CHAPTER 11

Juveniles

SECTIONS

§ 1101. Adoption of flexible procedures by courts.

(1)   In cases involving offenders under the age of 18 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:

    (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 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.

Source: TT Code 1966 § 495; TT Code 1970, 15 TTC 1; TT Code 1980, 15 TTC 1.

Cross-reference: The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code. The statutory provisions the President and the Executive are found in title 2 of this code.

Case annotations:

Juvenile

The National Criminal Code places in the FSM Supreme Court exclusive jurisdiction over allegations of violations of the Code. No

exception to that jurisdiction is provided for juveniles, so charges of crimes leveled against juveniles are governed by the National Criminal Code. *FSM v. Albert*, 1 FSM R. 14, 15 (Pon. 1981).

To dismiss litigation against juvenile defendants for lack of jurisdiction would be contrary to the National Criminal Code despite the fact that Code makes no reference to charges against juveniles or to the Juvenile Code. *FSM v. Albert*, 1 FSM R. 14, 15 (Pon. 1981).

The section of the Juvenile Code mandating that courts adopt flexible procedures in juvenile cases remains in effect; neither the National Criminal Code nor any other provision of law enacted by the Congress is at odds with it. 12 F.S.M.C. 1101. *FSM v. Albert*, 1 FSM R. 14, 17 (Pon, 1981).

It is appropriate to proceed separately in cases involving multiple juvenile defendants. 12 F.S.M.C. 1101. *FSM v. Albert*, 1 FSM R. 14, 17 (Pon, 1981).

§ 1102. 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 deports himself so as to injure or endanger the morals or health of himself or others.

Source: TT Code 1966 § 437; TT Code 1970, 15 TTC 2; TT Code 1980, 15 TTC 2.

§ 1103. Conduct of proceedings; Delinquency not a crime.

Proceedings against a person under 18 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.

Source: TT Code 1966 § 432; TT Code 1970, 15 TTC 3; TT Code 1980, 15 TTC 3.

Cross-reference: The statutory provisions on the Judiciary and the FSM Supreme Court are found in title 4 (Judicial) of this code. The statutory provisions the Executive and the President are found in title 2 (Executive) of this code.

§ 1104. Proceedings—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.

Source: TT Code 1966 § 432; TT Code 1970, 15 TTC 4; TT Code 1980, 15 TTC 4.

§ 1105. 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.

Source: TT Code 1966 § 432; TT Code 1970, 15 TTC 6; TT Code 1980, 15 TTC 6.

Editor's note: This provision was contained in a section on disabilities in the 1966 edition of the Trust Territory Code. The final portion of the text was rewritten, deleting a reference to disability by the editors of the 1970 edition of the TT Code, and is published here in this version.

§ 1106. Orders regarding 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.

Source: TT Code 1966 § 438; TT Code 1970, 15 TTC 5; TT Code 1980, 15 TTC 5.

§ 1107. Liability of parents for acts of delinquent child.

(1)   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.

(2)   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 $100, conditioned upon the faithful discharge of the conditions of probation of such child.

(3)   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 forfeited and the amount of such forfeited recognizance shall be applied in payment of any damages; otherwise, the proceeds therefrom, or part remaining after the payment of damages as aforesaid, shall be paid into the district treasury.

Source: TT Code 1966 § 439; TT Code 1970, 15 TTC 51; TT Code 1980, 15 TTC 51.

Editor's note: The phrase "or guardian" does not appear in subsections (2) or (3) of this section in the 1966 edition of the Trust Territory Code. The phrase in subsection (2) was added in the 1970 edition of the TT Code, and the phrase in subsection (3) was added in the 1982 edition of this code.