

Status Offenses:
Children, Minors, and/or Juveniles
Or

A "Kid" is a Baby Goat...

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With a debt of unqualified gratitude to

**Mark Goodner, Esquire
TMCEC Program Attorney**

For his generous and professional spirit

What is a Status Offense?

- A status offense is an action that is prohibited only to a certain **class** of people.
- For our purposes, it means an action that is prohibited for **minors** or **children** because of their age.

What is a Status Offense?

- § 51.02 of the **Family Code** defines a status offender as “a child who is accused, adjudicated, or convicted for conduct that would not, under state law, be a crime if committed by **an adult...**”
- **INCLUDING...**

- a. **Truancy** under §51.03(b)(2), Family Code;
- b. Running away from home under §51.03(b)(3), Family Code;
- c. A **fineable** only offense under §51.03(b)(1) transferred to **juvenile** court under §51.08(b), but only if the conduct constituting the offense would not have been criminal if engaged in by an adult;
- d. Failure to **attend school** under §25.094, Education Code;
- e. A violation of standards of **student** conduct as described by §51.03(b)(5), Family Code;

- f. A violation of a **juvenile** curfew ordinance or order;
- g. A violation of the sections of the Alcoholic Beverage Code applicable to **minors** only;
- h. A violation of the Health and Safety Code governing minors and **tobacco**;
- i. A violation of any other fineable only offense under §8.07(a)(4) OR (5), Penal Code (*Age Affecting Criminal Responsibility*), but only if the conduct constituting the offense would not have been criminal if engaged in by an **adult**.

Sources of Juvenile-Related Criminal Violations

- **Local Ordinances**
- **Alcoholic Beverage Code**
- **Health and Safety Code**
- **Penal Code**
- **Transportation Code**

Children and Minors in the Statutes

- Codes use the terms **"child"** and **"minor"** to specify certain age groups
- The terms are **NOT** synonymous
- We must look to various codes to gain an understanding of the terms and definitions

Children & Minors in the Code: Family Code

- **§51.02 (2) of the Family Code provides the definition of “child”**
- **A child is a person who is 10 years of age or older and under 17 years of age**

Children & Minors in the Code: Code of Criminal Procedure

- **Art. 45.058 deals with processing **children****
- **45.08(h) defines “child” as a person who is:**
 - **At least 10 years of age and younger than 17 years of age; AND**
 - ****Charged** with or **convicted** of an offense that a justice or municipal court has jurisdiction of under Art. 4.11 (Justice Court) or 4.14 (Municipal Court)**

Children & Minors in the Code: Education Code

- **§25.085 deals with Compulsory **School Attendance****
- **Requires school attendance for a child who is:**
 - **At least **6** years of age;**
 - **OR who is younger than 6 years of age; has been previously enrolled in first grade; and has not yet reached their 18th birthday**
 - **BEWARE of §25.086 **exemptions****

Children & Minors in the Code: Transportation Code

- **§729.001** defines a person under the age of **17** as a minor

Children & Minors in the Code: Alcoholic Beverage Code

- **§106.01** of the ABC defines a person who is under the age of **21** as being a minor

Children & Minors in the Code: Health and Safety Code

- **§161.252 of the HSC defines a person under the age of 18 as being a minor**

Municipal Court Juvenile Jurisdiction

- **Generally, Municipal Courts have jurisdiction over “fine-only” misdemeanors regardless of whether the offender is a juvenile or an adult**
- **There are a few exceptions**

Municipal Court Juvenile Jurisdiction: Exceptions

- **Municipal and Justice Courts do NOT have jurisdiction over **public intoxication** committed by a person under the age of 17.**
 - **Is this always Conduct Indicating a Need for Supervision?**

Alcoholic Beverage Code Offenses

- **Purchase** of alcohol by a minor
- **Attempt** to purchase alcohol by a minor
- **Consumption** of alcohol by a minor
- **Driving under the influence of alcohol by a minor**
- **Possession of alcohol by a minor**
- **Misrepresentation of **age** by a minor**
- *All are found in Chapter 106 of the Alcoholic Beverage Code*

