



2010-012

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

TROY KING
ATTORNEY GENERAL

November 6, 2009

500 DEXTER AVENUE
MONTGOMERY, AL 36130
(334) 242-7300
WWW.AGO.STATE.AL.US

Honorable Michael E. O'Dell
District Attorney
9th Judicial Circuit
300 Grand Avenue South, Suite 505
Fort Payne, Alabama 35967

Juvenile Courts – Jurisdiction -Juvenile
Delinquency – Juveniles - DeKalb County

A child may be charged with contributing to the delinquency, dependency, or in need of supervision of another child under section 12-15-111 of the Code of Alabama, and the juvenile court exercises jurisdiction.

Dear Mr. O'Dell:

This opinion of the Attorney General is issued in response to your request.

QUESTION

Whether section 12-15-116, providing for persons 18 years of age or older to be charged in juvenile court, exempts children from being charged with a delinquent act for a violation of section 12-15-111?

FACTS AND ANALYSIS

Your request for an opinion asks whether district attorneys, by petition, may prosecute children in juvenile court for contributing to the delinquency, dependency, or in need of supervision of another child under section 12-15-111 of the new Juvenile Code, effective January 1, 2009.

Act 2008-277, the Alabama Juvenile Justice Act, sometimes referred to as the new Juvenile Code, became effective January 1, 2009, in most of its provisions. Act 2008-277 repealed and replaced the former Juvenile Code. Act 2008-277 also reorganized and divided the Juvenile Code into six articles and

renumbered Code sections. The new Juvenile Code is divided into the following articles: Article 1–General Provisions; Article 2–Delinquency and Children in Need of Supervision; Article 3–Dependency and Termination of Parental Rights; Article 4–Involuntary Commitment of Minors or Children; Article 5–Multiple Needs Child Provisions; and Article 6–Appeals.

In an opinion issued to Honorable James T. Strickland, Mobile County Circuit Judge, dated November 26, 1980, A.G. No. 81-00093, this Office opined that “a minor can be guilty of contributing to the delinquency of another minor under Code of Alabama 1975, Section 12-15-13” of the former Juvenile Code. *Id.* In your correspondence, you mentioned that, historically, law enforcement personnel have been able to prosecute children for contributing to the delinquency, dependency, or in need of supervision of other children. A question has arisen, however, as to whether law enforcement continues to be able to do so under section 12-15-111, the succeeding version of former section 12-15-13.

A comparison of former section 12-15-13 and current section 12-15-111 reveals that these two elements were in section 12-15-13 too. Substantive changes were made in former section 12-15-13(b) as it currently appears in current section 12-15-111(b), which reads as follows:

Whenever, in the course of any proceedings pursuant to this chapter, or when by affidavit as provided in this subsection, it shall appear to the juvenile court that a parent, legal guardian, legal custodian, or other person having custody, control, or supervision of a child *or any other person not standing in any relation to the child* has aided, encouraged, or caused the child to become delinquent, dependent, or in need of supervision, the juvenile court, for the protection of the child from these influences, shall have jurisdiction in the matters, as provided in this section. The juvenile court shall cause the parent, legal guardian, legal custodian, or other person to be brought before the juvenile court upon either summons or a warrant, affidavit of probable cause having first been made.

ALA. CODE § 12-15-111(b) (Supp. 2009) (emphasis added).

In *Strickland*, this Office concluded that the phrase “or any other person not standing in such relation to such child,” in former section 12-15-13, included another minor. The phrase “or any other person not standing in any relation to the child” in new section 12-15-111(b) is virtually identical. As stated in *Strickland*, the phrase “other person” in section 12-15-111(b) should also be construed to include another “child,” as defined in the new Juvenile

Code in section 12-15-102(3). This conclusion is bolstered by the fact that the term "person" under the general definitions in the Code includes any "natural person." ALA. CODE § 1-1-1(1) (1999).

It is noted that section 12-15-116 of the new Juvenile Code lists only offenses committed by persons age 18 years and older that contribute to the delinquency, in need of supervision, or dependency of a child under section 12-15-111 as falling within the original, exclusive jurisdiction of the juvenile court. ALA. CODE § 12-15-116(a)(1) (Supp. 2009). In *Strickland*, this Office opined that former section 12-15-13 authorized prosecution of minors for contributing to the delinquency, dependency, and in need of supervision of other minors. Similarly, the failure of the Alabama Legislature to specifically mention the "any person" language in section 12-15-111 with regard to offenses committed by children (or persons under the age of 18 years) in new section 12-15-116 relating to original, exclusive jurisdiction of the juvenile court does not mean that the juvenile court is without jurisdiction to hear such offenses.

