



Key Message

On military installations subject to exclusive federal jurisdiction, investigation and adjudication of juvenile offenses is limited because cases may only be adjudicated in the federal system. States can adopt concurrent jurisdiction policies to ensure access to state resources and juvenile courts for appropriate adjudication options to better respond to juvenile needs.

Analysis

Concurrent juvenile jurisdiction advances the national defense strategy by achieving the secretary of defense's goal of succeeding through teamwork when states collaborate with the federal government.

By advocating for concurrent jurisdiction, state policymakers can promote the safety and security of military installations and support a fair and effective juvenile justice system, while strengthening the family and community support systems available to military families. This can promote resilience by helping to reduce the likelihood of future offenses and providing a pathway for juvenile offenders to successfully reintegrate into the community.

State legislatures have the authority to establish a legal mechanism that would permit juveniles on military installations to be adjudicated in state courts, though the administration can be delegated to a state office and achieved through customized local agreements. The Defense Department has identified several approaches in states that facilitate this process on a subject-matter, case-by-case or installation-by-installation approach. The DSLO liaison assigned to the state should be contacted to provide additional details on how that state can best achieve the goal of ensuring access to juvenile jurisdiction.

State Policy Approach

Each state, and in some instances, each installation, will require legislative action as the mechanism to transfer jurisdiction. Factors legislative drafters might consider are:

1. Is there a cession statute?
2. Is there a retrocession statute?
3. Are juveniles specifically identified in the statute?
 - a. If juveniles are not specifically identified, are juveniles classified under a category of law that is identified?
4. Does the statute have a requirement to clearly define the affected lands?
 - a. Is this location included in the defined lands?
 - b. Does the statute include future expansions to the installation?



5. Has the legislature delegated authority to another entity?
6. Is the procedure for offer, acceptance, and record-keeping clear?
 - a. Is there evidence the procedure was followed?
7. Does the statute include authority for a memorandum of understanding?

1. Sample statutory provisions:

An Act establishing concurrent jurisdiction on military installations.

1. Consent of state. The state of [STATE] consents to the establishment of concurrent jurisdiction from the United States over land now owned or hereafter acquired by the United States for military purposes within the boundaries of this state.

2. Administrative authority delegated. The state of [STATE] further delegates to the governor the authority to grant specific requests for the establishment of concurrent jurisdiction from the United States over land owned by the United States for military purposes within the boundaries of this state. The process for establishing concurrent jurisdiction shall be:

a. Request. The principal officer of the military installation or other authorized representative of the United States having supervision and control over the land shall send a written request for concurrent jurisdiction to the governor. The request must (1) clearly state whether the concurrent jurisdiction request includes adult crimes, juvenile delinquency, juvenile status offenses, or all of these; and (2) provide a metes and bounds description of the boundary of the concurrent jurisdiction request; and (3) indicate whether the request includes future contiguous expansions of land acquired or held by the United States for military purposes.

b. Acceptance and filing. The transfer of concurrent jurisdiction shall become perfected and effective upon (1) the issuance of the Governor's Letter of Acceptance of such request, designating an effective date for which concurrent jurisdiction shall be in effect, and confirming the type of jurisdiction to be transferred, the metes and bounds, and whether future contiguous expansions shall be included; and (2) the filing of The United States' Request for Concurrent Jurisdiction, the Governor's Letter of Acceptance, and the metes and bounds description with the [insert appropriate land use recording and preservation office for the state], which shall be recorded and indexed as any other real property transaction; and (3) the passage of the effective date designated by the Governor's Letter of Acceptance.

c. Notification. Upon completion of the conditions in subsection (b), the governor shall cause a certified copy of the recorded documents to be delivered to the requestor [and any other state entity the legislature wishes to notify].



3. Local agreements authorized. Any local agency may, in its discretion, enter into a reciprocal agreement (Memorandum of Understanding) with any agency of the United States for coordination and designation of responsibilities including but not limited to law enforcement, investigation, prosecution, defense, courts, corrections, adult or juvenile housing, diversion or probation, and eligible programs or rehabilitative services, including agreed processes for lead decision-makers and subsequent decision-makers regarding any matter.

2. Statutory authority transferring juvenile subject-matter jurisdiction

North Carolina General Statutes, Chapter 7B, Article 16, Section 7B-1605

https://www.ncleg.gov/enactedlegislation/statutes/html/bysection/chapter_7b/gs_7b-1605.html

“When concurrent jurisdiction has been established pursuant to G.S. 104-11.1(b), the court has exclusive original jurisdiction over any case involving a juvenile who is alleged to be delinquent as the result of an act committed within the boundaries of a military installation that is a crime or infraction under State law.”

Connecticut General Statutes, Title 48, Chapter 835, Section 48-1

https://www.cga.ct.gov/current/pub/chap_835.htm#sec_48-1

“(2) If the United States Attorney, or the United States District Court, for the district of Connecticut waives exclusive jurisdiction in any matter relating to a violation by a minor, as defined in section 1-1d, of federal law within the boundaries of any military installation of the United States Department of Defense located on any land provided for in subsection (a) of this section, the state shall exercise concurrent jurisdiction with the United States over such military installation in such matter.”

