

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
P.O. BOX 20207
NASHVILLE, TENNESSEE 37202

December 6, 2013

Opinion No. 13-98

Authority of Juvenile Courts to Issue Orders of Protection

QUESTION

Do juvenile courts have subject-matter jurisdiction pursuant to Tenn. Code Ann. § 37-1-104(f) to enter orders of protection pertaining to children born out of wedlock?

OPINION

To the extent that a petition for an order of protection would be consistent with either of the two types of proceedings for which a juvenile court has jurisdiction under Tenn. Code Ann. § 37-1-104(f) and otherwise meets the statutory criteria for the issuance of an order of protection, the juvenile court would have subject-matter jurisdiction to enter such an order.

ANALYSIS

In general, subject-matter jurisdiction concerns the authority of a particular court to hear and decide a particular type of case. *Estate of Brown*, 402 S.W.3d 193, 198 (Tenn. 2013). A court's subject-matter jurisdiction "relates to the nature of the cause of action and the relief sought." *Landers v. Jones*, 872 S.W.2d 674, 675 (Tenn. 1994).

This question concerns subject-matter jurisdiction to enter an order of protection. An order of protection is an order "to protect the petitioner from domestic abuse, stalking, or sexual assault." Tenn. Code Ann. § 36-3-606(a). Orders of protection may only be entered by courts of record with jurisdiction over domestic-relations matters. Tenn. Code Ann. §§ 36-3-605 and 36-3-601(3).¹ In cases of domestic abuse, ex parte orders of protection are available to any individual who has been "subjected to, or threatened with or placed in fear of domestic abuse," who meets the relationship requirements of Tenn. Code Ann. § 36-6-601(9)(A)-(F) and who files the necessary petition with the court. Tenn. Code Ann. § 35-3-602(a).

Juvenile courts are courts of record, Tenn. Code Ann. § 37-1-207, and may exercise jurisdiction over many domestic-relations matters. As a creature of statute, juvenile court jurisdiction is limited by the statute creating the court. *In re D.Y.H.*, 226 S.W.3d 327, 330 (Tenn. 2007); *State ex rel. Hyatt v. Bomar*, 358 S.W.2d 295, 298 (Tenn. 1962). Under this special and

¹ In many counties, general sessions courts are also authorized to enter orders of protection. *See* Tenn. Code Ann. § 36-3-601(3).

limited jurisdiction, juvenile courts possess only those powers that are expressly granted and those that are necessary by implication from the statute. *Osborn v. Marr*, 127 S.W.3d 737, 739 (Tenn. 2004).

The jurisdiction of Tennessee juvenile courts with respect to the question posed is defined by Tenn. Code Ann. § 37-1-104(f), which provides:

Notwithstanding any provision of law to the contrary, the juvenile court has concurrent jurisdiction with the circuit and chancery court of proceedings to establish the paternity of children born out of lawful wedlock and to determine any custody, visitation, support, education or other issues regarding the care and control of children born out of wedlock.

Under this statute, the jurisdiction of the juvenile court is special and limited to: (1) proceedings “to establish the paternity of children born out of lawful wedlock,” and (2) proceedings “to determine any custody, visitation, support, education or other issues regarding the care and control of children born out of wedlock.” To the extent that a petition for an order of protection would be consistent with either of these two types of proceedings and meets the statutory criteria for the issuance of an order of protection, the juvenile court would have subject-matter jurisdiction to enter such an order.

ROBERT E. COOPER, JR.
Attorney General and Reporter

WILLIAM E. YOUNG
Solicitor General

JORDAN SCOTT
Assistant Attorney General

Requested by:

The Honorable Bill Dunn
State Representative
115 War Memorial Building
Nashville, Tennessee 37243