

Chapter 419

Juvenile Court Proceedings; County Juvenile Departments

Chapter 419

NOTES OF DECISIONS

In the absence of statutory authority to tax attorney fees against a party or political subdivision, the court has refrained from doing so. *State v. Jamison*, (1968) 251 Or 114, 444 P2d 15, 444 P2d 1005.

FURTHER CITATIONS: *State v. Smith*, (1970) 1 Or App 583, 465 P2d 247.

ATTY. GEN. OPINIONS: Authority of juvenile department of county court to commit delinquent child to Oregon State Hospital, 1956-58, p 293; Board of Control's authority to transfer inmates between the MacLaren School and the Correctional Institution, 1964-66, p 44.

LAW REVIEW CITATIONS: 6 WLJ 360.

419.472 to 419.587

LAW REVIEW CITATIONS: 39 OLR 305-317; 43 OLR 203-205; 47 OLR 166-204; 4 WLJ 152-166; 5 WLJ 1-49, 66-81, 121-130.

419.472

ATTY. GEN. OPINIONS: Force and effect of juvenile court order, 1958-60, p 320; school residence of child placed in foster home, 1964-66, p 264.

419.474

NOTES OF DECISIONS

Person having legal custody of a child subject to the jurisdiction of the court has a duty to attempt, if possible, to reconcile the child to its family. *Chandler v. State*, (1962) 230 Or 452, 370 P2d 626.

Preference in placement, if a child is within the court's jurisdiction, is to be given to the child's own home. *State v. McMaster*, (1970) 4 Or App 112, 476 P2d 814, rev'd on other grounds, 259 Or 291, 486 P2d 567.

FURTHER CITATIONS: *Phillips v. Barker*, (1966) 244 Or 513, 419 P2d 15; *State v. Jamison*, (1968) 251 Or 114, 444 P2d 15, 444 P2d 1005; *State ex rel. Clackamas County v. Peterson*, (1970) 3 Or App 52, 471 P2d 853; *Prindel v. Collins*, (1971) 4 Or App 618, 482 P2d 540.

ATTY. GEN. OPINIONS: Force and effect of juvenile court order, 1958-60, p 320; requiring juveniles to perform labor, 1962-64, p 423; power to provide medical care when parents refuse, 1964-66, p 183; school residence of child placed in foster home, 1964-66, p 264; authority for juvenile court commitment to or placement in state hospital, 1966-68, p 551.

419.476

NOTES OF DECISIONS

The power of the court to act in the interest of the child is superior to the right of natural parents, stepparents, adoptive parents, or strangers, if such power is exercised in accordance with the law. *Cutts v. Cutts*, (1961) 229 Or 33, 366 P2d 179; *Logsdon v. State*, (1963) 234 Or 66, 380 P2d 111.

It was the intent of the legislature to give the juvenile court exclusive jurisdiction of every case involving persons under 18 years of age. *Brady v. Gladden*, (1962) 232 Or 165, 374 P2d 452; *Hadlock v. Cupp*, (1969) 1 Or App 62, 457 P2d 666, Sup Ct review denied.

In order for the court to acquire jurisdiction some proscribed conduct must be proved and the procedure for proving such conduct must include notice, right to counsel, right to confrontation and cross-examination and the privilege against self-incrimination. *State v. Arenas*, (1969) 253 Or 215, 453 P2d 915; *State v. Turner*, (1969) 253 Or 235, 453 P2d 910.

Paragraphs (a), (b), (c) and (e) of subsection (1) describe a delinquent child and paragraph (d) describes a dependent child. *State v. Harmon*, (1961) 225 Or 571, 358 P2d 1048.

Rights of persons, other than parents, having custody of the child are required to be given consideration in the juvenile court proceedings. *Cutts v. Cutts*, (1961) 229 Or 33, 366 P2d 179.

Jurisdiction of subject matter cannot be conferred by stipulation. *Logsdon v. State*, (1963) 234 Or 66, 380 P2d 111.

The court cannot assume jurisdiction unless the person having physical custody of the child, even though a stranger to the child, has neglected it. *Id.*

The legislature did not limit the word "welfare" and it intended to include therein moral conduct. *Bonnie v. Gladden*, (1965) 240 Or 462, 402 P2d 237.

The court cannot declare a child a ward of the court in the absence of facts that would justify wardship under one of the provisions of this section. *State v. Williams*, (1965) 241 Or 207, 405 P2d 371.

