



MANPOWER AND
RESERVE AFFAIRS

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
1500 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1500

March 2, 2023

**Maryland General Assembly
House Judiciary Committee
House Office Building, 6 Bladen St
Annapolis, MD 21401**

**Delegate Luke Clippinger
Chair**

**Remarks of
Christopher R. Arnold
Mid-Atlantic Region Liaison
United States Department of Defense-State Liaison Office**

Support of: HB749 (Juvenile Court – Concurrent Jurisdiction – Juvenile Offenses on Military Installations)

Testimony

Chairman and honorable committee members, the Department of Defense is grateful for the opportunity to provide comment on the policies reflected in House Bill 749, which support the Department's efforts in removing barriers to the proper investigation and adjudication of juvenile matters in areas of exclusive federal jurisdiction. This legislation has already passed the Maryland State Senate unanimously and utilizes a best practice approach recently enacted in other states.¹

My name is Christopher Arnold, and I am the Mid-Atlantic region liaison at the United States Department of Defense-State Liaison Office, operating under the direction of Under Secretary of Defense for Personnel and Readiness. We represent the Department and establish relationships with state leaders across the country who are concerned for troops and their families' welfare by harmonizing state and federal law and regulation on policy problems of national significance. These are identified by the Office of the Secretary of Defense, the secretaries of the military departments, and the chief of the National Guard Bureau as areas where states can play a crucial role.

House Bill 749 is key to appropriately addressing and reducing juvenile misconduct on military installations.² In 2018, Congress expressed its concern about the lack of state or local jurisdiction

¹ See generally [North Carolina Session Law 2022-73](#), [Connecticut Public Act 22-63 of 2022](#), and [New Hampshire Chapter 77 of 2022](#).

² [Public Law 115-232, Section 1089](#) required the Department to establish a policy on its response to allegations of juvenile-on-juvenile problematic sexual behavior on military installations. A key component of the Department's policy must be to, within the limits of the Department's authority, aid civilian officials in their efforts to appropriately dispose of incidents, particularly problematic sexual behavior in children and youth, or "PSB-CY," that rise to the level of a delinquency offense.

over juvenile offenses committed on those portions of military installations with federal exclusive legislative jurisdiction.³ The federal framework for handling juvenile offenders has a limited scale, features limited wrap-around services and offers limited alternative disposition options.⁴

The Department of the Army has opined how the policy proposed in House Bill 749 adds clarity to state's authority to adjudicate juvenile misconduct arising on military installations.⁵ This approach to concurrent jurisdiction for juvenile offenses is particularly helpful, insofar as there are many juveniles without a military connection in areas of federal exclusive legislative jurisdiction that should have access to Maryland juvenile court program.⁶

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.⁷ When land use and the circumstances surrounding that use changes, such as when military bases experience an increased civilian population, or when space within a federal military installation is partially leased to non-federal entities, a change in federal jurisdiction may be appropriate.⁸

As many installations house more civilians, the federal government can relinquish jurisdiction to a state and thus alter its jurisdiction from exclusive to concurrent, which enables state law authorities to enforce state laws on the base with respect to civilian family members.⁹ A February 2021 directive from the Deputy Secretary of Defense to the military service secretaries

³ [House Report 115-874](#), the Conference Report accompanying H.R. 5515, the John S. McCain National Defense Authorization Act.

⁴ Federal Juvenile Delinquency Act 18 U.S.C. Sec 5031 *et seq.*

⁵ "Establishing Concurrent Jurisdiction for Juvenile Crimes: Maryland Installations," *Army Office of The Judge Advocate General*, January 24, 2023.

⁶ For example, at Fort Meade, there are a significant number of privatized housing units on the installation in an area of exclusive federal jurisdiction, including 1,200 apartments and 3,000 single family houses. While 80% of these units are occupied by families of active-duty military personnel from all of the services, the remaining 20% are occupied by non-active-duty families, some with juvenile-aged children. Foot traffic between these houses and the schools both inside and outside the fence line and to playgrounds and other common areas creates the potential for juvenile misconduct to occur in an area of exclusive federal jurisdiction by children with little military nexus. Currently, a process is in place for case-by-case referral to Anne Arundel County, but the process lacks any formal statutory authority.

