for an unlawful act that would have been a felony or a sexual offense if committed by an adult, and may be submitted to the Central Repository for any other act. Any such fingerprints submitted to the

Central Repository must be submitted with a description of the child and the unlawful act, if any, that the child committed. The Central Repository shall retain the fingerprints and information of the child under special security measures that limit inspection of the fingerprints and the information to:

- (1) Law enforcement officers who are conducting criminal investigations; and
 - (2) Officers and employees of the Central Repository who are assisting law enforcement officers with criminal investigations or who are conducting research or performing a statistical analysis.
 - (c) Must not be submitted to the Federal Bureau of Investigation unless the child is adjudicated delinquent for an unlawful act that would have been a felony or a sexual offense if committed by an adult.
 4. A child who is in custody must be photographed for the purpose of identification. Except as otherwise provided in this subsection, the photographs of the child must be kept in the file pertaining to the child under special security measures which provide that the photographs may be inspected only to conduct criminal investigations and photographic lineups. If the juvenile court subsequently determines that the child is not delinquent, the juvenile court shall order the photographs to be destroyed.
 5. Any person who willfully violates any provision of this section is guilty of a misdemeanor.
 6. As used in this section, "sexual offense" means:
 - (a) Sexual assault pursuant to NRS 200.366;
 - (b) Statutory sexual seduction pursuant to NRS 200.368;
 - (c) Battery with intent to commit sexual assault pursuant to NRS 200.400;
 - (d) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;
 - (e) Incest pursuant to NRS 201.180;
 - (f) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195;
 - (g) Open or gross lewdness pursuant to NRS 201.210;
 - (h) Indecent or obscene exposure pursuant to NRS 201.220;
 - (i) Lewdness with a child pursuant to NRS 201.230;
 - (j) Sexual penetration of a dead human body pursuant to NRS 201.450;
 - (k) Luring a child or mentally ill person pursuant to NRS 201.560, if punishable as a felony;
 - (l) An attempt to commit an offense listed in paragraphs (a) to (k), inclusive; or
 - (m) An offense that is determined to be sexually motivated pursuant to NRS 175.547.
- (Added to NRS by 2003, 1088; A 2003, 1379)

VI Effective Date:

October 1st 2009

VII Suggested Language:

1. The fingerprints of a juvenile must be taken if the juvenile is in custody for any offense that would be unlawful if committed by an adult.
2. Fingerprints that are taken from a juvenile pursuant to the provisions of this section:
 - (a) Must be retained in a local file, or a local system, for the automatic retrieval of fingerprints. If the juvenile from whom the fingerprints are taken subsequently is not adjudicated delinquent, the parent or guardian of the juvenile or, when the juvenile becomes at least 18 years of age, the juvenile may petition the juvenile court for the removal of the fingerprints from any local

file or local system.

(b) Must be submitted to the Central Repository if the juvenile is adjudicated delinquent for any act that would be unlawful if committed by an adult, and may be submitted to the Central Repository for any other act. Any such fingerprints submitted to the Central Repository must be submitted with a description of the juvenile and the unlawful act, if any, that the juvenile committed. The Central Repository shall retain the fingerprints and information of the juvenile under special security measures that limit inspection of the fingerprints and the information to:

- (1) Law enforcement officers who are conducting criminal investigations; and
- (2) Officers and employees of the Central Repository who are assisting law enforcement officers with criminal investigations or who are conducting research or performing a statistical analysis.

(c) The Central Repository must submit the fingerprints obtained pursuant to this section to the Federal Bureau of Investigation.

3. A juvenile who is in custody must be photographed for the purpose of identification. The photographs of the juvenile must be kept under special security measures which provide that the photographs may be inspected only to conduct criminal investigations, identify victims, and/or missing persons, and photographic lineups. If the juvenile court subsequently determines that the juvenile is not delinquent, the juvenile court may order the photographs to be destroyed.

4. Any person who willfully violates any provision of this section is guilty of a misdemeanor.

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VIII FISCAL NOTE:

Effect on the State or on Industrial Insurance

☐ Yes ☐ No Contains Appropriation

Executive Budget _____ Effect Less Than \$2,000

Effect on Local Government

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