Subsection (3) was intended to preserve the availability of the usual remedies in suits and actions involving the torts, contracts, trusts and other similar matters relating to the affairs of children. *Phillips v. Barker*, (1966) 244 Or 513, 419 P2d 15.

The ultimate question in a juvenile proceeding is not one of "guilt" or "innocence" but rather is one of determining what is in the best interest of the child. *State v. Turner*, (1969) 253 Or 235, 453 P2d 919.

In absence of evidence, presumption exists that circuit court obtains jurisdiction over juvenile through a proper remand. *State v. Saunders*, (1970) 1 Or App 620, 464 P2d 712, Sup Ct review denied.

Parental neglect sufficient for jurisdiction was shown. *State v. Hoppe*, (1964) 237 Or 179, 390 P2d 937.

FURTHER CITATIONS: *Belmont v. Black*, (1959) 218 Or 514, 346 P2d 367; *Sneed v. Sneed*, (1962) 230 Or 13, 368 P2d 334; *State v. Iverson*, (1962) 231 Or 15, 371 P2d 672; *Parmele*

v. Mathews, (1963) 233 Or 616, 379 P2d 869; State v. Stanley, (1965) 240 Or 310, 401 P2d 30; State v. Little (1965) 241 Or 557, 407 P2d 627; State v. Day, (1966) 242 Or 559, 410 P2d 1018; Medina v. Medina, (1966) 243 Or 629, 415 P2d 169; State v. Phillips, (1967) 245 Or 466, 422 P2d 670; State v. Thornton, (1967) 246 Or 377, 425 P2d 529; State v. Zauner, (1968) 250 Or 101, 441 P2d 83; State v. Jamison, (1968) 251 Or 114, 444 P2d 15, 444 P2d 1005; Bonnie v. Gladden, (1968) 400 F 547; State v. Hodges, (1969) 254 Or 21, 457 P2d 491; State v. Davis, (1969) 1 Or App 285, 462 P2d 448; Kerr v. State Public Welfare Comm., (1970) 3 Or App 27, 470 P2d 167, Sup Ct review denied, cert. denied, 402 US 950; State ex rel. Clackamas County v. Peterson, (1970) 3 Or App 52, 471 P2d 853; State v. McMaster, (1970) 4 Or App 112, 476 P2d 814, rev'd, 259 Or 291, 486 P2d 567; Prindel v. Collins, (1971) 4 Or App 618, 482 P2d 540; State v. Weidner, (1971) 92 Or App Adv Sh 889, 484 P2d 844; Zauner v. Cupp, (1969) 436 F2d 418.

ATTY. GEN. OPINIONS: Jurisdiction in juvenile court and meaning of "remand," 1958-60, p 250; in a commitment to Fairview Home, residence for jurisdiction of minor whose parents are unavailable, 1960-62, p 159; order to produce prisoner-parent in juvenile proceedings, 1960-62, p 297; discharging putative father without public proceedings, 1962-64, p 106; crime reports of juvenile court cases, 1962-64, p 243; requiring juveniles to perform labor, 1962-64, p 423; power to provide medical care when parents refuse, 1964-66, p 183; authority for juvenile court commitment to or placement in state hospital, 1966-68, p 551.

LAW REVIEW CITATIONS: 43 OLR 205-207; 45 OLR 14; 5 WLJ 108, 109, 114, 137, 157-170.

419.478

NOTES OF DECISIONS

It was the intent of the legislature to give the juvenile court exclusive jurisdiction of every case involving persons under 18 years of age. Brady v. Gladden, (1962) 232 Or 165, 374 P2d 452.

FURTHER CITATIONS: State v. Nice, (1965) 240 Or 343, 401 P2d 296; Hadlock v. Cupp, (1969) 1 Or App 62, 457 P2d 666, Sup Ct review denied; Frye v. Gladden, (1970) 1 Or App 629, 465 P2d 716.

419.480

NOTES OF DECISIONS

This section is a venue, not a jurisdictional, statute. State v. Hoppe, (1964) 237 Or 179, 390 P2d 937.

419.482

NOTES OF DECISIONS

The divorce court has no authority to delegate the determination of child custody to another court. Christy v. Christy, (1966) 244 Or 575, 419 P2d 425.

FURTHER CITATIONS: Logsdon v. State, (1963) 234 Or 66, 380 P2d 111; State v. Zauner, (1968) 250 Or 96, 441 P2d 81.

ATTY. GEN. OPINIONS: Jurisdiction in juvenile court and meaning of "remand," 1958-60, p 250; power to provide medical care when parents refuse, 1964-66, p 183.