⁷ According to the Maryland General Assembly Department of Legislative Services, "With respect to land that the United States or any unit of the United States leases or otherwise holds in the State, the State reserves jurisdiction and authority over the land, and persons, property, and transactions on the land, to the fullest extent that is allowed by the U. S. Constitution and not inconsistent with the governmental purpose for which the land is held. This does not affect the jurisdiction and authority of the State over land, or persons, property, and transactions on the land, that the United States or a unit of the United States acquired on or before May 31, 1943, to the extent that the State ceded jurisdiction, as specified."

⁸ In June of 2019, the Deputy Secretary of Defense instructed the Secretaries of the Military Departments to seek to establish concurrent jurisdiction over juveniles not subject to the Uniform Code of Military Justice on military installations.

⁹ Congress directed the Military Departments to seek to retrocede exclusive federal jurisdiction under 10 U.S. Code § 2683, which allows DoD to relinquish its jurisdiction via (a) retrocession, or (b) as the laws of the state may otherwise provide.

provided further instructions to remove barriers to the appropriate investigation and adjudication of juvenile matters involving violations of federal law.¹⁰

Utilizing memoranda of understanding for the referral of juvenile cases arising on military installations in areas of federal exclusive legislative jurisdiction, particularly when retrocession is declined, infeasible or impracticable due to national security requirements does not create enforceable law, nor is there statutory support for transferring jurisdiction through such means.¹¹ House Bill 749 provides the state statutory authority to establish concurrent jurisdiction involving violations of federal law by a child on a military installation and assimilate them into state law.¹² The legislation also clarifies the formal retrocession process for the Fort George G. Meade Military Reservation.

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.

Without concurrent jurisdiction, juvenile misconduct is adjudicated in the federal court system, which lacks appropriate juvenile-focused resources and often tries juveniles as adults. When concurrent jurisdiction is established, offenses could be adjudicated through the state juvenile court system, allowing for more appropriate case management outcomes.¹³

The statutorily supported memorandum between military installation authorities and state officials then defines the working relationship to support activities associated with concurrent jurisdiction once established in law through this legislation.¹⁴ House Bill 749 is critical to preventing adverse impacts to the health, safety and welfare of juveniles, and the military community.

In closing, let me say that we are grateful for the tremendous effort that Maryland has historically given in supporting our Service members and their families. On behalf of the Department of Defense, we respectfully request your consideration of the policies reflected in House Bill 749, and are grateful to the bill sponsor, Delegate Crutchfield for shepherding this

¹⁰ The 2021 directive from the Deputy Secretary of Defense realigned the primary office of responsibility for establishing concurrent jurisdiction in areas of exclusive federal legislative jurisdiction over juvenile misconduct and efforts to remove barriers to the investigation and adjudication of appropriate cases by civilian authorities from the Under Secretary of Defense for Acquisition and Sustainment, to the Under Secretary of Defense for Personnel and Readiness. This realignment has enabled the Department to synchronize and facilitate this effort through the broader mission to support children, youth, and families and remains a high-priority item for the Department.

¹¹ Lavine, George R. III (2018) "Protect Our Military Children: Congress Must Rectify Jurisdiction on Military Installations to Address Juvenile-on-Juvenile Sexual Assault," *Wyoming Law Review*: Vol. 18 : No. 1 , Article 2. Available at: <https://scholarship.law.uwyo.edu/wlr/vol18/iss1/2>

¹² See *supra* at 9, "Relinquishment ... under this section may be accomplished (2) as the laws of the State ... may otherwise provide."

¹³ Mark E. Sullivan, "On Base and Beyond: Negotiating the Military/State Agreement," <https://www.ncjfcj.org/wp-content/uploads/2019/12/Negotiating-the-Juv-Justice-Agt.pdf>, 26, Appendix 2A — Authority of U.S. Magistrate.

¹⁴ Such agreements typically memorialize procedures and apportion responsibilities with respect to the investigation and adjudication of offenses committed on such installations by individuals not subject to the Uniform Code of Military Justice.

important legislation through the General Assembly and for all their advocacy on behalf of military families.

Yours etc.,

CHRISTOPHER R. ARNOLD
Mid-Atlantic Region Liaison
Defense-State Liaison Office