

Document: C.R.S. 19-1-104

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Colorado Revised Statutes Annotated **Title 19. Children’s Code (Arts. 1 – 7)** **Article 1. General Provisions (Pts. 1 – 4)** **Part 1. General Provisions (§§ 19-1-101 – 19-1-131)**

19-1-104. Jurisdiction.

(1) Except as otherwise provided by law, the juvenile court has exclusive original jurisdiction in proceedings:

(a) Concerning any child committing a delinquent act, as defined in section 19-2.5-102;

(b) Concerning any child who is neglected or dependent, as set forth in section 19-3-102;

(c) To determine the legal custody of any child or to appoint a guardian of the person or legal custodian of any child who comes within the juvenile court’s jurisdiction under provisions of this section, and may also enter findings and orders as described in section 14-10-123 (1.5) and section 15-14-204 (2.5);

(d) To terminate the legal parent-child relationship;

(e) For the issuance of orders of support under article 6 of this title;

(f) To determine the parentage of a child and to make an order of support in connection therewith;

(g) For the adoption of a person of any age;

(h) For judicial consent to the marriage, employment, or enlistment of a child, when such consent is required by law;

(i) For the treatment or commitment pursuant to article 23 of title 17 and part 2 of article 10 of title 25.5 of a child who has a behavioral or mental health disorder or an intellectual and developmental disability and who comes within the court’s jurisdiction under other provisions of this section;

- (j)** Under the interstate compact on juveniles, part 7 of article 60 of title 24, C.R.S.;
- (k)** To make a determination concerning a petition filed pursuant to the "School Attendance Law of 1963", article 33 of title 22, C.R.S., and to enforce any lawful order of court made thereunder;
- (l)** To make a determination concerning a petition for review of need for placement in accordance with the provisions of section 19-1-115 (8);
- (m)** To decide the appeal of any child found to be in contempt of a municipal court located within the jurisdiction of the juvenile court, if confinement of the child is ordered by the municipal court;
- (n)** Concerning any youth who is voluntarily participating in the foster youth in transition program established in section 19-7-303.
- (1.5)** A juvenile court exercising jurisdiction pursuant to subsection (1)(a), (1)(b), (1)(c), (1)(f), or (1)(g) of this section may enter findings establishing eligibility for classification as a special immigrant juvenile under federal law.
- (2)** Except as otherwise provided by law, the juvenile court shall have jurisdiction in proceedings concerning any adult who abuses, ill-treats, neglects, or abandons a child who comes within the court's jurisdiction under other provisions of this section.
- (3)**
- (a)** Upon hearing after prior notice to the child's parent, guardian, or legal custodian, the court may issue temporary orders providing for legal custody, protection, support, medical evaluation or medical treatment, surgical treatment, psychological evaluation or psychological treatment, or dental treatment as it deems in the best interest of any child concerning whom a petition has been filed prior to adjudication or disposition of his case.
- (b)** Notwithstanding the provisions of paragraph (a) of this subsection (3), the court may, on the basis of a report that a child's welfare may be endangered, and if the court believes that a medical evaluation or emergency medical or surgical treatment is reasonably necessary, issue ex parte emergency orders. Where the need for a medical evaluation or medical or surgical emergency orders arises and the court is not in regular session, the judge or magistrate may give oral or telephone authorization for the necessary medical evaluation or emergency medical, surgical, or hospital care, which authorization shall have the same force and effect as if written, the same to be followed by a written order to enter on the first regular court day thereafter. Such written order shall make specific findings of fact that such emergency existed. Prior to the entry of any emergency order, reasonable effort shall be made to notify the parents, guardian, or other legal custodian for the purpose of gaining consent for such care; except that, if such consent cannot be secured and the child's welfare so requires, the court may authorize needed medical evaluation or emergency medical, surgical, or hospital care. Such ex parte emergency orders shall expire twenty-four hours after issuance; except that, at any time during such twenty-four-hour period, the parents, guardian, or other legal custodian may apply for a hearing to set aside the ex parte emergency order.
- (4)** Nothing in this section shall deprive the district court of jurisdiction to appoint a guardian for a child nor of jurisdiction to determine the legal custody of a child upon writ of habeas corpus or when

the question of legal custody is incidental to the determination of a cause in the district court; except that:

(a) If a petition involving the same child is pending in juvenile court or if continuing jurisdiction has been previously acquired by the juvenile court, the district court shall certify the question of legal custody to the juvenile court; and

(b) The district court at any time may request the juvenile court to make recommendations pertaining to guardianship or legal custody.

(5) Where a custody award or an order allocating parental responsibilities with respect to a child has been made in a district court in a dissolution of marriage action or another proceeding and the jurisdiction of the district court in the case is continuing, the juvenile court may take jurisdiction in a case involving the same child if the child comes within the jurisdiction of the juvenile court. The juvenile court shall provide notice in compliance with the Colorado rules of civil procedure; except that service must be effected not less than seven business days prior to the hearing. The notice must be written in clear language stating that the hearing concerns the allocation of parental responsibilities. When creating or modifying an existing order, the juvenile court shall proceed as set forth in subsection (6) of this section for a dependency and neglect proceeding pursuant to article 3 of this title 19, or as set forth in subsection (8) of this section for a juvenile delinquency case pursuant to article 2.5 of this title 19.