LAW REVIEW CITATIONS: 5 WLJ 137.

419.484

NOTES OF DECISIONS

I. Under former similar statute

Where a county secured jurisdiction by reason of petition, and compliance with other requirements, it retained jurisdiction over the infant though the infant be carried into another county. Ex parte Bowers, (1915) 78 Or 390, 153 P 412.

The filing of a petition showing facts constituting delinquency had to be shown to support an order committing delinquent child to the industrial school. Hills v. Pierce, (1925) 113 Or 386, 231 P 652.

Setting out the particulars of a charge of stealing was not necessary in a petition to commit a child to the industrial school. Id.

Petition, in the language of the statute and in ordinary and concise language so as to enable person to know what was intended, was sufficient. State v. Sluder, (1970) 1 Or App 457, 463 P2d 594.

ATTY. GEN. OPINIONS: Authority of officer or member of child welfare commission to file petition for detention of a dependent or delinquent child, 1924-26, p 26; power of juvenile court to declare a dependent child the ward of another court, 1950-52, p 55.

419.486

NOTES OF DECISIONS

Summons issued one day after an amended petition was filed complied with this section. State v. Zauner, (1968) 250 Or 96, 441 P2d 81.

FURTHER CITATIONS: Allen v. Allen, (1958) 214 Or 664, 330 P2d 151.

ATTY. GEN. OPINIONS: Order to produce prisoner-parent in juvenile proceedings, 1960-62, p 297; enforcement of court's orders against parent or guardian, 1964-66, p 421.

419.488

NOTES OF DECISIONS

Under former similar statute the county first obtaining jurisdiction of an infant retained it, though the infant be carried into another county. Ex parte Bowers, (1915) 78 Or 390, 153 P 412.

ATTY. GEN. OPINIONS: Sheriffs not authorized to charge fee for service of citation in proceedings for commitment of delinquent children, 1940-42, p 102; enforcement of court's orders against parent or guardian, 1964-66, p 421.

419.490

NOTES OF DECISIONS

The mere filing of a petition in the juvenile court charging an act which if committed by an adult would constitute a crime does not ipso facto solo constitute the probable cause for the issuance of a warrant of arrest required by Ore. Const. Art. 1, §9 and ORS 133.110. State v. Redeman, (1971) 92 Or App Adv Sh 1197, 485 P2d 655, 486 P2d 1311.

ATTY. GEN. OPINIONS: Order to produce prisoner-parent in juvenile proceedings, 1960-62, p 297.

419.498

NOTES OF DECISIONS

A jury trial is not a constitutional right in juvenile court proceedings. State v. Arenas, (1969) 253 Or 215, 453 P2d 915; State v. Turner, (1969) 253 Or 235, 453 P2d 910; State

v. Zorner, (1970) 4 Or App 84, 475 P2d 990, Sup Ct review denied, cert. denied, 403 US 936.

In a juvenile proceeding, the right of the parents to examine the minor ward is in the discretion of the court exercised for the protection of the child. *Chandler v. State*, (1962) 230 Or 452, 370 P2d 626.

Waiver of counsel cannot be inferred from a failure to request court appointed counsel. *State v. Jamison*, (1968) 251 Or 114, 444 P2d 15, 444 P2d 1005.

Where the parent in a proceeding to terminate parental rights is indigent, counsel must be supplied at public expense. *Id.*

FURTHER CITATIONS: *State v. Gamroth*, (1968) 252 Or 33, 447 P2d 912.

ATTY. GEN. OPINIONS: Order to produce prisoner-parent in juvenile proceedings, 1960-62, p 297; discharging putative father without public proceedings, 1962-64, p 106; confidentiality of student records at higher education institutions, (1968) Vol 34, p 70.

LAW REVIEW CITATIONS: 43 OLR 97.

419.500

NOTES OF DECISIONS

Material in the file must be competent, relevant and admissible to be considered by the court in deciding if the child should be made a ward of the court. *Chandler v. State*, (1962) 230 Or 452, 370 P2d 626.

The court should permit a parent to examine a minor child's file subject to such safeguards as are deemed necessary. *Id.*

Proof of a criminal act beyond a reasonable doubt is not a constitutional right in juvenile court proceedings. *State v. Arenas*, (1969) 253 Or 215, 453 P2d 915. *But see State v. Zorner*, (1970) 4 Or App 84, 475 P2d 990, Sup Ct review denied, cert. denied, 403 US 936.

