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### Transfer of Juvenile Cases

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### Learning Objectives

By the end of the session, participants will be able to:

1. Identify statutory authority for transferring juvenile cases from municipal and justice court to juvenile court;
2. Describe instances where a court may transfer or must transfer a case to juvenile court; and
3. List possible criteria for discretionary transfers from municipal and justice court to juvenile court.

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### Where to Begin?



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A Very Brief Introduction  
to the Texas Juvenile Justice System

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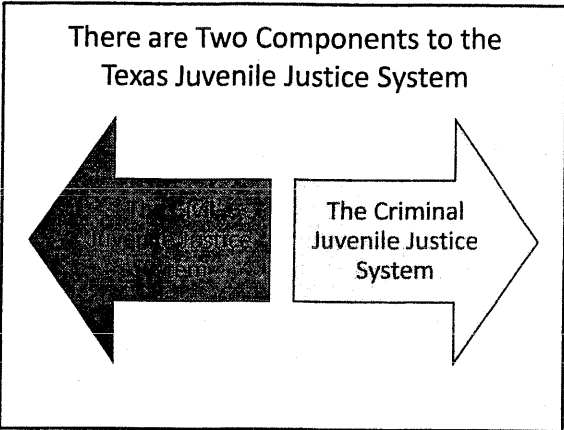
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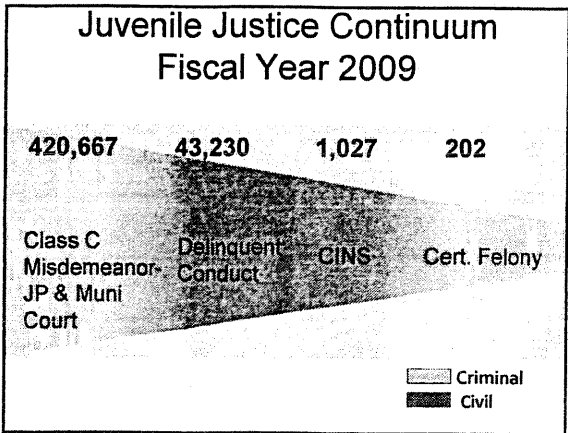
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This Raises a Burning Question

Must a  
Municipal  
Court Hear  
Every Class C  
Misdemeanor  
Involving a  
Child?



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### The Answer

Lies in Section 51.08 of the  
Family Code – Transfer  
from Criminal Court  
(Contained in your course  
materials)

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I. To Transfer, the Defendant Must  
Be A "Child"

- Section 51.08(a), Family Code
- Section 51.02 (2) Defines A  
"Child"  
–Means A Person Who Is 10 Years  
Of Age Or Older and Under 17  
years of age at Time of Offense

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**II. Types of Offenses Subject to Transfer to Juvenile Court**

- **General Rule – 51.08(a):** Most Criminal Offenses filed against a child are to be transferred to Juvenile Court
- **Exceptions:**
  - Perjury;
  - A Traffic Offense;
  - City Ordinance/County Regulation Violations

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**Related Issue: What About Minor in Possession of Tobacco (161.252 HSC)?**

- **Section 161.257 of the Health and Safety Code:**  
 “Title 3 of the Family Code, does not apply to a proceeding under this subchapter.”

**Does this Prohibit Transferring to Juvenile Court?**

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**More Questions? See 51.08(a)**

- **When a case is transferred what documents must the transferring court send to the juvenile court?**
- **What about the child? Must the child be taken into custody pending action by the juvenile court?**

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**II. Mandatory Transfer to Juvenile Court of a Child Previously *Convicted***

- Two or More Misdemeanors
  - Punishable By Fine Only
    - Other Than a Traffic Offense
- Two or More Violations of a Penal Ordinance
  - Other Than a Traffic Offense
- One or More of Each of The Types of Misdemeanors in Above
  - Huh? A tad redundant, but Ok.
- Remember:
  - Do NOT COUNT DSC, Deferred, or Teen Court
  - They are not "Convictions."

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**Exception to Mandatory Transfer**

- A Court Has Juvenile Case Manager Under Art. 45.056, Code of Criminal Procedure Are Not Required To Mandatory Transfer of Convicted Offenses

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**III. Transfer Of Offenses By A Child To Juvenile Court**

- No Previous Fine-Only Convictions
  - Other Than
    - A Traffic Offense
    - Or a Violation of a Penal Ordinance of a Political Subdivision
- One Fine-Only Conviction
  - Other Than
    - A Traffic Offense
    - Or a Violation of a Penal Ordinance of a Political Subdivision

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**HOW COULD "TRANSFER"  
TRIGGER ETHICAL ISSUES FOR  
JUDGES?**

Canon 3(B)(9) – A judge should dispose of all judicial matters promptly, efficiently, and fairly.

Canon 3(B)(1) – A judge shall not be swayed by partisan interests, public clamor, or fear of criticism

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**Under What Kind of  
Circumstances Should a  
Municipal Court Make a  
Discretionary Transfer?**

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**What sources of information  
may a judge ethically  
consider in deciding whether  
to transfer a juvenile case?  
Are any sources ethically  
questionable?**

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In terms of the defendant's rights,  
when, if ever, may it be  
procedurally too late for a judge to  
decide to make a discretionary  
transfer of a juvenile case?

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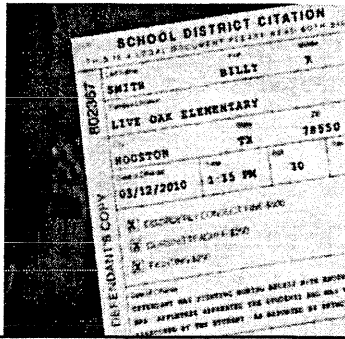
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Thanks for Your Attention



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