(6)

(a) When a district court in this state does not have continuing jurisdiction over a child custody proceeding concerning the child, or a juvenile court in this state maintains jurisdiction pursuant to subsection (5) of this section and the "Uniform Child-custody Jurisdiction and Enforcement Act", article 13 of title 14, the juvenile court has jurisdiction to enter a permanent order allocating parental responsibilities and addressing parenting time and child support matters upon the petition of a party if:

(I) All parents, legal guardians, and legal custodians have an adjudication pursuant to section 19-3-505 (7) or continued adjudication pursuant to section 19-3-505 (5) entered by a court; or

(II) At least one parent, legal guardian, or legal custodian has an adjudication pursuant to section 19-3-505 (7) or continued adjudication pursuant to section 19-3-505 (5) and other parents, legal guardians, or legal custodians who do not have an adjudication or continued adjudication consent to jurisdiction.

(b) The parent or person other than a parent with whom the child resides the majority of the time pursuant to the juvenile court's order shall file a certified copy of the order in the district court in the county where the child is permanently resident. Such order must be treated in the district court as any other decree issued in a proceeding concerning the allocation of parental responsibilities.

(7) Upon motion of the city or county attorney, guardian ad litem, counsel for youth, or respondent parent counsel, the district or the juvenile court has jurisdiction to enter a civil protection order pursuant to article 14 of title 13 in actions brought pursuant to article 3 of this title 19 or part 3 of

article 7 of this title 19. The court shall use the standardized forms developed by the judicial department pursuant to section 13-1-136 and shall follow the standards and procedures for the issuance of civil protection orders set forth in article 14 of title 13, including but not limited to personal service upon the restrained person. Once issued, the clerk of the issuing court shall enter the civil protection order into the computerized central registry of protection orders created pursuant to section 18-6-803.7. If the person who is the subject of the civil protection order has not been personally served pursuant to section 13-14-107 (3), a peace officer responding to a call for assistance shall serve a copy of the civil protection order on the person who is subject to the order. If the civil protection order is made permanent pursuant to the provisions of section 13-14-106, the civil protection order remains in effect upon termination of the juvenile court action. The clerk of the court issuing the order shall file a certified copy of the permanent civil protection order into an existing case in the district court, if applicable, or with the county court in the county where the protected party resides. Civil protection orders issued by the district or the juvenile court pursuant to article 14 of title 13 have the same force and effect as protection orders issued pursuant to article 14 of title 13 by a court with concurrent jurisdiction.

(8)

(a) Upon submission of a stipulated agreement of all parties, parents, guardians, and other legal custodians, if the juvenile court finds that it is in the best interests of the juvenile, the juvenile court may enter an order allocating parental responsibilities and addressing parenting time and child support matters when:

(I) The juvenile court has maintained jurisdiction in a case involving an adjudicated juvenile, a juvenile with a deferred adjudication, or a juvenile on a management plan developed pursuant to section 19-2.5-704 (3);

(II) A child custody action, a dependency and neglect action, or an action for allocation of parental responsibilities concerning the same juvenile is not pending in a district court of this state, and the court complies, as applicable, with the requirements of the "Uniform Child-custody Jurisdiction and Enforcement Act", as set forth in article 13 of title 14; and

(III) All parties, parents, guardians, and other legal custodians involved are in agreement, or after notice is given to all parents, guardians, and other legal custodians and a response or objection is not filed.

(b) The parent or person other than a parent with whom the juvenile resides the majority of the time pursuant to a juvenile court order shall file a certified copy of the order in the district court in the county where the juvenile is a permanent resident. The district court shall treat the order as with any other decree issued in a proceeding concerning the allocation of parental responsibilities.

History

Source:**L. 87:**Entire title R&RE, p. 698, § 1, effective October 1.**L. 91:**(3)(b) amended, p. 360, § 24, effective April 9.**L. 92:**(3) amended, p. 173, § 1, effective April 16.**L. 97:**(6) added, p. 516, § 3, effective July 1.**L. 98:**(1)(a) amended, p. 820, § 21, effective August 5; (5) and (6) amended, p. 1405, § 61, effective February 1, 1999.**L. 2001:**(1)(k) amended, p. 870, § 2, effective June 1.**L. 2006:**(1)(i) amended, p. 1399, § 51, effective August 7.**L. 2008:**(1)(l) amended, p. 1891, § 59, effective August 5.**L. 2017:**(7) added,(HB 17-1111), ch. 96, p. 290, § 1, effective April 4; (1)(i) amended,(SB 17-242), ch. 263, p. 1309, § 149, effective May 25; (5) amended and (8) added,(HB 17-1110), ch. 137, p. 458, § 1, effective August 9.**L. 2019:**IP(1) and (1)(c) amended and (1.5) added,(HB 19-1042), ch. 55, p. 194, § 6, effective March 28.**L. 2020:**(1)(i) amended,(HB 20-1402), ch. 216, p. 1048, § 34, effective June 30.**L. 2021:**(1)(n) added and (7) amended,(HB 21-1094), ch. 340, p. 2215, § 3, effective June 25; (1)(a), (5), and (8)(a)(I) amended,(SB 21-059), ch. 136, p. 725, § 60, effective October 1.**L. 2023:**(6) amended,(HB 23-1172), ch. 67, p. 237, § 1, effective August 7.

