

01-021

COURTS NOT OF RECORD: JUVENILE AND DOMESTIC RELATIONS COURTS.

MOTOR VEHICLES: REGULATION OF TRAFFIC – RECKLESS DRIVING AND IMPROPER DRIVING.

Juvenile court has jurisdiction to try case involving adult charged with driving in reckless manner which places person of juvenile in danger.

The Honorable Michael J. Valentine
Judge, Juvenile and Domestic Relations District Court
September 28, 2001

You inquire regarding the jurisdiction of a juvenile and domestic relations district court ("juvenile court") or a general district court to try a case involving an adult charged with driving in a reckless manner which places the person of a juvenile in danger.

You present a hypothetical situation where an adult drives in such a reckless manner that the person of a juvenile is placed in danger. The general district court is of the opinion that the matter involves a juvenile victim and should be heard by the juvenile court. The juvenile court is of the opinion that the matter should be heard by the general district court, since it alleges a course of conduct that is prohibited by the motor vehicle laws of the Commonwealth, Title 46.2 of the *Code of Virginia*, and does not involve a crime specifically against a juvenile.

Virginia's reckless driving laws are contained in Article 7, Chapter 8 of Title 46.2, §§ 46.2-852 through 46.2-869, and violation of these laws is a criminal offense,¹ unlike most other driving violations, which are classified as traffic infractions.² As a general rule, § 46.2-852 provides that the offense of reckless driving occurs when "any person ... drives a vehicle on any highway recklessly or at a speed or in a manner so as to endanger the life, limb, or property of any person." The word "recklessly," as used in § 46.2-852,

imparts a disregard by the driver of a motor vehicle for the consequences of his act and an indifference to the safety of life, limb or property....

The essence of the offense of reckless driving lies not in the act of operating a vehicle, but in the manner and circumstances of its operation.^[3]

"The jurisdiction, practice, and procedure of the juvenile ... courts are entirely statutory,"⁴ and are contained in the Juvenile and Domestic Relations District Court Law, §§ 16.1-226 through 16.1-361. Section 16.1-241(I) declares that the jurisdiction of the juvenile court extends to an adult charged with "any other offense [other than those listed] against the person of a child." A 1974 opinion of the Attorney General construes this particular statutory provision and concludes that it is intended to provide for exclusive original jurisdiction in the juvenile court for any crimes committed by any individual against the person of a juvenile.⁵ The General Assembly has taken no action to alter the conclusion of the 1974 opinion. In *Deal v. Commonwealth*, the Supreme Court of Virginia has stated that "[t]he legislature is presumed to have had knowledge of the Attorney General's interpretation of the statutes, and its failure to make corrective amendments evinces legislative acquiescence in the Attorney General's view."⁶

The Supreme Court has also stated that "'[t]he manifest intention of the legislature, clearly disclosed by its language, must be applied.'"⁷ Section 16.1-241(I) clearly specifies the jurisdiction of the juvenile court when any person is charged with "any ... offense against the person of a child." In the hypothetical situation you present, an adult drives in such a reckless manner that the person of a juvenile is placed in danger.

Accordingly, I must conclude that the juvenile court, and not the general district court, has jurisdiction to try a case involving an adult charged with driving in a reckless manner which places the person of a juvenile in danger.

¹Section 46.2-868 makes "[e]very person convicted of reckless driving ... guilty of a Class 1 misdemeanor." Punishment for conviction of a Class 1 misdemeanor is "confinement in jail for not more than six months and a fine of not more than \$1000, either or both." Va. Code Ann. § 18.2-11(a) (Michie Supp. 2001).

²"Unless otherwise stated, ... violations [of Title 46.2] shall constitute traffic infractions punishable by a fine of not more than \$200." Va. Code Ann. § 46.2-113 (Michie Repl. Vol. 1998). A court may assess "a further monetary penalty not exceeding \$500" for commission of "a serious traffic violation" in a commercial motor vehicle. *Id.*

³*Powers v. Commonwealth*, 211 Va. 386, 388, 177 S.E.2d 628, 630 (1970).

⁴*Walker v. Dept. of Public Welfare*, 223 Va. 557, 562, 290 S.E.2d 887, 890 (1982).

⁵1974-1975 Op. Va. Att'y Gen. 224, 225 (construing predecessor § 16.1-158(7)); see *id.* at 49, 49-50 (concluding that charge of hit and run with personal injury to juvenile properly lies within jurisdiction of juvenile court).

⁶224 Va. 618, 622, 299 S.E.2d 346, 348 (1983).

⁷*Barr v. Town & Country Properties*, 240 Va. 292, 295, 396 S.E.2d 672, 674 (1990) (quoting *Anderson v. Commonwealth*, 182 Va. 560, 566, 29 S.E.2d 838, 841 (1944)).

[Back to September Index](#)