

**OPINION**  
**53-67**

May 22, 1953 (OPINION)

JUVENILES

RE: Jurisdiction when crime perpetrated

We have your letter of May 14, 1953, requesting an opinion in a matter concerning the jurisdiction of the juvenile court of Ramsey County. The question you state arises with reference to section 27-1608 of the North Dakota Revised Code of 1943.

It appears that a boy under the age of eighteen years who is admittedly a resident of Cavalier County has stolen an automobile in Ramsey County and fled the state. A dispute has arisen as to which juvenile court has jurisdiction to decide this matter.

This then is your question: In a case where a juvenile residing in one county commits a crime in another county, does jurisdiction lie in the juvenile court of the county of residence or in the juvenile court of the county of the situs of the cause?

The juvenile court act of this state was quite extensively revamped during the 1943 session of the state legislature and section 27-1608 was for the first time made a part thereof. Prior to that time there had been no language in the act relative to the residence of the juvenile and it would seem clear that jurisdiction in cases of this kind would have been determined by jurisdiction of the cause.

In 1943, however, the following language was added to the juvenile court act as subsection 1-a of section 27-1608:

"Except as otherwise provided by law, the court shall have original jurisdiction in all proceedings:

1. Concerning any child residing in or who is temporarily within the county:

a. Who has violated any ... law of this state ...;"

It will be noted that while this appears to give jurisdiction with regard to the residence of the child, it is not an exclusive jurisdiction and, in fact, the bill as originally introduced in the 1943 legislature was worded so that such jurisdiction would have been exclusive. This was, however, removed from the bill by amendment.

Nor could such exclusive jurisdiction have been bestowed upon the juvenile court by statute in view of section 103 of the North Dakota Constitution, which confers jurisdiction upon the district court in all causes at law or equity, not otherwise conferred by the Constitution. We find no other constitutional provision applicable to the instant case.

Your attention is directed to the introductory wording of this

statute which quite pointedly carries the impression that the legislature recognizes the possibility of existing statutory and constitutional provisions which would alter the operation of this statute. In view of the rule of statutory construction whereby a statute is given a meaning consistent with constitutional limitations wherein that is possible, we must conclude that the instant situation is one which is covered by the introductory proviso "except as otherwise provided by law" and taking this view we are of the opinion that section 27-1608 must read in light of section 103 of the Constitution.

We understand from section 27-1601 and *State ex rel Melville v. Overby*, 54 N.D. 295, 209 N.W. 552, that the juvenile court is not a new and separate court but is the creation of broadened powers in the district court. See wording at page 300 in *Melville* case, *supra*, as follows:

"The district court has jurisdiction over all criminal offenses and exclusive original jurisdiction over all felonies, and of all persons brought therein, charged with the commission of crime. The juvenile court does not deprive the district court of jurisdiction in criminal causes; it specifically states in the repealing clause that it is cumulative and not exclusive as to all law, excepting only the law as administered in justice and police courts. The jurisdiction of the district court under the juvenile court act has been enlarged to cover the matters embraced in such legislation. It is not a separate and distinct court but the same court with enlarged powers."

In the final analysis, therefore, the jurisdiction of the district court is the point at issue and only incidentally does it matter that such courts are sitting as juvenile courts.

Thus, while it may be true that section 27-1608 has apparently broadened the jurisdiction of the district court sitting as a juvenile court in the county where the child resides, the legislature could not by statute deprive the district court of Ramsey County of original jurisdiction given to it by the Constitution.

This being true, it is our opinion that the juvenile court in Cavalier County would have jurisdiction in the instant case by reason of the residence of the juvenile and section 27-1608. However, we are of the further opinion that the juvenile and section 27-608. However, we are of the further opinion that the juvenile court of Ramsey County, it being the situs of the cause, would have concurrent jurisdiction by virtue of section 103 of the Constitution and in view of the fact that the warrant of arrest undoubtedly orders the return of the boy to Ramsey County, we assume that the district court of Ramsey County will assume jurisdiction from which it could not be ousted.

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