▼ Annotations

Research References & Practice Aids

Hierarchy Notes:

C.R.S. Title 19

State Notes

Notes

Editor's note:

This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in § 19-1-104 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

ANNOTATION

I. GENERAL CONSIDERATION.

II. PARTICULAR PROCEEDINGS.

A. Delinquency.

B. Dependency.

C. Paternity.

D. Adoption.

E. Other Proceedings.

I. GENERAL CONSIDERATION.

Law reviews.

For article, "The Denver Juvenile Court", see 5 Den. B. Ass'n Rec. 1 (May, 1928). For article, "The State as *Parens Patriae*: Juvenile Versus the Divorce Courts on Questions Pertaining to Custody", see 21 Rocky Mt. L. Rev. 375 (1949). For article, "Workmen's Compensation, Attorneys and Family Law", see 31 Dicta 1 (1954). For note, "Jurisdiction of Custody Matters in Colorado", see 28 Rocky Mt. L. Rev. 393 (1956). For note, "Compulsory Medical Care for Infants", see 28 Rocky Mt. L. Rev. 235 (1956). For article, "One Year Review of Domestic Relations", see 34 Dicta 108 (1957). For article, "Juvenile Delinquency in Colorado: The Law's Response to Society's Need", see 31 Rocky Mt. L. Rev. 1 (1958). For article, "One Year Review of Domestic Relations", see 35 Dicta 36 (1958). For article, "One Year Review of Criminal Law and Procedure", see 36 Dicta 34 (1959). For article, "The Adoption of Children in Colorado", see 37 Dicta 100 (1960). For note, "Enforcement of Support Duties in Colorado", see 33 Rocky Mt. L. Rev. 70 (1960). For article, "One Year Review of Domestic Relations", see 38 Dicta 84 (1961). For note, "Juvenile Delinquency -- Colorado's Unassumed Burden", see 36 U. Colo. L. Rev. 519 (1964). For article, "One Year Review of Domestic Relations", see 41 Den. L. Ctr. J. 97 (1964). For note, "In re Gault and the Colorado Children's Code", see 44 Den. L.J. 644 (1967). For note, "Delinquency Jurisdiction in Colorado: Garcia and the Children's Code", see 40 U. Colo. L. Rev. 80 (1967). For article, "Colorado Felony Sentencing", see 11 Colo. Law. 1478 (1982). For article, "Toward an Integrated Theory of Delinquency Responsibility", see 60 Den. L.J. 485 (1983). For note, "The Expanding Scope of Prosecutorial Discretion in Charging Juveniles as Adults: A Critical Look at *People v. Thorpe*", see 54 U. Colo. L. Rev. 617 (1983). For article, "The Expanded Jurisdiction of the Probate Court Under *In re J.C.T.*", see 37 Colo. Law. 83 (Nov. 2008). For article, "At the Intersection: Handling Dependency and Neglect and Juvenile Delinquency Issues in Family Law Cases", see 51 Colo. Law. 28 (Feb. 2022).

Annotator's note.

The following annotations include cases decided under former provisions similar to this section.

The juvenile court is a statutory court with no jurisdiction beyond that expressly given by statute.

Everett v. Barry, 127 Colo. 34, 252 P.2d 826 (1953); *Geisler v. People in Interest of Geisler*, 135 Colo. 121, 308 P.2d 1000 (1957); *Wellbrink v. Walden*, 142 Colo. 102, 349 P.2d 697 (1960); *Martinez v. Lopez*, 153 Colo. 425, 386 P.2d 595 (1963); *People in Interest of L.B.*, 29 Colo. App. 101, 482 P.2d 1010 (1970), *aff'd*, 179 Colo. 11, 498 P.2d 1157 (1972), appeal dismissed mem., 410 U.S. 976 (1973); *Pueblo County Comm'rs v. Dist. Court*, 708 P.2d 466 (Colo. 1985).

Purpose is to secure uniform administration.

Jurisdiction vested in the court of the county where the child resides provides uniform administration of the law and uniform protection of all children in the county. *Geisler v. People in*

Interest of Geisler, 135 Colo. 121, 308 P.2d 1000 (1957).

The juvenile court being a creature of statute is limited by the provisions of the statute creating it and defining its jurisdiction. *Kearney v. Blue*, 134 Colo. 217, 301 P.2d 515 (1956).

This code intends to grant broad jurisdiction to the juvenile court.

Jaramillo v. District Court, 173 Colo. 459, 480 P.2d 841 (1971).

The identification of those authorized to invoke the court's jurisdiction operates to exclude all persons not mentioned.

