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Juvenile Procedure Act [26 MIRC Ch 3]

26 MIRC Ch. 3

MARSHALL ISLANDS REVISE CODE 2004

TITLE 26 – FAMILY

CHAPTER 3.

JUVENILE DELINQUENCY

ARRANGEMENT OF SECTIONS

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An Act to provide for procedure in cases involving juveniles and for matters connected therewith.
[Section numbering modified to conform to code form at Rev 2003]

Sources: TTC 1966
15 TTC1970
15 TTC 1980
P.L. 1993-68
P.L. 1996-10

PART I - GENERAL PROVISIONS

§301. Short title.

This Chapter may be cited as the [Juvenile Procedure Act](#).

§302. Adoption of flexible procedures by courts.

(1) In cases involving offenders under the age of eighteen (18) years, courts shall adopt a flexible procedure, including insofar as possible the following measures:

- (a) report by a welfare or probation officer in advance of trial;
- (b) detention, where necessary, apart from adult offenders;
- (c) hearing informally in closed session,
- (d) interrogation of parents or guardians and release in their custody if appropriate.

(2) An offender sixteen (16) years of age or over may, however, be treated in all respects as an adult if in the opinion of the court his physical and mental maturity so justifies. [TTC 1966, §495, 15 TTC 1970, §1, 15 TTC 1980, §1, modified]

§303. Definitions.

As used in this Chapter,

- (1) 'adult' means any natural person eighteen (18) years of age;
- (2) 'child' means any natural person under the age of eighteen (18) years; and
- (3) 'delinquent child' includes any child:
 - (a) who violates any law of the Republic, except that a child who violates any traffic law or regulation shall be designated as a 'juvenile traffic offender' and shall not be designated as a delinquent unless it be so ordered by the court after hearing the evidence;
 - (b) who does not subject himself to the reasonable control of his parents, teachers, guardian, or custodian, by reason of being wayward or habitually disobedient;
 - (c) who is a habitual truant from home or school; or
 - (d) who departs himself so as to injure or endanger the morals or health of himself or others. [TTC 1966, §437, 15 TTC 1970, § 2; 15 TTC 1980, §2, modified]; amended by P.L.1993-68. §2(1).]

§304. Proceedings; conduct generally; delinquency not a crime.

Proceedings against a person under eighteen (18) years of age as a delinquent child shall be conducted in accordance with the provisions of this Part, and an adjudication that a person is a delinquent child shall not constitute a criminal conviction. [TTC 1966, §432; 15 TTC 1970, §3; 15 TTC 1980, §3,

modified]

§305. Same; where brought.

Proceedings against a person as a delinquent child may be brought in the High Court, or in the District or Community Court having jurisdiction over the place where the delinquency or any part of it occurred, except that if the acts charged may legally constitute murder or rape of which the person is not conclusively presumed to be incapable by law, the proceedings shall be brought only in the High Court. [TTC 1966, §432; 15 TTC 1970, §4; 15 TTC 1980, §4, modified]

§306. Orders for persons encouraging, causing or contributing to delinquency; appeals.

(1) In any juvenile delinquency proceeding, if it is found by the court that any person is encouraging, causing, or contributing to acts or conditions which result in an adjudication of the delinquency of a child, the court may require such person to be brought before the court and, after hearing, may order such person to do any specific thing which falls within the duty owed by such person to the child, or refrain from doing any specific act inconsistent with that duty, and, upon the failure of such person to comply with the order of the court, he may be proceeded against for criminal or civil contempt of court.

(2) An adjudication in juvenile delinquency proceedings and all orders in connection with such adjudication shall be subject to appeal as in civil actions, except that no filing fees shall be required. [TTC 1966, §438; 15 TTC 1970, § 5; 15 TTC 1980, §5, modified.]

§307. Confinement.

A person adjudged to be a delinquent child may be confined in such place, under such conditions, and for such period as the court deems the best interests of the child require, not exceeding the period for which he might have been confined if he were not treated as a 'juvenile offender' under this Chapter. [TTC 1966, §432; 15 TTC 1970, §6; 15 TTC 1980, §6, modified.]