FURTHER CITATIONS: *State v. Little*, (1965) 241 Or 557, 407 P2d 627; *State v. Zauner*, (1968) 250 Or 96, 441 P2d 81; *State v. Zauner*, (1968) 250 Or 101, 441 P2d 83; *Zauner v. Cupp*, (1969) 436 F2d 418.

ATTY. GEN. OPINIONS: Power to provide medical care when parents refuse, 1964-66, p 183.

LAW REVIEW CITATIONS: 5 WLJ 149-156.

419.505

NOTES OF DECISIONS

Under a former similar statute the purpose of the commitment was to provide for the child's welfare as a state ward; the statute was not criminal. *Hills v. Pierce*, (1925) 113 Or 386, 231 P 652.

A former similar statute did not deprive a court that had made a permanent commitment of the power to change or modify its orders where the welfare of the child so demanded. *Palm v. Smith*, (1948) 183 Or 617, 195 P2d 708.

ATTY. GEN. OPINIONS: Commitment to unlicensed institutions of dependent children over the age of five years, 1928-30, p 568; jurisdiction of court which has made a permanent commitment of a child, 1930-32, p 231; jurisdiction of county court over child delinquency and dependency matters, 1936-38, p 707; right of ward of aid society to free schooling in district while awaiting adoption, 1938-40, p 501; when a child regularly committed to Hillcrest School by court order, discharged by the court on order taken in open court after written notice to the institution, 1942-44, p 359;

when State Board of Control must get court's approval before paroling inmates of the training schools, 1948-50, p 267; authority of county court to be guardian of the estate of a dependent child, 1948-50, p 318; methods of effecting return of delinquent committed to a home who has fled to another state, 1950-52, p 28.

419.507

NOTES OF DECISIONS

Rights of persons, other than parents, having custody of the child are required to be given consideration in the juvenile court proceedings. *Cutts v. Cutts*, (1961) 229 Or 33, 366 P2d 179.

Person having legal custody of a child subject to the jurisdiction of the court has a duty to attempt, if possible, to reconcile the child to its family. *Chandler v. State*, (1962) 230 Or 452, 370 P2d 626.

The controlling consideration is the welfare of the child. *State v. Hoppe*, (1964) 237 Or 179, 390 P2d 937.

Relatives have a preference over strangers in placement of a child. *Id.*

ORS 418.070 is not a limitation on the courts' authority under this section. *State ex rel. Clackamas County v. Peterson*, (1970) 3 Or App 52, 471 P2d 853.

FURTHER CITATIONS: *Allen v. Allen*, (1958) 214 Or 664, 330 P2d 151; *State v. Harmon*, (1961) 225 Or 571, 330 P2d 151; *Palmer v. Palmer*, (1962) 230 Or 599, 371 P2d 567; *Prindel v. Collins*, (1971) 4 Or App 618, 482 P2d 540; *State v. Weidner*, (1971) 92 Or App Adv Sh 889, 484 P2d 844; *State v. McMaster*, (1971) 259 Or 291, 486 P2d 567.

ATTY. GEN. OPINIONS: Jurisdiction of court of domestic relations over delinquent children, 1920-22, p 387; jurisdiction of county court over child delinquency and dependency matters, 1936-38, p 707; transfer of training school wards to supervision of county welfare commissions, 1940-42, p 651; arranging care for pregnant child committed to Hillcrest home, 1946-48, p 23; county judge's authority to order a child on parole back to training school, 1948-50, p 110; authority of court to change order of commitment to Hillcrest School under former similar statutes, 1958-60, p 234; discharging putative father without public proceedings, 1962-64, p 106; requiring juveniles to perform labor, supervision, judicial immunity, 1962-64, p 423; Board of Control's authority to transfer inmates between the MacLaren School and the Correctional Institution, 1964-66, p 44; authority of Superintendent of Oregon Fairview Home to grant leaves to inmates, 1964-66, p 102; school residence of child placed in foster home, 1964-66, p 264; residence for school purposes of children at centers, (1969) Vol 34, p 522; authority of Superintendents of Hillcrest and MacLaren to permit student absences, (1971) Vol 35, p 537.

419.509

NOTES OF DECISIONS

Under former similar statute arraignment as a criminal was not necessary to commit a child to the industrial school as a delinquent by reason of theft and immorality. *Hills v. Pierce*, (1925) 113 Or 386, 388, 231 P 652.