Where this section specifically identifies the officers or persons who may invoke the jurisdiction of a court in a proceeding which is purely statutory, it is necessary and essential that the persons thus named shall institute the proceedings. *Avery v. County Court*, 126 Colo. 421, 250 P.2d 122 (1952).

General rule.

Jurisdiction attaches only in proceedings brought, not in behalf of any person, but solely where children are found delinquent or have been so circumstanced, neglected, or imposed upon as to require the state to take over their custody or act otherwise for their protection. *Everett v. Barry*, 127 Colo. 34, 252 P.2d 826 (1953); *Carrera v. Kelley*, 131 Colo. 421, 283 P.2d 162 (1955); *Geisler v. People in Interest of Geisler*, 135 Colo. 121, 308 P.2d 1000 (1957); *Wellbrink v. Walden*, 142 Colo. 102, 349 P.2d 697 (1960); *Martinez v. Lopez*, 153 Colo. 425, 386 P.2d 595 (1963).

The Colorado Children's Code grants a juvenile court exclusive original subject matter jurisdiction over proceedings concerning any child who is alleged to be dependent or neglected.

A court that has already obtained subject matter jurisdiction is not divested of its subject matter jurisdiction by a later failure to follow statutory requirements. *People in Interest of J.W.*, 2017 CO 105, 406 P.3d 853; *People in Interest of T.W.*, 2022 COA 88M, 519 P.3d 1071.

The status of being a neglected or dependent child triggers juvenile court jurisdiction over a child so circumstanced in Colorado. *People in Interest of A.M.D.*, 648 P.2d 625 (Colo. 1982); *People in Interest of J.W.*, 2017 CO 105, 406 P.3d 853.

In addition to subject matter jurisdiction, the juvenile court must also consider whether it has personal jurisdiction over the child,

and thus the legal authority to enter permanent allocation of parental rights (APR) orders. *People in Interest of T.W.*, 2022 COA 88M, 519 P.3d 1071.

An order of adjudication or the court's determination that the child's factual status is dependent or neglected is a necessary step that grants a juvenile court continuing personal jurisdiction over the child.

Although the juvenile court retains broad subject matter jurisdiction over cases concerning a child who is alleged to be dependent or neglected, absent an adjudication or a determination that the child's factual status is dependent or neglected, the juvenile court has not maintained jurisdiction over the child under subsection (6). *People in Interest of T.W.*, 2022 COA 88M, 519 P.3d 1071.

Juvenile court lacked continuing personal jurisdiction over the child and therefore legal authority to enter permanent orders allocating parental responsibilities

where no order of adjudication was entered by the court and the parents admitted that the child

was dependent or neglected for purposes of continuing the adjudication only and therefore never made an admission, express or implied, that the child had been or should be adjudicated dependent or neglected. *People in Interest of T.W.*, 2022 COA 88M, 519 P.3d 1071.

Juvenile court maintained personal jurisdiction over the child and therefore legal authority to enter permanent orders allocating parental responsibilities

where mother admitted child's status as dependent or neglected then requested deferred entry of the order of adjudication and continuance of the hearing, mother never sought to withdraw her admission, and the department's motion to terminate mother's parental rights erroneously stated that the child had been adjudicated neglected or dependent but the mother and the guardian ad litem did not deny or object to that erroneous assertion. Where a parent admits that the child is neglected or dependent under the applicable statutes, the court's acceptance of the admission provides the statutorily required jurisdictional basis for further proceedings. *People ex rel. N.D.V.*, 224 P.3d 410 (Colo. App. 2009).

The court's failure to enter a written adjudication order confirming the children's status as dependent or neglected prior to terminating the parent-child legal relationship did not divest the court of jurisdiction where mother admitted that the children were dependent or neglected, mother's admission was accepted by the court as knowingly and voluntarily made, and mother never sought to withdraw her admission or otherwise offer the court any basis to conclude that the children were not dependent nor neglected. The court's acceptance of mother's admission established the status of the children as dependent or neglected and the court's continued jurisdiction over the children. *People in Interest of J.W.*, 2017 CO 105, 406 P.3d 853.

Allocation of juvenile and district court jurisdiction in criminal proceedings.

Once an indictment charging a class 1 felony is filed, the jurisdiction of the district court is expressly fixed under subsection (4)(b)(I), and that jurisdiction is not lost simply because the juvenile defendant is convicted of a lesser offense. *People v. Davenport*, 43 Colo. App. 41, 602 P.2d 871 (1979).

Charges involving a minor should be resolved in adult court when the requirements of the direct filing statute are satisfied as to any charge. *People v. Dalton*, 70 P.3d 517 (Colo. App. 2002).

Juvenile court lacks exclusive jurisdiction where juvenile charged with municipal ordinance violation.

A juvenile who could have been charged under the general theft statute but is only charged under a municipal shoplifting ordinance carrying no jail sentence is not a delinquent child and the juvenile court does not have sole and exclusive jurisdiction. *Wigent v. Shinsato*, 43 Colo. App. 83, 601 P.2d 653 (1979).

