



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

February 12, 1960

Mr. William E. Carroll
District Attorney
P. O. Box 5938
Jasper, Texas

Opinion No. WW-798

Re: Whether the County Court of Sabine County has the jurisdiction to sit as the Juvenile Court of Sabine County in view of the provisions of Senate Bill 19, Acts of the 56th Legislature, Second Called Session, 1959, Chapter 6, page 90, Article 1970-310, V.C.S.

Dear Mr. Carroll:

You have asked this office for an opinion on the following question:

" . . . whether or not the County Court of Sabine County, Texas still has jurisdiction to sit as the Juvenile Court of Sabine County, Texas in view of the 56th Legislature's having transferred all civil jurisdiction of the County Court of Sabine County, with the exception of probate jurisdiction, to the District Court of Sabine County. . . ."

Senate Bill 19, Acts of the 56th Legislature, Second Called Session, 1959, Chapter 6, page 90 (codified as Article 1970-310, Vernon's Civil Statutes), provides in part as follows:

"Section 1. The county courts of the Counties of Sabine and San Augustine shall retain and continue to have and exercise the general criminal jurisdiction, both original and appellate, and the general jurisdiction of probate courts, and all jurisdiction other than in civil matters, including eminent domain jurisdiction of which is here conferred on the district court for said

counties, now or hereinafter conferred upon such county courts by the Constitution and laws of the state, and shall retain all jurisdiction and power to issue writs necessary to the enforcement of their jurisdiction, and to punish contempt; but said county courts shall have no civil jurisdiction, except as to final judgments referred to in Section 2 hereof.

"Sec. 2. The district court of the First Judicial District having jurisdiction in said Counties of Sabine and San Augustine shall have and exercise jurisdiction in matters of eminent domain and in all other matters and cases of a civil nature whether the same be of original jurisdiction or of appellate jurisdiction, over which, by the General Laws of the State of Texas now existing and hereinafter enacted, the county courts of said counties would have had jurisdiction, and all pending civil cases shall be and the same are hereby transferred to the First Judicial District Court, and all writs and processes heretofore issued by or out of said county courts in said civil cases shall be and the same are hereby made returnable to the next term of the district court, in and for said counties. . . ."

We thus have the question of whether a Juvenile Court is a court of criminal or civil jurisdiction.

Section 13 of Article 2338-1, Vernon's Civil Statutes, reads in part as follows:

". . .

"No adjudication upon the status of any child in the jurisdiction of the court shall operate to impose any of the civil disabilities ordinarily imposed by conviction, nor shall any child be deemed a criminal by reason of such adjudication, nor shall such adjudication be deemed a conviction, nor shall any child be charged

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with or convicted of a crime in any court. The disposition of a child or any evidence given in the court shall not be admissible as evidence against the child in any case or proceeding in any other court other than another Juvenile Court, nor shall such disposition or evidence operate to disqualify a child in any future civil service examination, appointment or application."

It is noted that the purpose clause found in Chapter 204 of the 48th Legislature at page 313, states the intention of the Legislature at the time the provisions of Article 2338-1, Vernon's Civil Statutes, were enacted, when they stated:

"An Act the purpose of which is to change the method for handling delinquent children from the present criminal procedure to guardianship in order to secure for each child coming within the Act such care, guidance and control as will serve the child's welfare and the best interest of the state; . . ." (Emphasis added).

The Court in Lazaros v. State, 228 S.W.2d 972 (Tex.Civ.App. 1950) held that proceedings declaring a child to be delinquent is a civil and not a criminal proceeding, and cited the Supreme Court case of Dendy v. Wilson, 142 Tex. 460, 179 S.W.2d 269 (1944).

Section 4 of Article 2338-1, Vernon's Civil Statutes, provides in part as follows:

"There is hereby established as follows in each county of the State a court of record to be known as the juvenile court, having such jurisdictions as may be necessary to carry out the provisions of this Act.

"In all counties having only one (1) district court and having a juvenile board, such board shall designate the county court or the district court to be the juvenile

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court for such county, and in all other counties having only (1) district court, but no juvenile board, the county judge and the district judge of such county shall designate the county or district court of such county as the juvenile court. . . ."

It is our opinion that since all civil jurisdiction has been transferred from the County Court to your District Court, with some exceptions, and since juvenile cases are civil proceedings, it is our opinion that juvenile jurisdiction was transferred to the District Court and that the Judge of the District Court is now Juvenile Judge in the several counties of your district.

Our opinion is consistent with Attorney General's Opinion WW-785 (1960), a copy of which is enclosed.

SUMMARY

The County Judge of Sabine County no longer has jurisdiction to sit as the Juvenile Judge of Sabine County in view of the provisions of Senate Bill 19, Acts of the 56th Legislature, Second Called Session, 1959, Chapter 6, page 90 (codified as Article 1970-310, Vernon's Civil Statutes).

Yours very truly,

WILL WILSON
Attorney General of Texas

By *Leon F. Pesek*

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LFP:mfh

APPROVED:
OPINION COMMITTEE
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