

OUTLINE

- I. Defendant Must Be A Child
 - A. Texas Family Code Section 51.02 (2) Defines A Child As A Person Who Is Ten Years Of Age Or Older and Under 17 years of age At Time Of Offense
- II. Types of Offenses to be Transferred to Juvenile Court
 - A. Other than
 - (i) Perjury;
 - (ii) A Traffic Offense;
 - (iii) A Misdemeanor punishable by fine only or a violation of a penal ordinance of a political subdivision
- III. Mandatory Transfer Of *Convicted* Offenses By A Child To Juvenile Court
 - A. Two Or More Misdemeanors Punishable By Fine Only Other Than A Traffic Offense
 - B. Two Or More Violations Of A Penal Ordinance Of A Political Subdivision Other Than A Traffic Offense; or
 - C. One or More Of Each Of The Types Of Misdemeanors in Above Paragraph A or B
- III. Discretionary Transfer Of Offenses By A Child To Juvenile Court
 - A. Has Not Previously Been Convicted Of A Misdemeanor Punishable By Fine Only Other Than A Traffic Offense Or A Violation Of A Penal Ordinance Of A Political Subdivision Other Than A Traffic Offense; Or
 - B. Has Previously Been Convicted Of Fewer Than Two Misdemeanors Punishable By Fine Only Other Than A Traffic Offense or Two Violations Of A Penal Ordinance Of A Political Subdivision Other Than A Traffic Offense.
- IV. Courts With Juvenile Case Managers Under Art. 45.056, Code of Criminal Procedure Are Not Subject To Mandatory Transfer Requirements For Convicted Offenses

Sec. 51.08 Transfer from Criminal Court.

- (a) If the defendant in a criminal proceeding is a child who is charge with an offense other than perjury, a traffic offense, a misdemeanor punishable by fine only or a violation of a penal ordinance of political subdivision, unless the child has been transferred to criminal court under Section 54.02, 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 the child to the custody of the child's parent, guardian, or custodian, to be brought before the juvenile court at a time designated by that court.
- (b) A court in which there is pending a complaint against a child alleging a violation of misdemeanor offense punishable by fine only other than a traffic offense or a violation of a penal ordinance of a political subdivision other than a traffic offense:
 - (1) except as provided by subsection (d), shall waive its original jurisdiction and refer the child to juvenile court if the child has previously been convicted of:
 - (A) two or more misdemeanors punishable by fine only other than a traffic offense;
 - (B) two or more violations of a penal ordinance of a political subdivision other than a traffic offense; or
 - (C) one or more of each of the types of misdemeanors described in Paragraph (A) or (B); and
 - (2) may waive its original jurisdiction and refer the child to juvenile court if the child:
 - (A) has not previously been convicted of a misdemeanor punishable by fine only other than a traffic offense or a violation of a penal ordinance of a political subdivision other than a traffic offense; or
 - (B) has previously been convicted of fewer than two misdemeanors punishable by fine only other than a traffic offense or two violations of a penal ordinance of a political subdivision other than a traffic offense.
- (c) A court in which there is pending a complaint against a child alleging a violation of a misdemeanor offense punishable by fine only other than a traffic offense or a violation of penal ordinance of a political subdivision other than a traffic offense shall notify the juvenile court of the county in which the court is located of the pending complaint and shall furnish to the juvenile court a copy of the final disposition of any matter for which the court does not waive its original jurisdiction under Subsection (b).
- (d) A court that has implemented a juvenile case manage program under Article 45.056, Code of Criminal Procedure, may, but is not required to, waive its original jurisdiction under Subsection (b)(1)

- (e) A juvenile court may not refuse to accept the transfer of a case brought under Section 25.094, Education Code, for a child described by Subsection (b)(1) if a prosecuting attorney for the court determines under Section 53.012 that the case is legally sufficient under Section 53.01 for adjudication in juvenile court.

Texas Penal Code, Section 37.02 Perjury is jailable misdemeanor.

Texas Penal Code, Section 37.03 Aggravated perjury is 3rd degree felony

WAIVER OF JURISDICTION AND TRANSFER TO JUVENILE COURT

CASE NUMBER _____

STATE OF TEXAS	§	IN THE MUNICIPAL COURT
	§	
VS.	§	CITY OF HOUSTON
	§	
_____	§	HARRIS COUNTY, TEXAS

Defendant's Birthdate: _____

TO: Juvenile Court

Pursuant to the authority of Section 51.08, Family Code, the Municipal Court referenced above *waives* its jurisdiction in the case set out and transfer the case to the Juvenile Court named. The case was not transferred to the Municipal Court by the Juvenile Court, nor is it a case alleging a traffic offense. The case does allege an offense classified as misdemeanor punishable by fine-only or violation of city ordinance other than traffic.

The records of This Municipal Court show of this Defendant that:

- | | | |
|--------------------------|----------------------|----------------------------|
| <input type="checkbox"/> | No prior case filed | Docket Number: _____ |
| <input type="checkbox"/> | No prior conviction | Offense: _____ |
| <input type="checkbox"/> | Previous convictions | Punishment Assessed: _____ |
| | | Final Disposition: _____ |

The following marked documents are enclosed to effect this waiver of Municipal Court jurisdiction and transfer of the case to the Juvenile Court.

- Citation
- Complaint
- Magistrate's Warning Certificate
- Juvenile Confession/Voluntary Statement Warnings
- Waiver of Rights by a Juvenile
- Magistrate's Certification and Acknowledgment of Voluntary Statement of Juvenile
- Other: _____

SIGNED on _____, 20_____.

DAVID O. FRAGA
Judge, Municipal Court
City of Houston
Harris County, Texas