Juveniles to have same rights as adults in trials for municipal ordinance violations.

The juvenile court's assumption of jurisdiction carries with it the same trial duties as to juveniles who have violated municipal ordinances, as a municipal court has to adults who violated the same ordinances. *People v. Hight*, 198 Colo. 299, 599 P.2d 885 (1979).

The Colorado Children's Code confers on Colorado courts jurisdiction over any child physically present in the state.

People in Interest of E.F.C., 30 Colo. App. 190, 490 P.2d 706 (1971).

Colorado domicile of a child is not a prerequisite

to jurisdiction of Colorado courts over that child. *People in Interest of E.F.C.*, 30 Colo. App. 190, 490 P.2d 706 (1971).

Certification of the issue of custody to the juvenile court

pursuant to former subsection (5)(a) (now subsection (4)(a)) is mandatory. In re Eckman, 645 P.2d 866 (Colo. App. 1982).

Juvenile court has power and duty to make such determinations as it deems appropriate regarding custody and care

of a child adjudicated to be within its exclusive jurisdiction. City & County of Denver v. Juvenile Court, 182 Colo. 157, 511 P.2d 898 (1973).

But department of welfare does not.

Given the broad power of the juvenile court to make determinations as to the custody and care of a child under its jurisdiction, it would be inconsistent and contrary to the intent of the general assembly to also find such a power in the Denver department of welfare. City & County of Denver v. Juvenile Court, 182 Colo. 157, 511 P.2d 898 (1973).

Juvenile court may delegate responsibility for placement of child.

City & County of Denver v. Juvenile Court, 182 Colo. 157, 511 P.2d 898 (1973).

And department of welfare is agent of court subject to court's further authority.

The court is vested with the ultimate responsibility in the placement of a child for adoption, and thus, whatever authority the welfare department may have concerning custody and/or placement arises as a result of a delegation of that authority by the court. In essence, therefore, the department acts as the agent of the court, assisting in the fulfillment of the court's responsibility. The grant to the welfare department of custody and authority to place for adoption is thus subject to revocation, limitation, or control by the court delegating such authority. People in Interest of M.D.C.M., 34 Colo. App. 91, 522 P.2d 1234 (1974).

In evaluating the child's best interests, the probate court did not exceed its jurisdiction by directing the GAL to find a permanent guardian or by considering the potential for a future adoption.

Nothing in this section deprives the district court of the authority to appoint a guardian for a child. In re J.C.T., 176 P.3d 726 (Colo. 2007).

No automatic repeal by § 16-11-309.

The general assembly did not automatically intend to repeal the special provision for discretionary sentencing of juveniles, this section, by the enactment of the general mandatory sentencing statute, § 16-11-309. People v. Dist. Court, 196 Colo. 249, 585 P.2d 913 (1978).

Testimony as to age is prima facie case for jurisdiction.

The defendants, by their own testimony that they were 17 years old, made a prima facie case as to their juvenility, and it became incumbent upon the prosecutor to either prove that the defendants were 18 or older or to ask that the case be remanded to the juvenile court for transfer proceeding under the Colorado Children's Code. Maddox v. People, 178 Colo. 366, 497 P.2d 1263 (1972).

Waiver of juvenile court's jurisdiction, after a transfer hearing, will not be set aside

unless the findings upon which the waiver was based were erroneous. People in Interest of G.A.T., 183 Colo. 111, 515 P.2d 104 (1973).

Jurisdiction to order placement of juvenile in private facilities.

Courts have the jurisdiction to enter custodial orders placing a juvenile in private facilities and directing that the appropriate county department of social services pay the cost of such private

treatment. Heim v. Dist. Court, 195 Colo. 107, 575 P.2d 850 (1978).

While subsection (1) generally provides exclusive jurisdiction in the juvenile court over the actions enumerated therein,

the clause "except as otherwise provided by law," is an express limitation on such jurisdiction. In re De La Cruz, 791 P.2d 1254 (Colo. App. 1990).

Applied

in People v. Dist. Court, 191 Colo. 298, 552 P.2d 297 (1976); People v. Maynes, 193 Colo. 111, 562 P.2d 756 (1977); Ford v. Ford, 194 Colo. 134, 571 P.2d 717 (1977); People in Interest of P.D., 41 Colo. App. 109, 580 P.2d 836 (1978); People v. Dist. Court, 199 Colo. 197, 606 P.2d 450 (1980); People v. Lee, 630 P.2d 583 (Colo. 1981); May v. People, 636 P.2d 672 (Colo. 1981); People in Interest of D.L.R., 638 P.2d 39 (Colo. 1981); People v. M.A.W., 651 P.2d 433 (Colo. App. 1982); City & County of Denver v. Dist. Court, 675 P.2d 312 (Colo. 1984); People v. Cunningham, 678 P.2d 1058 (Colo. App. 1983); Rocha v. People, 713 P.2d 350 (Colo. 1986).

II. PARTICULAR PROCEEDINGS.

A. Delinquency.

Child may be prosecuted directly for traffic violation.