Under former similar statute a collateral attack by habeas corpus did not lie where the judgment committing a girl to the state industrial school was not void. *Id.*

FURTHER CITATIONS: *State v. Arenas*, (1969) 253 Or 215, 453 P2d 915; *State v. Harmon*, (1961) 225 Or 571, 330 P2d 151.

ATTY. GEN. OPINIONS: Authority of Superintendents of

Hillcrest and MacLaren to permit student absences, (1971) Vol 35, p 537.

LAW REVIEW CITATIONS: 47 OLR 177.

419.511

NOTES OF DECISIONS

Officer may search for weapon when juvenile is taken into temporary custody and may seize contraband discovered during such search. *State v. Brammeier*, (1970) 1 Or App 612, 464 P2d 717, Sup Ct review denied.

FURTHER CITATIONS: *Allen v. Allen*, (1958) 214 Or 664, 330 P2d 151; *State v. Weidner*, (1971) 92 Or App Adv Sh 889, 484 P2d 844.

ATTY. GEN. OPINIONS: Juvenile courts' authority in committing children to correctional institution, 1940-42, p 536; Board of Control's authority to transfer inmates between the MacLaren School and the Correctional Institution, 1964-66, p 44; power to provide medical care when parents refuse, 1964-66, p 183; school residence of child placed in foster home, 1964-66, p 264; authority for juvenile court commitment to or placement in state hospital, 1966-68, p 551; authority of Superintendents of Hillcrest and MacLaren to permit student absences, (1971) Vol 35, p 537.

LAW REVIEW CITATIONS: 47 OLR 184.

419.513

NOTES OF DECISIONS

Under former similar statute the same judge who had jurisdiction over infants, either in habeas corpus or in an independent suit in equity, was also, in Clackamas County, vested with juvenile court powers and in that capacity could, upon hearing, order a parent to support his child. *Bartlett v. Bartlett*, (1944) 175 Or 215, 152 P2d 402.

FURTHER CITATIONS: *Palmer v. Palmer*, (1962) 230 Or 599, 371 P2d 567.

ATTY. GEN. OPINIONS: Responsibility for expense of maintenance of girls whose home is in another state, 1930-32, p 747; compelling adoptive parents to support adopted minor child, 1934-36, p 710; responsibility of parent for support of daughter under age of 21 years, 1936-38, p 80; State Board of Control as not authorized to conduct proceedings to make collection for care of dependent children in state-aided institutions, 1936-38, p 646; application to cases of commitment of delinquent children to either of the state training schools, 1942-44, p 281; application to inmates of Hillcrest School and the Oregon State Training School, 1942-44, p 418; necessity of separate hearing, 1958-60, p 320; discharging putative father without public proceedings, 1962-64, p 106.

419.517

ATTY. GEN. OPINIONS: Enforcement of court's orders against parent or guardian, 1964-66, p 421.

419.519

ATTY. GEN. OPINIONS: School residence of child placed in foster home, 1964-66, p 264; residence for school purposes of children at centers, (1969) Vol 34, p 522.

419.521

ATTY. GEN. OPINIONS: School residence of child placed in foster home, 1964-66, p 264.

419.523

NOTES OF DECISIONS

A judgment terminating parental rights must be supported by a preponderance of the evidence proving (1) that the parent is presently unable to supply physical and emotional care for the child and (2) that this condition will probably continue until successful integration of the child into a family would be improbable. *State v. Blum*, (1970) 1 Or App 409, 463 P2d 367; *State ex rel. Juvenile Dept. v. Patton*, (1971) 5 Or App 450, 485 P2d 653.

Clear and cogent proof is required to terminate parental rights. *Cutts v. Cutts*, (1961) 229 Or 33, 366 P2d 179.

Misconduct collateral to the juvenile court proceedings is not sufficient grounds to constitute the kind of depravity required to invoke the provisions of this section. *Id.*

Rights of persons, other than parents, having custody of the child are required to be given consideration in the juvenile court proceedings. *Id.*

This section does not authorize the commitment of foundlings and orphans to public agencies, unless they are within the jurisdiction of the court as provided by ORS 419.476 (1). *Id.*

The mental health of a parent is a "condition" within the meaning of this section and if found to be detrimental to the child, parental rights may be terminated. *State v. Blum*, (1970) 1 Or App 409, 463 P2d 367.

Parental rights are not necessarily terminated as a matter of law by a parent's incarceration in a penal institution. *State v. Grady*, (1962) 231 Or 65, 371 P2d 68.

Subsection (2) (a) was not unconstitutionally vague. *State v. McMaster*, (1970) 4 Or App 112, 476 P2d 814, rev'd on other grounds, 259 Or 291, 486 P2d 567.

