



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

September 11, 1989

Honorable David M. McCoy
District Attorney
100th Judicial District
P. O. Box 730
Childress, Texas 79201

LO-89-73

Dear Mr. McCoy:

You ask whether the Texas nepotism statute, article 5996a, V.T.C.S, prohibits the City of Childress from hiring an individual as a police officer if the individual's father-in-law is a member of the city council.

The nepotism statute provides that no member of any municipal board "shall appoint, or vote for, or confirm the appointment to any office, position, clerkship, employment or duty, of any person related within the second degree by affinity or within the third degree by consanguinity to the person so appointing or so voting" if the person appointed is to be paid from public funds. A man is related to his son-in-law in the first degree of affinity. Attorney General Opinion 0-2383 (1940). Therefore, the issue is whether the Childress City Council exercises control over the hiring of police officers. See Attorney General Letter Advisory No. 116 (1975) (sheriff may hire son-in-law of county commissioner as jailer since commissioner's court could not exercise control over hiring of jailer); Attorney General Opinion 0-5274 (1943) (city manager could hire relatives of city commission members since city charter prohibited commissioners from appointing city employees).

You inform us that the chief of police in Childress is elected rather than appointed. It does not necessarily follow from the fact that police chief is elected that the city council has no control over the appointment of police department personnel. Your letter implies, but does not specifically state, that the chief of police has sole control over the selection of police department personnel. If that is in fact the case, there would be no violation of

Honorable David M. McCoy
September 11, 1989
Page 2

the nepotism statute for the police chief to hire the son-in-law of a city council member.

Very truly yours,

Sarah Woelk

Sarah Woelk, Chief
Letter Opinion Section
of the Opinion Committee

SW/lcd

Ref.: RQ-1733
ID# 6671