One under 18 who violates a traffic law is not a delinquent child, and is therefore not subject to the original exclusive jurisdiction of the juvenile court in delinquency proceedings, and may be directly prosecuted for a violation of a state traffic law. I.R. v. People, 171 Colo. 54, 464 P.2d 296 (1970).

However, the Colorado Children's Code contains no limitation on the authority of the juvenile court to consider traffic charges when coupled with other misdemeanor or felony charges committed as a part of the same act or series of acts and thus charges are subject to the compulsory joinder statute, § 18-1-408 (2). Marquez v. County Court, 719 P.2d 737 (Colo. App. 1986).

County court may sentence minor to jail term for traffic offense.

When a minor is convicted of a traffic offense in a county court which has jurisdiction over that minor, the Colorado Children's Code does not prohibit the court from sentencing the minor to serve a term in the county jail. Villareal v. Lopez, 44 Colo. App. 555, 619 P.2d 86 (1980).

B. Dependency.

The remedy in case of an abandoned and neglected child rests exclusively in a juvenile court

as provided in this section. Johnson v. Black, 137 Colo. 119, 322 P.2d 99 (1958).

Juvenile courts are authorized to determine the question of dependency, and, if found, to determine who is responsible therefor, and to enforce their findings by judgment and execution. Ortega v. Portales, 134 Colo. 537, 307 P.2d 193 (1957); Martinez v. Lopez, 153 Colo. 425, 386 P.2d 595 (1963).

Jurisdiction proper where child abandoned to care of relatives.

The assertion that the court lacked jurisdiction over a child because the child was not dependent and neglected is without merit where the child has been abandoned to the care of a grandfather and aunt. People in Interest of F.M., 44 Colo. App. 142, 609 P.2d 1123 (1980).

In a dependency and neglect proceeding, an allocation of parental rights (APR) order

is a final and appealable order under subsection (6).

An appeal must be filed within twenty-one days of the APR order to be considered timely. People in Interest of M.R.M., 2021 COA 22, 484 P.3d 807.

A juvenile court has no jurisdiction in contests about custody

of children, whether it is between parents or other individuals. In re People in Interest of McChesney, 103 Colo. 115, 83 P.2d 772 (1938); Arnett v. Northern, 118 Colo. 307, 194 P.2d 909 (1948); Everett v. Barry, 127 Colo. 34, 252 P.2d 826 (1953); Kearney v. Blue, 134 Colo. 217, 301 P.2d 515 (1956); Johnson v. Black, 137 Colo. 119, 322 P.2d 99 (1958); Wellbrink v. Walden, 142 Colo. 102, 349 P.2d 697 (1960).

This section does not grant a juvenile court that has personal jurisdiction over the parents of dependent or neglected children and subject matter jurisdiction over cases concerning dependent or neglected children with power over those parents regarding their nondependent children

such that it can order the parents to take the nondependent siblings to compulsory therapeutic visitation, especially in light of parents' fundamental constitutional right to make decisions about their children. In re People in Interest of S.A., 2022 CO 27, 511 P.3d 597.

Determination of neglect and dependency can be sought only where immediate needs and welfare of child are in peril,

and consequently, they represent situations where the doctrine of *parens patriae* would be applicable. Such being the case, the trial court properly assumes preliminary jurisdiction over children brought into the state by their mother, but whose custody had been previously awarded to the father by a court in another state, which jurisdiction will become absolute if a valid showing is made by the state of a dependency and neglect situation as defined in the Colorado Children's Code. In re People in Interest of E.F.C., 30 Colo. App. 190, 490 P.2d 706 (1971).

Such a dispute is one for determination by a divorce proceeding

by which proper jurisdiction of the person and subject matter could be had and all parties properly protected. Kearney v. Blue, 134 Colo. 217, 301 P.2d 515 (1956).

But district court jurisdiction suspended when state brings dependency proceeding.

A district court's jurisdiction to dispose of the custody of a child as between the parties to a divorce proceeding and as ancillary to that proceeding, is suspended by the institution of and during the pendency of a direct proceeding in dependency by the state in the interest of the child in a county court under this section. People ex rel. Lucke v. County Court, 109 Colo. 447, 126 P.2d 334 (1942).

The jurisdiction of a divorce court is exercised as between a husband and wife; that of a juvenile court in dependency proceedings, as between the state in the interest of the child, and the parents of the child. The two courts may have simultaneous, though not concurrent, jurisdiction concerning the custody of a child. But where both courts make orders concerning such custody, the operation of the order of the divorce court is suspended during the period, and only during the period, that the order of the juvenile court remains in force. Ross v. Ross, 89 Colo. 536, 5 P.2d 246 (1931); Johnson v. Black, 137 Colo. 119, 322 P.2d 99 (1958).

District court exceeded its statutory jurisdiction

by ordering that defendant not have custody of her children as a condition of probation for the crime of criminally negligent child abuse resulting in death. Subsection (1) grants the juvenile court exclusive jurisdiction to determine the legal custody of any child who is dependent or neglected. People v. Forsythe, 43 P.3d 652 (Colo. App. 2001).