Health and Safety Code: Tobacco Offenses

- It is an offense for a minor to possess, purchase, consume, or accept a **cigarette** or **tobacco** product
- It is an offense for a minor to falsely **represent** himself or herself as being **18** years of age or older to obtain possession of, purchase, or receive a cigarette or tobacco product

Education Code Offenses

- §25.094: Failure to **Attend School** (applies to those who are required to attend)
- §37.102: Rules (Enacted by School Board)
- Other JUVENILE offenses that are NOT STATUS offenses:
 - **Trespass** on school grounds
 - Possession of intoxicants
 - **Disruption** of classes
 - Disruption of transportation

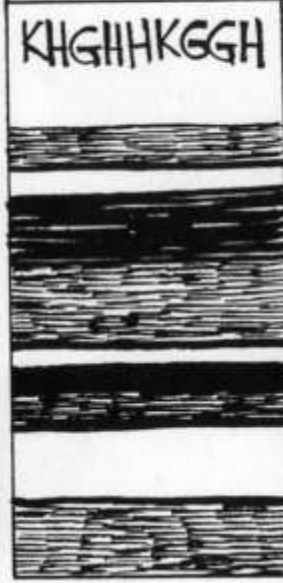
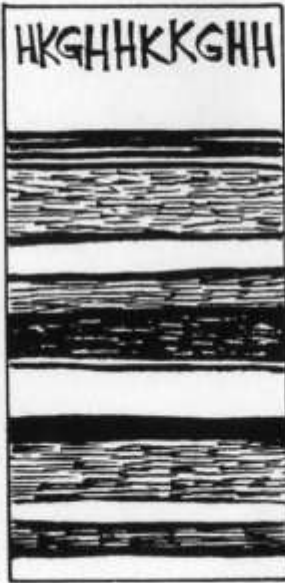
Why are these not status offenses?

Transportation Code Offenses

- **§545.424: persons under 18 during the 6-month period following issuance of the license may NOT operate a motor vehicle:**
 - After **midnight** and before **5:00** a.m. (except for work, school, or medical emergency)
 - With more than one passenger under 21 and not a **family member**
 - While using a **wireless** communications device

Local Ordinance Violations

- **Curfew**
- **Purchase of paint/inhalants**
- **Other examples?**



Laws and Sausages...

Mike and Carol Brady have 7 young 'uns, ages 5, 7, 9, 16, 17, 18, and 20... BUT how many "children" do they have? "Minors"?
No, this isn't a trick question!

Do you recall what the assorted Codes say on the matter?

a. Family Code:

b. CCP:

c. E.C.:

d. T.C.:

e. ABC:

f. HSC:

Dealing with Status Offenses

- **Waiver of Jurisdiction**
 - Transferring to **Juvenile Court**
- **Appearance**
- **Penalties**
- **Custody**
- **Contempt**
- **Expunction**

Art. 45.050 CCP

➤ Contempt

- Court must provide notice and opportunity to be heard before it may:

1. Refer child to Juvenile Court for **delinquent** conduct

OR

**2. Retain Jurisdiction and hold the child/person
in **contempt****

- i. Fine not to exceed \$500.00
and/or**
- ii. DL Suspend/denied until full
compliance**

