

Title 15.

Juveniles.

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CHAPTER 1.

GENERAL PROVISIONS.

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§ 1. Adoption of flexible procedures by courts. — In cases involving offenders under the age of eighteen years, courts shall adopt a flexible procedure based on the accepted practices of juvenile courts of the United States, including insofar as possible the following measures:

- (1) Report by a welfare or probation officer in advance of trial;
- (2) Detention, where necessary, apart from adult offenders;
- (3) Hearing informally in closed session;
- (4) Interrogation of parents or guardians and release in their custody if appropriate.

An offender sixteen 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. (Code 1966, § 495; Code 1970, tit. 15, § 1.)

Intent and goal of juvenile offender laws. — Trust Territory juvenile offender laws are not intended to be criminal in nature, rather they are intended to be civil in both nature and effect and their goal is to guide and rehabilitate rather than punish. *Marbou v. Termeteet*, 5 TTR 655 (1971).

Importance of cooperation of parents or guardians. — Trust Territory law provisions as to juvenile offenders contemplates importance of trying to secure cooperation of parents or guardians in helping rehabilitate minors. *Celis v. Trust Territory*, 3 TTR 237 (1967).

Scope of juvenile delinquency proceedings. — The scope of operation of the juvenile delinquency proceedings must, through necessity, be inclusive of all juveniles. *Marbou v. Termeteet*, 5 TTR 655 (1971).

Right of 15-year-old defendant. — Fifteen-year-old defendant in criminal case has absolute right to be tried with protections accorded juvenile offender. *Celis v. Trust Territory*, 3 TTR 237 (1967).

Initial prosecution as delinquent for all persons under 18. — Under this Code all cases

involving a person who has not yet attained his eighteenth birthday must be initially prosecuted under an information of delinquency. *Marbou v. Termeteet*, 5 TTR 655 (1971).

Court's discretion as to treatment of 16-year-old offender. — Court in criminal proceedings has discretion to treat offender 16 years of age or over in all respects as adult if in opinion of court his physical and mental maturity so justifies, but court has no such discretion as to 15-year-old offender. *Celis v. Trust Territory*, 3 TTR 237 (1967).

Court's discretion as to treatment of defenders between 16 and 18. — A defendant between the age of 16 and age 18 may be treated as an adult or may be afforded juvenile delinquent proceedings at the discretion of the court. *Santos v. Trust Territory*, 5 TTR 607 (1972).

Effect of failure to advise juvenile of right to counsel in delinquency proceeding. — That juvenile charged in delinquency proceeding with assault and battery was not represented by counsel or advised he had a right to counsel, and made no understanding

waiver of counsel, at hearing held with juvenile, his mother and assistant district prosecutor present, was alone sufficient to vacate order placing him in his uncle's custody. *In re Alleged Delinquent Minor*, 6 TTR 3 (1972).

Order set aside where there was no finding of delinquency or finding concerning best interests of child. — Order

in juvenile delinquency proceeding, placing juvenile in his uncle's custody, would be set aside where there was no finding of delinquency on any ground and neither the record nor the judgment showed that the lower court took evidence on, considered, and made finding regarding, disposition of the child in his best interests. *In re Alleged Delinquent Minor*, 6 TTR 3 (1972).

§ 2. "Delinquent child" defined. — As used in this title, "delinquent child" includes any child:

(1) Who violates any Trust Territory or district law, 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; or

(2) Who does not subject himself to the reasonable control of his parents, teachers, guardian, or custodian, by reason of being wayward or habitually disobedient; or

(3) Who is a habitual truant from home or school; or

(4) Who departs himself so as to injure or endanger the morals or health of himself or others. (Code 1966, § 437; Code 1970, tit. 15, § 2.)

Basis for adjudication of delinquency. — In a juvenile delinquency proceeding, the court must adjudicate the juvenile delinquent or non-delinquent, and an adjudication of delinquency must be made upon findings of fact proved by at least the fair weight of the evidence as clearly as is required in ordinary civil actions. *In re Alleged Delinquent Minor*, 6 TTR 3 (1972).

Detention for too long not a defense in action to determine delinquency. — Assuming that the child in question was held for too long a period before being released by

the sheriff, that would not constitute a defense in an action to determine whether the child was a delinquent child under this section. *In re Ichiro*, 3 TTR 406 (1968).

Finding of delinquency on basis of gasoline sniffing. — No medical testimony was necessary to support finding that because of gasoline sniffing child in question was a delinquent child under this section, where sheriff observed child inhaling gasoline fumes for one-half hour and the child thereupon stiffened and vomited. *In re Ichiro*, 3 TTR 406 (1968).

§ 3. Proceedings; conduct generally; delinquency not a crime. — Proceedings against a person under eighteen years of age as a delinquent child shall be conducted in accordance with the provisions of this chapter, and an adjudication that a person is a delinquent child shall not constitute a criminal conviction. (Code 1966, § 432; Code 1970, tit. 15, § 3.)

Aim of delinquency proceedings. — The ultimate aim of juvenile delinquency proceedings is to effectuate the policy against classifying juvenile offenders as "criminal." *Marbou v. Termeteet*, 5 TTR 655 (1971).

Delinquency proceedings are not criminal. — Juvenile delinquency proceedings are not criminal proceedings. *In re Alleged Delinquent Minor*, 6 TTR 3 (1972).

§ 4. Same; where brought. — Proceedings against a person as a delinquent child may be brought in the trial division of 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 trial division of the high court. (Code 1966, § 432; Code 1970, tit. 15, § 4.)

§ 5. 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. (Code 1966, § 438; Code 1970, tit. 15, § 5.)

§ 6. 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 title. (Code 1966, § 432; Code 1970, tit. 15, § 6.)

Placing juvenile in custody for a longer period of time than that allowed for confinement is not a basis for habeas corpus. — Where Code limited confinement of juvenile to the maximum allowable for the criminal offense which is the basis of the

delinquency proceeding, that juvenile was ordered placed in custody of his uncle for a longer period was not a basis for issuing a writ of habeas corpus. In re Alleged Delinquent Minor, 6 TTR 3 (1972).

CHAPTER 2.

LIABILITY OF PARENTS FOR ACTS OF DELINQUENT CHILD.

Sec.

51. Enumerated.

§ 51. **Enumerated.** — A parent or guardian having custody of a child is charged with the control of such child and shall have the power to exercise parental control and authority over such child. In any case where a child is found delinquent and placed on probation, if the court finds at the hearing that the parent or guardian having custody of such child has failed or neglected to subject him to reasonable parental control and authority, and that such failure or neglect is the proximate cause of the act or acts of the child upon which the finding of delinquency is based, the court may require such parent to enter into a recognizance with sufficient surety, in an amount of not more than one hundred dollars, conditioned upon the faithful discharge of the conditions of probation of such child. If the child thereafter commits a second act and is by reason thereof found delinquent, or violates the conditions of probation, and the court finds at the hearing that the failure or neglect of such parent to subject him to reasonable parental control and authority or to faithfully discharge the conditions of probation of such child on the part of such parent is the proximate cause of the act or acts of the child upon which such second finding of delinquency is based, or upon which such child is found to have violated the conditions of his probation, the court may declare that all or a part of the recognizance shall be applied in payment of any damages; otherwise, the proceeds therefrom, or any part remaining after the payment of damages as aforesaid, shall be paid into the district treasury. (Code 1966, § 439; Code 1970, tit. 15, § 51.)