Once a petition for custody under § 14-10-123 is certified to be determined as part of a pending dependency and neglect action pursuant to this section, dissolution of marriage statutes cease to apply.

Instead, provisions of the Colorado Children's Code govern, in view of the differing policies behind the respective statutes. *People in Interest of D.C.*, 851 P.2d 291 (Colo. App. 1993); *People in Interest of A.A.G.*, 902 P.2d 437 (Colo. App. 1995), *aff'd in part, rev'd in part* on other grounds, 912 P.2d 1385 (Colo. 1996).

Juvenile court acting under subsection (6) may enter child support order, which order must follow the provisions of article 6 of this title and the child support guidelines set forth in § 14-10-115.

Where delinquency court granted stipulation allocating parental responsibilities to mother, in determining support, court was required to follow the provisions of article 6, including § 19-6-106, which in turn requires compliance with the child support guidelines. Court erred in failing to address the factors set forth in § 14-10-115. *People in Interest of E.Q.*, 2020 COA 118, 472 P.3d 1115.

Since defendant disobeyed the permanent protection order rather than challenging the constitutionality of the order on appeal, defendant cannot collaterally raise the constitutional issues during an appeal of a contempt judgment.

People in Interest of K.P., 2022 COA 60, 517 P.3d 70.

District court on habeas corpus has no jurisdiction over abandonment.

A district court in habeas corpus proceedings has jurisdiction to determine whether a child is being unlawfully restrained by the grandparents. Such determination cannot in any manner affect the outcome of any adoption proceedings. An adjudication in the habeas corpus proceedings cannot be considered as an adjudication of abandonment as defined in the adoption provisions or as used in the dependent and neglected children provisions, as the question of abandonment is not an issue and the district court has no jurisdiction over abandonment. *Johnson v. Black*, 137 Colo. 119, 322 P.2d 99 (1958).

In view of the state's strong interest in providing for the welfare of children within its borders,

the presence of an allegedly dependent or neglected child within Colorado will generally provide an adequate jurisdictional basis to adjudicate the dependency status of the child within Colorado. *E.P. v. Dist. Court*, 696 P.2d 254 (Colo. 1985).

The trial court properly assumes preliminary jurisdiction over children brought into the state

by their mother, but whose custody had been previously awarded to the father by a court in another state, which jurisdiction will become absolute if a valid showing is made by the state of a dependency and neglect situation as defined in the Colorado Children's Code. *People in Interest of E.F.C.*, 30 Colo. App. 190, 490 P.2d 706 (1971).

An action in dependency may not be used as a means of making a child available for adoption

in a stepparent adoption proceeding. Such tactic is inappropriate and contrary to the statutory language as well as the legislative intent of the Colorado Children's Code. *People in Interest of S.S.T.*, 38 Colo. App. 110, 553 P.2d 82 (1976).

Judgment reversed for lack of jurisdiction.

Cullen v. People ex rel. Baer, 152 Colo. 531, 383 P.2d 316 (1963).

Statute as basis of jurisdiction.

Johnson v. People, 170 Colo. 137, 459 P.2d 579 (1969).

Applied

in Peterson v. Schwartzmann, 116 Colo. 235, 179 P.2d 662 (1947); People in Interest of Unborn Child v. Estergard, 169 Colo. 445, 457 P.2d 698 (1969).

 C. Paternity.**This section confers jurisdiction on the juvenile court to determine parentage.**

Dikeou v. People, 95 Colo. 537, 38 P.2d 772 (1934); In re Morrow's Estate, 100 Colo. 424, 68 P.2d 36 (1937).

When a court declares a child dependent or neglected in a case filed under article 3,

a court presiding over a separate parentage proceeding under article 4 loses jurisdiction to determine that child's parentage. All matters pertaining to the child's status must be addressed in the open dependency and neglect case. People in Interest of D.C.C., 2018 COA 98, 486 P.3d 1183.

The courts should primarily be more concerned about the welfare of the child than in the residential status of the parties

to the proceeding. No unreasonable impediment should be allowed which would prevent an expectant mother from pursuing the father of the unborn child and invoking the aid of a court having proper jurisdiction at the residence or domicile of the neglectful father if in this state. Campbell v. Gilliam, 127 Colo. 471, 257 P.2d 965 (1953).

The juvenile court has jurisdiction to determine the parentage of children yet unborn. Cederquist v. Archuleta, 127 Colo. 41, 253 P.2d 431 (1953); People in Interest of Unborn Child v. Estergard, 169 Colo. 445, 457 P.2d 698 (1969).

 D. Adoption.**Department's authority in adoption.**

Inasmuch as the general assembly has granted the court exclusive jurisdiction over adoptions, has expressly authorized adoptive placement, and has given the court the final and sole responsibility of approving or disapproving adoptions, it would be totally inconsistent to conclude that the welfare department or licensed placement agencies are the sole entities authorized to place a child for adoption following termination of parental rights. People in Interest of M.D.C.M., 34 Colo. App. 91, 522 P.2d 1234 (1974).

Court's adoption authority not limited by former § 19-3-111 (2)(b).