PART III -LIABILITY FOR ACTS OF CHILDREN

§308. Responsibility for the Care of Children.

Every parent or guardian, or other person who expressly or implicitly assumes physical custody or care for any length of time, of a child is charged with the responsibility for the actions of each child of which he or she has physical custody or care. Responsibility for a child's actions is not excused merely because another person is legally entitled to the custody of such child. [P.L. 1993-68, § 2(2)(8).]

§309. Liability of Parents, Guardians and other Caretakers.

(1) Whenever a child commits a crime, each parent, guardian and other person, who expressly or implicitly has, or under the circumstances should have had, physical custody or care of that child at the time the child commits such crime, is guilty of an infraction and, upon first conviction, shall be liable to a warning from the court, and upon a second conviction shall be liable to a fine not exceeding \$50. In addition to a fine upon second conviction, the court may impose remedial measures for a term of up to three (3) years to ensure the peace and safety of the community and proper upbringing of the child. Remedial measures may include, but are not limited to, requiring defendant to take or refrain from taking certain actions, requiring attendance at parenting or other such classes, lectures or programs and requiring a bond to ensure compliance with the order.

(2) Whenever a delinquent child, or child against whom delinquency proceedings have been brought and are pending resolution, commits a crime or violates a court order, each parent, guardian and other person, who expressly or implicitly has, or under the circumstances should have had, physical custody or care of that child at the time the child commits such crime or violates such court order, is guilty of an infraction and, upon conviction, shall be liable to a fine not exceeding \$500. In addition to a fine, the court may impose remedial measures for a term of up to three (3) years to ensure the peace and safety of the community and proper upbringing of the child. Remedial measures may include, but are not limited to, requiring defendant to take or refrain from taking certain actions, requiring attendance at parenting or other such classes, lectures or programs and requiring a bond to ensure compliance with the order.

(3) For the purpose of this section, each adult living in the same house as a child is presumed to have physical custody and care of that child during the period of cohabitation, which presumption may be rebutted. [P.L. 1993-68, §2(2)(9).]

§310. Restitution by Parents, Guardians and other.

Whenever a child commits a crime and the court imposes restitution, each parent, guardian and other person who expressly or implicitly has, or under the circumstances should have had, physical custody or care of that child at the time the child commits such crime, shall be jointly and severally liable for all restitution ordered by the court. As a part of its order, the court may impose restitution against any one or more parent, guardian or other caretaker. [P.L. 1993-68, §2(2) (10).]

§311. Court Procedural Considerations.

In order to promote awareness on the part of parents, guardians and caretakers of their responsibilities for the actions of their children, it is the intent of Nitijela that actions against such parents, guardians and other caretakers under this Chapter be conducted before the same judge at the same time as the proceeding against the child to the extent practicable. [P.L. 1993-68, §2(2)(11).]

§312. Curfew Hours for Juveniles.

(1) No person under eighteen (18) years of age shall be allowed on the streets or at any facility or public places in Majuro Atoll or Ebeye between the hours of 10:00 p.m. in the evening and 6:00 a.m. in the morning from Monday through Sunday.

(2) The prohibition under subsection (1) shall not apply to the following persons:

- (a) Married persons under eighteen (18) years of age;
- (b) Persons under eighteen (18) years of age running errands regarding matters of a life and death urgency;
- (c) Persons under eighteen (18) years of age accompanied by either a parent or guardian, or an adult person duly authorized by a parent or guardian; and
- (d) Persons under eighteen (18) years of age attending a community social function such as church or a sporting event that is authorized by a parent or guardian.

(3) Penalties for violations of this Statute shall be as follows:

- (a) Any persons under eighteen (18) years of age who are found in violation of this statute shall be punished according to the provisions of this Chapter;
 - (b) may be placed under supervision programs or community service programs; and
 - (c) a fine of twenty-five dollars (US\$25.00) may be levied upon the parents or guardian in charge of such juvenile. **[added by P.L. 1996-10, §2.]**
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