



Key Message

Juvenile misconduct on military installations subject to exclusive federal legislative jurisdiction can only be adjudicated in the federal court system, which is designed for adults. States' juvenile courts can adjudicate juvenile offenses when concurrent jurisdiction is established between state and federal authorities over military installations.

Analysis

- Historically, the federal government either obtained exclusive federal legislative jurisdiction over land by agreement with the owning state or maintained exclusive federal legislative jurisdiction over certain land after the formation of a new state. Exclusive federal legislative jurisdiction preserves total control by the federal government. However, over time, as military installations began to employ and house more civilians, absolute federal control became problematic.
- Without concurrent jurisdiction, juvenile misconduct, to include problematic sexual behavior in children and youth, is adjudicated in the federal court system, which lacks appropriate juvenile-focused resources and often tries juveniles as adults.
- To fix this, the federal government may seek to retrocede exclusive federal legislative jurisdiction in favor of shared, concurrent jurisdiction with the host state. Working with states to retrocede existing exclusive federal legislative jurisdiction to create concurrent federal and state jurisdiction on military installations currently under exclusive federal legislative jurisdiction would allow the state to apply juvenile/family court resources to address juvenile misconduct occurring on military installations.
- Concurrent jurisdiction allows the federal and state government to share jurisdiction and enforce both federal and state laws, as well as provide both federal and state services. If concurrent jurisdiction is established, offenses (such as PSB-CY) could be adjudicated through the juvenile court system, allowing for more appropriate sentencing and case management outcomes.
- Concurrent jurisdiction may require one or two levels of effort from the host state, where the state:
 - Establishes a new policy accepting concurrent jurisdiction to allow state authorities to intercede.
 - Creates memorandums of understanding between the state and installations to dictate how and when the state will intercede. Similar memorandums are already established to address comparable concerns, such as how Child Protective Services coordinates with installations to investigate and adjudicate military-related child abuse and neglect cases.



Best Practices

EXAMPLES OF BEST PRACTICE LEGISLATION WITH ONE LEVEL OF EFFORT:

Florida Statute Title II, Chapter 6 Section 04 (2020):

The state retains concurrent jurisdiction over civil and criminal processes that falls within the state's authority, as long as the activities do not conflict with property security procedures.

Florida Statute Section 6.04. Jurisdiction over such lands; how ceded to the United States.

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0000-0099/0006/Sections/0006.04.html

“– Whenever the United States shall contract for, purchase, or acquire any land within the limits of this state for the purposes aforesaid, ... , and shall desire to acquire constitutional jurisdiction over such lands for said purposes, the Governor of this state may, ... cede to the United States exclusive jurisdiction over the land so reserved, purchased, or acquired and sought to be ceded; the United States to hold, use, occupy, own, possess, and exercise said jurisdiction over the same for the purposes aforesaid, and none other whatsoever; provided, always, that the consent aforesaid is hereby given and the cession aforesaid is to be granted and made as aforesaid, upon the express condition that **this state shall retain a concurrent jurisdiction with the United States in and over the land or lands so to be ceded, and every portion thereof, so far that all process, civil or criminal, issuing under authority of this state, or of any of the courts or judicial officers thereof may be executed by the proper officers thereof**, upon any person amenable to the same, within the limits and extent of lands so ceded, in like manner and to like effect as if this law had never been passed; saving, however, to the United States security to their property within said limits and extent, and exemption of the same. ... ”

EXAMPLES OF BEST PRACTICE LEGISLATION WITH TWO LEVELS OF EFFORT:

Virginia Code Title 1 Chapter 4 and Title 16.1 Courts Not of Record:

Section 1-400 establishes the authority of the state to retain concurrent jurisdiction over civil and criminal processes on federal property for state law; however, Section 16.1-244 establishes a requirement to obtain consent to prosecute juveniles for violations of federal law on federal property.

VA Code Section 1-400. Conditional consent given to acquisition of lands by United States; concurrent jurisdiction ceded.

<https://law.lis.virginia.gov/vacode/1-400/>

“A. On and after July 1, 1981, the conditional consent of the Commonwealth is hereby given in accordance with clause 17, § 8, Article 1 of the United States Constitution to the acquisition by the United States, or under its authority, by purchase, lease, condemnation, or otherwise, of any lands in the Commonwealth,



whether under water or not, required for customhouses, post offices, arsenals, forts, magazines, dockyards, military reserves, or for needful public buildings.

"B. The acquisition by condemnation of any property within the Commonwealth, not expressly consented to in subsection A of this section, shall require the prior approval of the General Assembly.

"C. Over all lands hereafter acquired by the United States, the Commonwealth hereby cedes to the United States concurrent governmental, judicial, executive and legislative power and jurisdiction.

"D. There is hereby expressly reserved in the Commonwealth, over all lands so acquired by the United States the following:

1. Tax on motor vehicle fuels and lubricants ...

2. Service of civil and criminal process. -- The Commonwealth shall have the jurisdiction and power to serve criminal and civil process on such lands. ... "

VA Code Section 16.1-244. Concurrent jurisdiction; exceptions.

<https://law.lis.virginia.gov/vacode/title16.1/chapter11/section16.1-244/>

"A. Nothing contained in this law shall deprive any other court of the concurrent jurisdiction to determine the custody of children upon a writ of habeas corpus under the law, or to determine the custody, guardianship, visitation or support of children when such custody, guardianship, visitation or support is incidental to the determination of causes pending in such courts, nor deprive a circuit court of jurisdiction to determine spousal support in a suit for separate maintenance. ...

"B. Jurisdiction of cases involving violations of federal law by a child shall be concurrent and shall be assumed only **if waived by the federal court or the United States attorney.**"