Subsection (1)(h) expressly provides that the court has exclusive jurisdiction in matters relating to the adoption of any person. No limitation on that authority arises by virtue of former § 19-3-111 (2)(b). People in Interest of M.D.C.M., 34 Colo. App. 91, 522 P.2d 1234 (1974).

District court had jurisdiction to rule on nullification of adoption

where issues regarding legal custody and adoption of child were incidental to determination of issues presented in dissolution proceeding and no petition was filed in juvenile court. In re Dickson, 983 P.2d 44 (Colo. App. 1998).

Limit on jurisdiction for interstate adoptions.

The Interstate Compact on Placement of Children limits the jurisdiction of the juvenile court for interstate adoptions as an exception "otherwise provided by law". Denver Dept. of Soc. Servs. v. Dist. Court, 742 P.2d 339 (Colo. 1987).

Under article V of such compact, the sending agency retains jurisdiction until the child is adopted, and the mere filing of an adoption petition is not sufficient to divest the sending agency of jurisdiction. Denver Dept. of Soc. Servs. v. Dist. Court, 742 P.2d 339 (Colo. 1987).

 E. Other Proceedings.**General rule whereby Colorado courts must respect custodial decrees of other states is subject to two exceptions:**

(1) When the domicile of the child subject to a foreign decree changes to Colorado and there is a showing of a change in circumstances after the foreign decree; and (2) when conditions necessitate Colorado's intervention for the protection of any child found within its borders, through the doctrine of *parens patriae*. Thus, the requirement that a child need only be physically present within the state of Colorado does no violence to the rules governing interstate recognition of custodial decrees. *People in Interest of E.F.C.*, 30 Colo. App. 190, 490 P.2d 706 (1971).

Court without power to proceed if prescribed residence lacking.

Where a statute makes the residence of a petitioner within a particular county a condition upon which the jurisdiction of a court can be invoked, a court is wholly without power or authority to proceed in a statutory action unless the petitioner is a resident of such county within which the action is brought. *Avery v. County Court*, 126 Colo. 421, 250 P.2d 122 (1952).

Jurisdiction not divested when children move from county.

The paternity action having been properly commenced in Denver as the statute provided, jurisdiction attached, and the court is not divested of it thereafter by reason of the fact that the children move out of the county. *Del Campo v. People in Interest of Del Campo*, 172 Colo. 277, 472 P.2d 130 (1970).

A prima facie case of sufficient residency, and also of dependency, established.

Campbell v. Gilliam, 127 Colo. 471, 257 P.2d 965 (1953).

A parent may make necessary arrangements for the care of a child without order of court, guardianship or otherwise.

It is not the law that before a child can be placed by a parent in temporary custody of a relative permission must be first obtained from the court. *Diernfeld v. People in Interest of Diernfeld*, 137 Colo. 238, 323 P.2d 628 (1958).

Attainment of majority while minor's appeal from adjudication as "child in need of supervision" is pending renders appeal moot

in light of the Colorado Children's Code attempt to eliminate collateral legal consequences of adjudication. *People v. T.B.*, 183 Colo. 310, 516 P.2d 642 (1973).

Jurisdiction to order department of welfare to return child to group care facility.

The juvenile court did not exceed its jurisdiction, or lack jurisdiction, to order the Denver department of welfare to return a child who was adjudicated in need of supervision to a group care facility. *City & County of Denver v. Juvenile Court*, 182 Colo. 157, 511 P.2d 898 (1973).

The provisions of the Parental Notification Act supersede subsection (3) with regard to the provision of notice to parents about abortions.

Planned Parenthood of Rocky Mtns. Servs. Corp. v. Owens, 287 F.3d 910 (10th Cir. 2002).

As a result, the Parental Notification Act must be held unconstitutional because it lacks a health exception to the parental notification requirement.

Planned Parenthood of Rocky Mtns. Servs. Corp. v. Owens, 287 F.3d 910 (10th Cir. 2002).

Removal of extraordinary life-sustaining devices.

A juvenile court has jurisdiction in a shelter hearing to order the removal of all extraordinary life-sustaining devices from a child in the temporary custody of the department of social services if in the doctor's opinion the legal standard of cerebral death has been met. Lovato v. Dist. Court, 198 Colo. 419, 601 P.2d 1072 (1979).

Juvenile may not be compelled to undergo psychological evaluation under subsection (3),

for purposes of a transfer hearing, because of his fifth amendment right against self-incrimination. People in Interest of A.D.G., 895 P.2d 1067 (Colo. App. 1994).

Juvenile's refusal to undergo psychological evaluation may not be used against him in a transfer hearing because it would impermissibly penalize his exercise of the fifth amendment right. People in Interest of A.D.G., 895 P.2d 1067 (Colo. App. 1994).

Applied

in In re U.M. v. Dist. Court, 631 P.2d 165 (Colo. 1981).

Research References & Practice Aids

Cross references:

(1) For the jurisdiction of the juvenile court of Denver, see § 13-8-103; for the exemption from criminal responsibility for insufficient age, see § 18-1-801.

(2) For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

Narrow By: -None-

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