



SPONSOR: Rep. Chukwuocha & Sen. Gay & Rep. Dorsey Walker
Reps. Baumbach, Collins, Lynn, Morrison

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 356

AN ACT TO AMEND TITLES 10 AND 29 OF THE DELAWARE CODE RELATING TO CONCURRENT JURISDICTION OF JUVENILES WHO COMMIT CRIMES ON UNITED STATES MILITARY INSTALLATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 921, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 921. Exclusive original civil jurisdiction. [For application of this section, see 82 Del. Laws, c. 84, § 5]

The Court shall have exclusive original civil jurisdiction in all proceedings in this State concerning:

(20) All proceedings involving a child under the age of 18 years charged with delinquency based on an alleged violation of any provision of Title 11, 16, or 21 committed within the boundaries of a military institution if concurrent juvenile legislative jurisdiction is established under § 108 of Title 29.

Section 2. Amend Chapter 1, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 1. JURISDICTION AND SOVEREIGNTY

Section 108. Concurrent criminal juvenile legislative jurisdiction.

(a) Purpose. The General Assembly declares that the purpose of the concurrent legislative jurisdiction established under this section is to permit the State to exercise concurrent jurisdiction with the United States when a juvenile under the age of 18 is alleged to have violated a federal criminal law while on a United States military installation located within the boundaries of the State. Concurrent jurisdiction will permit prosecution by the State of a juvenile for crimes the juvenile is alleged to have committed on military installations in Delaware, but only if the violation of federal law is also a crime under state law. Adjudication in Family Court and access to State juvenile resources will result in better outcomes for these juveniles than prosecution in the federal court system which lacks juvenile-focused courts and resources.

(b) Relinquishment of exclusive juvenile jurisdiction.

(1) For purposes of this section "military installation" means a base, camp, post, station, yard, center, or homeport facility for any ship, under the jurisdiction of the Department of Defense.

(2) In accordance with 10 U.S.C. § 2683 the State hereby authorizes acceptance of relinquishment by the United States of exclusive federal jurisdiction over alleged juvenile violations of federal criminal laws occurring on the Dover Air Force Base property or on any other land, previously ceded to the United States by the State, which contains a military installation. Acceptance by the State of relinquishment of exclusive criminal juvenile legislative jurisdiction is conditioned on all the following conditions being met:

a. A duly authorized official or agent of the United States, acting under authority conferred by Congress, under 10 U.S.C. § 2683, must notify the Governor that the United States wishes to relinquish to the State exclusive criminal juvenile legislative jurisdiction, or a portion thereof, held by the United States over the lands designated in such notice, which are within the boundaries of this State, and used by the United States as a military installation. The Governor shall not accept a request under this paragraph unless the request contains all of the following:

1. States the name, position, and legal authority of the person requesting the cessation of exclusive criminal juvenile legislative jurisdiction.

2. Describes by metes and bounds the United States military installation property subject to the concurrent criminal juvenile legislative jurisdiction.

3. Indicates whether the request includes future contiguous expansions of land acquired for military purposes.

(c) Acceptance of concurrent juvenile legislative jurisdiction.

(1) By appropriate Executive Order the Governor, in his or her discretion, may fully or partially accept, on behalf of the State a request by the United States under subsection (b) of this section. If the Governor accepts the request the Governor must send a notice of acceptance to the official or agent designated by the United States to receive such notice of acceptance. The Governor's written acceptance must state the elements of the request that are accepted.

(2) The Governor's Executive Order accepting concurrent criminal juvenile legislative jurisdiction must be filed in the office of the Secretary of State and in the office of the Recorder of Deeds of the county in which the affected real estate is located. After filing and recording of the Governor's Executive Order the Governor shall send to the duly authorized official or agent of the United States, who requested the concurrent criminal juvenile legislative jurisdiction, the following documents:

a. The request from the United States' official or agent requesting concurrent criminal juvenile legislative jurisdiction.

52 b. The Governor's Executive Order accepting concurrent criminal juvenile legislative jurisdiction.

53 c. The Governor's written acceptance of concurrent criminal juvenile legislative jurisdiction.

54 d. A description by metes and bounds of the United States military installation property subject to the
55 concurrent criminal juvenile legislative jurisdiction.

56 (d) The State does not incur or assume any liability as a result of the Governor accepting concurrent criminal
57 juvenile legislative jurisdiction.

58 (e) Upon the establishment of concurrent criminal juvenile legislative jurisdiction under this section any State
59 agency or local government agency may enter into a memorandum of understanding with any federal agency for
60 coordination and designation of responsibilities related to such concurrent criminal juvenile legislative jurisdiction.

SYNOPSIS

On military installations subject to exclusive federal jurisdiction the investigation and prosecution of juveniles for alleged violation of federal crimes is conducted in the federal court system. The federal court system often tries juveniles as adults and it lacks juvenile-focused resources.

This Act allows the Governor to accept back, on behalf of the State, at the request of the United States, concurrent jurisdiction over crimes involving juveniles, on military installations located in the State, which the federal government previously had exclusive jurisdiction only if the violation of federal law is also a crime under State law.

After the Governor, by Executive Order, accepts the request of the United States' official, the Executive Order must be filed with the Delaware Secretary of State and recorded in the office of the Recorder of Deeds in the county where the military installation is located.

Once the Governor accepts the request for concurrent criminal juvenile legislative jurisdiction this Act allows any State agency or local government agency to enter into a memorandum of understanding with any federal agency for coordination and designation of responsibility related to the concurrent criminal juvenile legislative jurisdiction.

This Act also grants the Family Court jurisdiction to adjudicate delinquency hearings involving juveniles, under the age of 18, who have been charged with violating Title 11,16, or 21, within the boundaries of a military installation if concurrent juvenile legislative jurisdiction is established under Section 108 of Title 29.