



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

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
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:

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

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

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

5 (20) All criminal or delinquency court proceedings involving a child charged with a delinquent act or crime
6 committed while the child was under the age of 18 years and committed within the boundaries of a military installation,
7 so long as concurrent juvenile legislative jurisdiction is established under § 108 of Title 29.

8 Section 2. Amend §1010, Title 10 of the Delaware Code by making deletions as shown by strike through and
9 insertions as shown by underline as follows:

10 § 1010. Proceeding against child as an adult; amenability proceeding; referral to another court.

11 (a) A child, aged 16 or older, shall be proceeded against as an adult where:

12 (1) The acts alleged to have been committed constitute first- or second-degree murder, rape in the first degree
13 or rape in the second degree, assault in the first degree, robbery in the first degree (where such offense involves the
14 display of what appears to be a deadly weapon or involves the representation by word or conduct that the person was in
15 possession or control of a deadly weapon or involves the infliction of serious physical injury upon any person who was
16 not a participant in the crime and where the child has previously been adjudicated delinquent of 1 or more offenses
17 which would constitute a felony were the child charged under the laws of this State) or kidnapping in the first degree,
18 or any attempt to commit said ~~crimes~~; crimes.

19 (2) The child is not amenable to the rehabilitative processes available to the ~~Court~~; Court.

20 (3) The child has previously been adjudicated delinquent of 1 or more offenses which would constitute a
21 felony were he or she charged as an adult under the laws of this State, and has reached his or her sixteenth birthday and
22 the acts which form the basis of the current allegations constitute 1 or more of the following offenses: conspiracy first
23 degree, rape in the third degree, arson first degree, burglary first degree, home invasion, §§ 4752 and 4753 of Title 16
24 or any attempt to commit any of the offenses set forth in this ~~paragraph;~~ paragraph.

25 (4) The General Assembly has heretofore or shall hereafter so ~~provide;~~ provide.

26 (5) Notwithstanding any in this Code to the contrary, a child over the age of 12 and under the age of 16 may
27 be proceeded against as an adult only when they are alleged to have committed murder in the first degree, murder in
28 the second degree, rape in the first degree, or rape in the second degree.

29 (6) The child would be eligible to be tried as an adult under this section and the crime or delinquent act was
30 committed within the boundaries of a military installation, so long as concurrent juvenile legislative jurisdiction is
31 established under §108 of Title 29.

32 Section 3. Amend Chapter 1, Title 29 of the Delaware Code by making deletions as shown by strike through and
33 insertions as shown by underline as follows:

34 Chapter 1. JURISDICTION AND SOVEREIGNTY

35 § 108. Concurrent juvenile legislative jurisdiction.

36 (a) Purpose. The General Assembly declares that the purpose of the concurrent juvenile legislative jurisdiction
37 established under this section is to permit the State to exercise concurrent jurisdiction with the United States when a
38 juvenile, while under the age of 18, is alleged to have violated a federal criminal law within the boundaries of a United
39 States military installation located within the boundaries of the State. Concurrent jurisdiction will permit prosecution by the
40 State of a juvenile for crimes or delinquent acts the juvenile is alleged to have committed on military installations in
41 Delaware, but only if the violation of federal law is also a crime or delinquent act under state law. This section shall also
42 apply to the prosecution of a juvenile as an adult under § 921 and § 1010 of Title 10. Adjudication in Family Court and
43 Superior Court and access to State juvenile resources will result in better outcomes for these juveniles than prosecution in
44 the federal court system which lacks juvenile-focused courts and resources.

45 (b) Relinquishment of exclusive juvenile jurisdiction.

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

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

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

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

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

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

64 (c) Acceptance of concurrent juvenile legislative jurisdiction.

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

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

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

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

- 78 c. The Governor’s written acceptance of concurrent juvenile legislative jurisdiction.
- 79 d. A description by metes and bounds of the United States military installation property subject to the
- 80 concurrent juvenile legislative jurisdiction.
- 81 (d) The State does not incur or assume any liability as a result of the Governor accepting concurrent juvenile
- 82 legislative jurisdiction.
- 83 (e) Upon the establishment of concurrent juvenile legislative jurisdiction under this section, any State agency or
- 84 local government agency may enter into a memorandum of understanding with any federal agency for coordination and
- 85 designation of responsibilities related to such concurrent 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. Federal law, however, permits the State to accept concurrent jurisdiction over juvenile matters on military installations if a request is made by a United States official and the Governor, via Executive Order, accepts the request.

This Act provides the statutory authority for the State to accept concurrent jurisdiction over crimes or delinquent acts involving juveniles on military installations located in the State.

According to this Act, if the Governor accepts a request for concurrent criminal juvenile legislative jurisdiction from a United States official, a State agency or local government agency may 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 Substitute bill adds “delinquent acts” to those juvenile matters the Family Court has jurisdiction to adjudicate within a military installation. It also clarifies that offenses within a military installation that are adjudicated in Family Court must have been committed while the child was under the age of 18.

This Substitute bill also provides concurrent jurisdiction for those criminal offenses involving a child in which the child has been determined to be amenable to prosecution as an adult in Superior Court.

This Substitute bill also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.