



The Attorney General of Texas

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Honorable Oscar Mauzy
Chairman
Committee on Jurisprudence
Texas State Senate
P. O. Box 12068, Capitol Station
Austin, Texas 78711

Opinion No. JM-316

Re: Whether a municipal court has jurisdiction to try a Class C non-traffic misdemeanor case involving a defendant under the age of seventeen

Dear Senator Mauzy:

You have asked whether a municipal court has jurisdiction to try a Class C misdemeanor offense, excluding traffic offenses, involving a fifteen or sixteen-year-old defendant who has fewer than three prior Class C misdemeanors, including the one to be tried. Section 51.08 of the Family Code reads as follows:

If the defendant in a criminal proceeding is a child who is charged with an offense other than perjury or a traffic offense, unless he has been transferred to criminal court under Section 54.02 of this code, the court exercising criminal jurisdiction shall transfer the case to the juvenile court, together with a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case, and shall order that the child be taken to the place of detention designated by the juvenile court, or shall release him to the custody of his parent, guardian, or custodian, to be brought before the juvenile court at a time designated by that court.

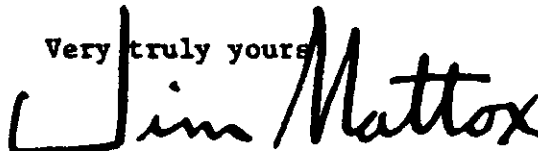
See also Penal Code 18.07.

A municipal court does not have jurisdiction over these offenses because if prosecution is instituted in a municipal court, section 51.08 of the Family Code requires that the case be transferred to juvenile court. Unless jurisdiction is waived, the juvenile court then has exclusive jurisdiction of delinquent conduct and conduct indicating a need for supervision of a juvenile and the proceedings under title 3 of the Family Code, which are not criminal prosecutions.

S U M M A R Y

A municipal court does not have jurisdiction over a Class C misdemeanor offense involving a juvenile who has fewer than three prior Class C misdemeanor convictions.

Very truly yours



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