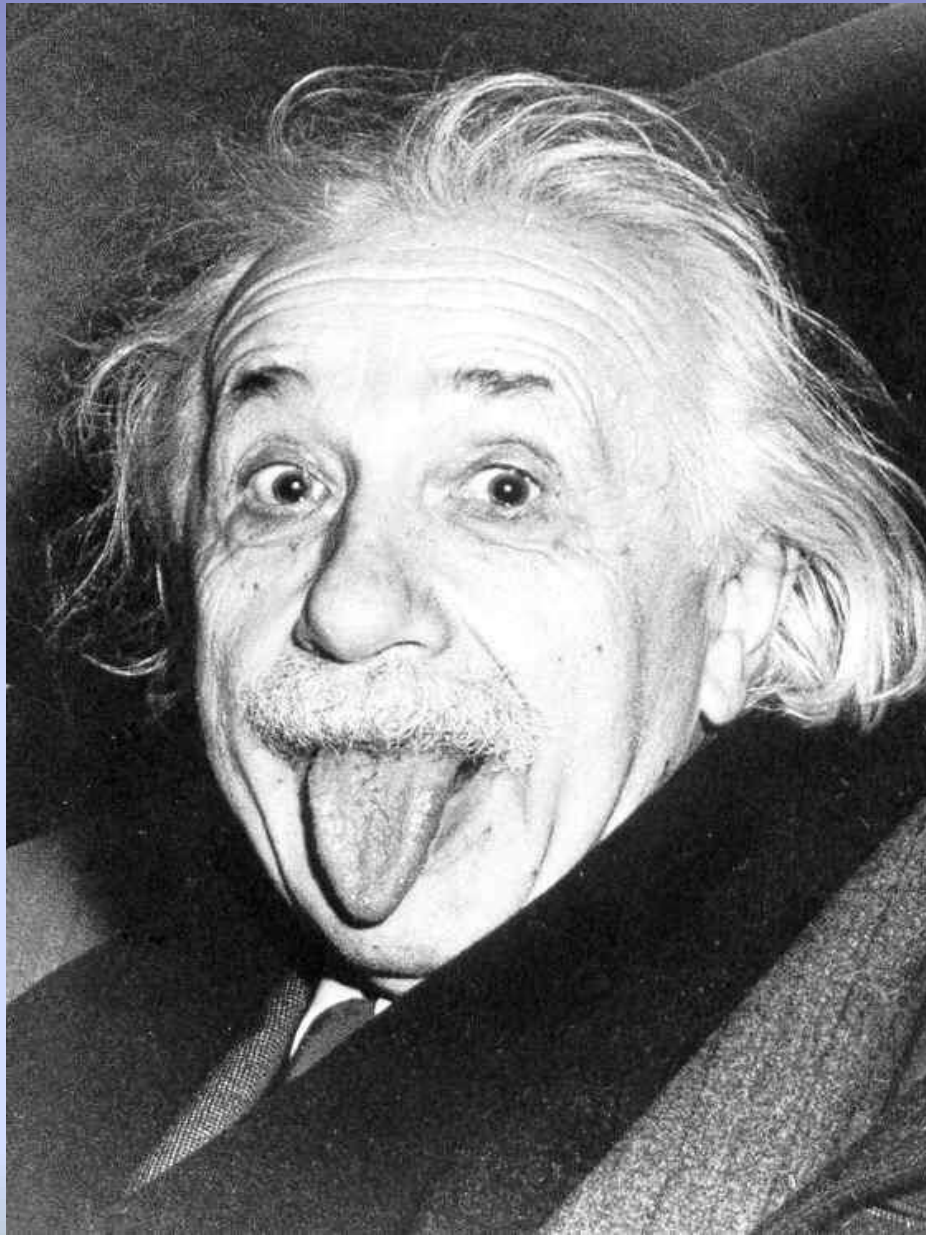
EXPUNCTION

- **ABC 106.12**
Filed in trial court
- **HSC 161.255**
Filed in trial court
- **CCP 45.055**
25.094 EC offenses
Filed in trial court
- **CCP 45.0216**
Filed in trial court
EXCLUDES ABC, HSC, and EC offenses
- **Family Code 58.003**
Motion to Seal
Filed in **Juvenile** Court

AND, FINALLY:

YOU WERE ALREADY
PRETTIER THAN THE SMART
ONES...

AND NOW YOU'RE



SMARTER
THAN THE
PRETTY
ONES!

Family Code

a. 1

b. 2

c. 4

d. 7

Code of Criminal Procedure

a. 1

b. 3

c. 4

d. 6

Education Code

a. 2

b. 3

c. 4

d. 5

Transportation Code

a. 4

b. 5

c. 6

d. 7

Alcoholic Beverage Code

a. 0

b. 5

c. 6

d. 7

Health & Safety Code

a. 0

b. 5

c. 6

d. 7

WAP WAP WAP



CALVIN! WHAT ARE YOU DOING TO THE COFFEE TABLE?!



IS THIS SOME SORT OF TRICK QUESTION, OR WHAT?