When the legislature used the phrase, "seriously detrimental to the child," it had in mind a serious and uncommon detriment caused by conduct substantially departing from the norm. *State v. McMaster*, (1971) 259 Or 291, 486 P2d 567, rev'g 4 Or App 112, 476 P2d 814.

Defendant was unfit to have custody of her children. *State v. Winters*, (1966) 243 Or 313, 413 P2d 425.

FURTHER CITATIONS: *State v. Jamison*, (1968) 251 Or 114, 444 P2d 15, 444 P2d 1005; *Moody v. Voorhies*, (1970) 2 Or App 491, 469 P2d 642, rev'd, 257 Or 105, 475 P2d 579; *State ex rel. Clackamas County v. Peterson*, (1970) 3 Or App 52, 471 P2d 853.

ATTY. GEN. OPINIONS: Order to produce prisoner-parent in juvenile proceedings, 1960-62, p 297.

LAW REVIEW CITATIONS: 43 OLR 207; 5 WLJ 57, 177-181.

419.525

NOTES OF DECISIONS

Evasive and possibly untrue answers of the defendant do not provide a preponderance of competent evidence. *State v. Easley*, (1961) 228 Or 472, 365 P2d 293.

This section requires that a finding of statutory grounds must be supported by a preponderance of competent evidence. *Id.*

Parental rights are not necessarily terminated as a matter of law by a parents' incarceration in a penal institution. *State v. Grady*, (1962) 231 Or 65, 371 P2d 68.

FURTHER CITATIONS: *State v. Jamison*, (1968) 251 Or 114,

444 P2d 15, 444 P2d 1005; State ex rel. Juvenile Dept. v. Patton, (1971) 5 Or App 450, 485 P2d 653.

ATTY. GEN. OPINIONS: Order to produce prisoner-parent in juvenile proceedings, 1960-62, p 297.

LAW REVIEW CITATIONS: 43 OLR 208-210; 5 WLJ 57.

419.527

NOTES OF DECISIONS

This section does not authorize the commitment of foundlings and orphans to public agencies, unless they are within the jurisdiction of the court as provided by ORS 419.476 (1). Cutts v. Cutts, (1961) 229 Or 33, 366 P2d 179.

FURTHER CITATIONS: Allen v. Allen, (1958) 214 Or 664, 330 P2d 151; State v. Jamison, (1968) 251 Or 114, 444 P2d 15, 444 P2d 1005.

ATTY. GEN. OPINIONS: Authority of institution to which child has been committed for care to place the child in a family home or to consent to adoption without the knowledge or order of the committing court, 1944-46, p 240.

LAW REVIEW CITATIONS: 43 OLR 194; 5 WLJ 57.

419.529

CASE CITATIONS: State ex rel. Clackamas County v. Peterson, (1970) 3 Or App 52, 471 P2d 853; Prindel v. Collins, (1971) 4 Or App 618, 482 P2d 540.

ATTY. GEN. OPINIONS: Delinquent children committed to training or industrial school granted clemency, 1940-42, p 24; when a child regularly committed to Hillcrest School by court order, discharged by the court on order taken in open court after written notice to the institution, 1942-44, p 359; authority of court to change order of commitment to Hillcrest School, 1958-60, p 234; Board of Control's authority to transfer inmates between the MacLaren School and the Correctional Institution, 1964-66, p 44.

LAW REVIEW CITATIONS: 5 WLJ 57.

419.531

NOTES OF DECISIONS

Once a juvenile court has established jurisdiction over a child, the court must take affirmative action to dispose of the case before jurisdiction can terminate. State v. Weidner, (1971) 92 Or App Adv Sh 889, 484 P2d 844.

ATTY. GEN. OPINIONS: Board of Control's authority to transfer inmates between the MacLaren School and the Correctional Institution, 1964-66, p 44; authority of Superintendent of Oregon Fairview Home to grant leaves to inmates, 1964-66, p 102.

LAW REVIEW CITATIONS: 5 WLJ 162.

419.533

NOTES OF DECISIONS

This section permits discretionary remand after age 16, regardless of the age of the defendant at the time of the alleged offense. State v. Little, (1965) 241 Or 557, 407 P2d 627, cert. denied, 385 US 902.

This section was constitutional. Id.

The court determines whether the best interest of the child and the public will be served by the remand. State

v. Zauner, (1968) 250 Or 101, 441 P2d 83. Acquiesced in, Zauner v. Cupp, (1969) 436 F2d 418, aff'g 320 F Supp 333.