A statute must be read as a whole because statutory language depends on context. *State Farm Mut. Auto Ins. Co. v. Motley*, 909 So. 2d 806, 813-14 (Ala. 2005); *Edwards v. Kia Motors of America, Inc.*, 8 So. 3d 277, 282 (Ala. 2008). Words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning; where plain language is used, the language of the statute is interpreted to mean exactly what it says. *Blue Cross & Blue Shield of Alabama, Inc., v. Nielsen*, 714 So. 2d 293, 296 (Ala. 1998). Sections of the Code adopted together must be considered *in pari materia*. *Ex parte Jackson*, 614 So. 2d 405, 406 (Ala. 1993). Statutes carried into the Code without change are presumed adopted with their previous interpretation. *Doss v. State*, 220 Ala. 30, 123 So. 231, 234 (1929).

In finding an affidavit/complaint in that case insufficient to bring a contributing to delinquency charge against an adult under section 12-15-13, the Alabama Court of Criminal Appeals held, as follows, in *R.S.M. v. State*, 931 So. 2d 69 (Ala. Crim. App. 2005):

As the State correctly points out in its brief to this Court, § 12-15-50 and Rule 12 specify how to initiate proceedings against a *minor* in juvenile court; they do not, however, specify how to initiate proceedings against *an adult* for the misdemeanor offense of contributing to the delinquency of a minor. Thus, those provisions are inapplicable to this case. Rather, § 12-15-13, Ala. Code 1975, which defines the offense of contributing to the delinquency of a minor and, uniquely, places jurisdiction over such offense, even if committed by an adult, in the juvenile court, sets forth

the procedure for initiating proceedings against an adult.

R.S.M., 931 So. 2d at 71 (emphasis added) (discussing the legal sufficiency of affidavits/complaints).

Thus, in *R.S.M.*, the Court held that the juvenile court had jurisdiction over the offense of contributing to the delinquency of a minor committed by an adult. In similar fashion, the juvenile court has jurisdiction over the offense of contributing to the delinquency, dependency, or in need of supervision committed by a child under new section 12-15-111, even though new section 12-15-116 provides jurisdiction of the juvenile court over those offenses committed by persons age 18 years and older. As pointed out in *R.S.M.*, prosecution under section 12-15-111 is commenced by affidavit and complaint as it was under former section 12-15-13:

Although § 12-15-13(b), Ala.Code 1975, provides that a warrant or summons supported by an affidavit of probable cause is the proper way to initiate criminal proceedings for the offense of contributing to the delinquency of a minor, because all criminal proceedings must be commenced by a formal accusation made *under oath*, see Rules 2.1 and 2.3, Ala.R.Crim.P., it is the affidavit/complaint, which is made under oath, not the warrant or summons, neither of which are made under oath, that confers jurisdiction on the juvenile court on a charge of contributing to the delinquency of a minor.

R.S.M., 931 So. 2d at 74 (emphasis in original).

The Alabama Legislature carried forward the language of section 12-15-111 from former Code section 12-15-13, providing that “any other person not standing in relation to the child” may be charged with contributing to the delinquency, dependency, or in need of supervision of a child.” ALA. CODE § 12-15-111(b) (Supp. 2009). The term “person” includes another child. The Legislature could have placed an age limit in section 12-15-111, but did not do so. Section 12-15-111 cannot be interpreted to make a nullity of the longstanding definition of “person” in the language within that section. Therefore, a “person” under the new Juvenile Code includes a child as defined by section 12-15-102(3).

The failure of the Legislature to specifically include persons under the age of 18 years in the language in section 12-15-116 does not affect the ability of a child to be charged criminally under section 12-15-111. The juvenile court

Honorable Michael E. O'Dell
Page 5

must have jurisdiction to give effect to the intent of the Legislature in carrying forward section 12-15-111(b) permitting children to be charged under section 12-15-111(b). Violations of section 12-15-111 are Class A misdemeanors. ALA. CODE § 12-15-111(c) (Supp. 2009). "It is generally accepted in this state that a prosecution for a misdemeanor may be begun by a complaint." *Thomas v. State*, 550 So. 2d 1057, 1065 (Ala. Crim. App. 1989).

CONCLUSION

A child may be charged with contributing to the delinquency, dependency, or in need of supervision of another child under section 12-15-111, and the juvenile court has jurisdiction to hear the offense notwithstanding the provisions of section 12-15-116.

I hope this opinion answers your question. If this Office can be of further assistance, please contact James E. Long, Legal Division, Department of Human Resources.

Sincerely,

TROY KING
Attorney General

By:



BRENDA F. SMITH
Chief, Opinions Division

TK/JEL
875567/136044