3. Statutory delegation of authority to accept jurisdiction to remove barriers to federal retrocession of jurisdiction

Washington State Legislature, Revised Code of Washington, Title 37, Chapter 37.04, Section 050

<https://app.leg.wa.gov/rcw/default.aspx?cite=37.04&full=true>

Washington is an example of a state that has delegated the responsibility to their governor without affording the governor discretion concerning whether to accept the request.

“(1) [...] [T]he governor is authorized and directed to accept such jurisdiction as is necessary to establish concurrent jurisdiction between the United States and the state of Washington over the property as described in such notice and to the extent and periods of time authorized in such notice. [...]”

California Government Code, Title 1, Division 1, Chapter 1, Article 2, Section 113

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=113&lawCode=GOV

California is an example of a state that delegates this authority to a Land Use Board:



“The Legislature, acting through the State Lands Commission, hereby consents to the retrocession of jurisdiction by the United States over land within this state upon and subject to each and all of the following express conditions: [...]

(c) A notice of the proposed retrocession has been given to the clerk for the board of supervisors of each county in which the federal lands are located at least 15 days before the proposed retrocession is considered by the State Lands Commission. [...]

South Carolina Code of Laws, Title 3, Chapter 1, Article 3, Section 3-1-150

<https://www.scstatehouse.gov/code/t03c001.php>

South Carolina is an example of a state that delegates authority to a fiscal authority, in coordination with their secretary of state:

“Whenever a duly authorized official or agent of the United States, acting pursuant to authority conferred by the Congress, notifies State Fiscal Accountability Authority or any other State official, department or agency, that the United States desires or is willing to relinquish to the State the jurisdiction, or a portion thereof, held by the United States over the lands designated in such notice, the State Fiscal Accountability Authority may, in its discretion, accept such relinquishment. Such acceptance may be made by sending a notice of acceptance to the official or agent designated by the United States to receive such notice of acceptance. The State Fiscal Accountability Authority shall send a signed copy of the notice of acceptance, together with the notice of relinquishment received from the United States, to the Secretary of State, who shall maintain a permanent file of the notices.”

4. Statutory authority to ensure a retrocession mechanism exists

<https://mgaleg.maryland.gov/2023RS/bills/hb/hb0749t.pdf>

Maryland Code, House Bill 749, Article - General Provisions, Section 6-202

Many states have installations whose jurisdiction is set forth in statute and may be otherwise exempt from these provisions. Acts of cession by the state or territorial legislature may date to the 19th century, and in some instances earlier, and not immediately be apparent to a legislative drafter. Policymakers should ensure there is a retrocession mechanism or alternative means of relinquishing jurisdiction with respect to juveniles at installations whose jurisdiction is enumerated in statute:

“Notwithstanding § 6-201(a) **OR § 6-203** of this subtitle, for the purpose of enforcing the civil or criminal laws of the State, the Governor may enter into an agreement with the United States to establish full or partial concurrent jurisdiction of the State and the United States over any land in the State held by the United States.”

5. Statutory establishment of clear description of jurisdictional boundaries

If the existing state statute does not clearly define the boundaries of the lands affected by the jurisdictional transfer, consider proposing an amendment to the state legislature that would clarify that intent.

**Georgia Code, Title 50, Chapter 2, Article 2, Section 50-2-27 (b) (2010)**

<https://law.justia.com/codes/georgia/2010/title-50/chapter-2/article-2/50-2-27>

Tennessee Code, Title 4, Chapter 1, Part 1, Section 4-1-105 (2010)

<https://law.justia.com/codes/tennessee/2010/title-4/chapter-1/part-1/4-1-105/>

Georgia and Tennessee both require describing the land “by metes and bounds.”

New Mexico Statutes, Chapter 19, Article 2, Section 19-2-2 (2010)

<https://law.justia.com/codes/new-mexico/2020/chapter-19/article-2/section-19-2-2/>

Maine Statutes, Title 1, Chapter 1, Section 8

<https://legislature.maine.gov/statutes/1/title1sec8.html>

New Mexico and Maine both require “a description adequate to permit accurate identification of the boundaries of the land or other area [...]”

Wyoming Statutes, Title 19, Chapter 7, Article 3, Section 19-7-301

<https://law.justia.com/codes/wyoming/2022/title-19/chapter-7/article-3/section-19-7-301/>

Wyoming goes one step further, and specifically includes future expansion or consolidation of lands for a military installation. This is very helpful in clearly establishing jurisdictional intent for modern military installations, which are constantly undergoing consolidations, expansions and reductions. In their land requirement description, Wyoming adds, “(a) [...] together with such other lands in the state as are now or hereafter acquired or held by the United States for military purposes, either as additions to the posts above named or as new military posts or reservations, established for the common defense.”

6. Statutory amendments to state juvenile justice code to clarify intent to cover offenses committed on military installation property

Status offenses may not be included in the state’s definition of “juvenile delinquency.” If policymakers wish to allow the state to have jurisdiction over this category of juvenile offender, consider proposing an amendment to the state legislature clarifying that intent.

North Carolina General Statutes, Chapter 7B, Article 15, Section 7B-1501

https://www.ncleg.gov/enactedlegislation/statutes/html/bysection/chapter_7b/gs_7b-1501.html

North Carolina does this by creating a special term for juveniles who have committed status offenses to make it clear that these juveniles are also specifically included:

A vulnerable juvenile is any “juvenile who, while less than 10 years of age but at least 6 years of age, commits an act within the boundaries of a military installation that is a crime or infraction under State law and is not a delinquent juvenile.”