The court is not required to determine whether an offense has been committed. Id.

An indictment returned prior to transfer of the case to juvenile court and remand by that court to the circuit court remains viable. Hadlock v. Cupp, (1969) 1 Or App 62, 457 P2d 666, Sup Ct review denied.

The due process clause of the United States Constitution requires states to accord a hearing before a juvenile can be remanded to the adult criminal process. Bouge v. Reed, (1969) 254 Or 418, 459 P2d 869.

A juvenile's statement was admissible in a criminal proceeding even though he and his parents did not know his case was subject to remand when he was properly warned and was aware the interrogating officer was not acting in loco parentis but as police officer. State v. Lewis, (1970) 2 Or App 378, 468 P2d 899.

FURTHER CITATIONS: State v. Nice, (1965) 240 Or 343, 401 P2d 296; Shannon v. Gladden, (1966) 243 Or 334, 413 P2d 418; State v. Gullings, (1966) 244 Or 173, 416 P2d 311; State v. Turner, (1969) 253 Or 235, 453 P2d 910.

ATTY. GEN. OPINIONS: Jurisdiction in juvenile court and meaning of "remand," 1958-60, p 250; jurisdiction to try juvenile traffic offender from another county, 1960-62, p 182.

LAW REVIEW CITATIONS: 45 OLR 1-36; 47 OLR 184; 5 WLJ 157-170.

419.541

CASE CITATIONS: State v. Williams, (1965) 241 Or 207, 405 P2d 371.

ATTY. GEN. OPINIONS: Authority of court to recommend suspension of license for other than a motor vehicle related violation, 1966-68, p 128.

419.543

ATTY. GEN. OPINIONS: Crime reports of juvenile court cases, 1962-64, p 243; Board of Control's authority to transfer inmates between the MacLaren School and the Correctional Institution, 1964-66, p 44.

LAW REVIEW CITATIONS: 47 OLR 194-204.

419.545

CASE CITATIONS: State v. Hoppe, (1964) 237 Or 179, 390 P2d 937.

ATTY. GEN. OPINIONS: Jurisdiction to try juvenile traffic offender from another county, 1960-62, p 182.

419.547

CASE CITATIONS: State v. Hoppe, (1964) 237 Or 179, 390 P2d 937.

419.549

CASE CITATIONS: Phillips v. Barker, (1966) 244 Or 513, 419 P2d 15.

419.555

ATTY. GEN. OPINIONS: Confidentiality of student records at higher education institutions, (1968) Vol 34, p 70.

419.559

NOTES OF DECISIONS

Under former similar statute, it was not error to consolidate with a dependency proceeding the final disposition of the minor's custody arising from the parents' divorce suit. *Watson v. Watson*, (1960) 221 Or 138, 350 P2d 694.

Though this section grants broad permission to combine parties and issues in the proper case, its use should not obscure the rights of the child. *Cutts v. Cutts*, (1961) 229 Or 33, 366 P2d 179.

Although the court consolidates a dependency hearing and a divorce case, an order entered thereafter in the divorce case can only be sustained if the court had jurisdiction in the dependency hearing. *Sneed v. Sneed*, (1962) 230 Or 13, 368 P2d 334.

419.561

NOTES OF DECISIONS

An order of remand, being a final order as far as the juvenile court is concerned, is appealable. *State v. Little*, (1965) 241 Or 557, 407 P2d 627, cert. denied, 385 US 902; *State v. Briggs*, (1966) 245 Or 503, 420 P2d 71.

The right of appeal is statutory and subject to any limitations imposed by the statute conferring the right. *Logsdon v. State*, (1963) 234 Or 66, 380 P2d 111.

The Supreme Court is without jurisdiction to determine the validity of a juvenile court order of remand when the defendant fails to comply with the provisions prescribed for appeal. *State v. Briggs*, (1966) 245 Or 503, 420 P2d 71.

The trial court's finding was correct. *State v. Zorner*, (1970) 4 Or App 84, 475 P2d 990, Sup Ct review denied, cert. denied, 403 US 936.

FURTHER CITATIONS: *Hills v. Pierce*, (1925) 113 Or 386, 388, 231 P 652; *Prindel v. Collins*, (1971) 4 Or App 618, 482 P2d 540.

419.563

LAW REVIEW CITATIONS: 43 OLR 97.

419.567

NOTES OF DECISIONS

It was not the intention of the legislature to include within the prohibition of subsection (3) information secured through investigatory activities of the police. *State v. Gullings*, (1966) 244 Or 173, 416 P2d 311; *State v. Phillips*, (1967) 245 Or 466, 422 P2d 670.

Material in the file must be competent, relevant and admissible to be considered by the court in deciding if the child should be made a ward of the court. *Chandler v. State*, (1962) 230 Or 452, 370 P2d 626.

The court should permit a parent to examine a minor child's file subject to such safeguards as are deemed necessary. *Id.*

The purpose of this provision is to insure a maximum disclosure of facts in juvenile court. *State v. Phillips*, (1967) 245 Or 466, 422 P2d 670.

FURTHER CITATIONS: *State v. Hargon*, (1970) 2 Or App 553, 470 P2d 383.

ATTY. GEN. OPINIONS: Inclusion of support order made pursuant to ORS 419.513, 1958-60, p 320; collecting data for mental health registry, 1962-64, p 148; confidentiality of student records at higher education institutions, (1968) Vol 34, p 70.

LAW REVIEW CITATIONS: 43 OLR 211.

419.569

CASE CITATIONS: *State v. Redeman*, (1971) 92 Or App Adv. Sh. 1197, 485 P2d 655, 486 P2d 1311.

419.571

CASE CITATIONS: *State v. Brammeier*, (1970) 1 Or App 612, 464 P2d 717, Sup Ct review denied.

419.573

CASE CITATIONS: *State v. Gullings*, (1966) 244 Or 173, 416 P2d 311; *State v. Phillips*, (1967) 245 Or 466, 422 P2d 670.

419.575

NOTES OF DECISIONS

The purpose of this section is the prevention of the incarceration of juveniles in the presence or proximity of adult prisoners. *State v. Phillips*, (1967) 245 Or 466, 422 P2d 670.

419.577

NOTES OF DECISIONS

It was the intent of the legislature to give the juvenile court exclusive jurisdiction of every case involving persons under 18 years of age. *Brady v. Gladden*, (1962) 232 Or 165, 374 P2d 452.

ATTY. GEN. OPINIONS: County responsible for return, 1964-66, p 54.

419.579

ATTY. GEN. OPINIONS: County responsible for return, 1964-66, p 54.

419.583

CASE CITATIONS: *Kenney v. Lenon*, (1970) 425 F2d 209.

LAW REVIEW CITATIONS: 47 OLR 194-204.

419.585

NOTES OF DECISIONS

Motion to suppress fingerprints of minor taken with consent of the court should have been granted when minor was held pursuant to an unlawful arrest by warrant issued without probable cause. *State v. Redeman*, (1971) 92 Or App Adv Sh 1197, 485 P2d 655, 486 P2d 1311.

419.602 to 419.618

ATTY. GEN. OPINIONS: Application to counties under 300,000, 1956-58, p 245.

LAW REVIEW CITATIONS: 47 OLR 172, 173, 175, 178; 5 WLJ 121-130.

419.602

ATTY. GEN. OPINIONS: Same person as juvenile counselor and municipal judge, 1962-64, p 65.

LAW REVIEW CITATIONS: 5 WLJ 26.

419.604

ATTY. GEN. OPINIONS: "Director" and "counselor" of juvenile department distinguished, 1956-58, p 245; juvenile

department counselors as county civil servants, 1960-62, p 185; appointing authority for caseworker supervisor, 1964-66, p 205; juvenile court authority to determine personnel salaries, (1970) Vol 34, p 977.

419.608

CASE CITATIONS: State v. Little, (1965) 241 Or 557, 407 P2d 627.

ATTY. GEN. OPINIONS: Consent of parents to physical examination of child in temporary custody of juvenile court, 1956-58, p 168.

LAW REVIEW CITATIONS: 4 WLJ 158; 5 WLJ 74.

419.610

ATTY. GEN. OPINIONS: Consent of parents to physical

examination of child in temporary custody of juvenile court, 1956-58, p 168.

LAW REVIEW CITATIONS: 5 WLJ 74.

419.612

ATTY. GEN. OPINIONS: Juvenile court authority to determine facilities acquired, (1970) Vol 34, p 977.

419.614

ATTY. GEN. OPINIONS: Juvenile court authority to determine facilities acquired, (1970) Vol 34, p 977.

419.616

ATTY. GEN. OPINIONS: Juvenile court authority to determine personnel salaries and facilities acquired, and to require unmarked county cars, (1970) Vol 34, p 977.