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It is not possible to include information sufficient to meet all facts and circumstances and you are urged to consult with an attorney. We have made every effort to set out information accurately, but we do not warrant the reliability or appropriateness of the information for a particular purpose, and we do not assume liability for any consequences resulting from your reliance on the information presented.

JUVENILE OFFENDERS

FREQUENTLY ASKED QUESTIONS...

WHERE CAN I LOOK UP THE LAWS OF TEXAS?

The Texas Statutes are available on-line at <http://tlo2.tlc.state.tx.us/statutes/statutes.html>. Traffic laws are in the Texas Transportation Code; Alcohol offenses are in the Texas Alcoholic Beverage Code; School-related offenses are contained in the Texas Education Code; other criminal offenses are in the Texas Penal Code; certain statutes governing offenses by persons under age 17 are contained in Chapter 45 of the Texas Code of Criminal Procedure.

DEFINITIONS OF CHILD, JUVENILE AND MINOR

- ★ **CHILD:** According to the Texas Family Code, Section 51.02(2), a person between the ages of 10 and 17.
- ★ **JUVENILE:** In Class C misdemeanors a juvenile is a person under age 17 at the time the alleged offense occurred.
- ★ **MINOR:** In tobacco-related offenses, a person younger than age 18. In alcohol-related offenses, a person under age 21. In traffic-related offenses.

CAN'T WE JUST PAY THE FINE AND GET IT OVER WITH?

No. Acceptance of a fine by the court constitutes a plea of "guilty" by the defendant and would result in a conviction. Texas law requires juvenile offenders under age 17 to appear in person and with a parent or guardian before the judge and must be present in court to be convicted.

HE'S OLD ENOUGH TO DRIVE-CAN'T HE COME TO COURT HIMSELF SO I DON'T HAVE TO TAKE OFF WORK?

Texas law requires that a Court use diligent effort to locate and compel the presence of a parent to produce the child and be present during the proceedings. CCP 45.0215. Parents also have an obligation by statute to inform the court if the child's address changes. Failure of a parent, guardian, or managing conservator to come to court when summoned, to produce the child in court as required, or to inform the court of the child's change of address are all Class C misdemeanor charges with fines up to \$500 that can be brought against the parent.

HOW SHOULD MY CHILD PLEAD?

A plea of "guilty" or "nolo contendere"(no contest) will result in the judge inquiring into the circumstances of the offense before rendering a suitable penalty, usually the same day you and your child appear to plead. A plea of "not guilty" will result in the case being set for a pretrial conference and trial at a later date.

IF MY CHILD HAS TO PAY A FINE HOW MUCH COULD IT BE?

The amount of the fine varies according to the offense charged and the circumstances specific to your child's case. Ordinarily, the maximum fine for a traffic offense is \$200, and the maximum fine for other Class C misdemeanors is \$500, unless there is a special fine range specified in the legislation creating the offense. Failure to Attend School offenses carry fines of up to \$500 *per occurrence* (per day or part of a day). The court also has the option of permitting fines to be paid *in* installments or allowing the defendant to discharge a fine through community service work.

WILL MY CHILD HAVE A CRIMINAL RECORD?

Traffic and alcohol cases are reported to the Department of Public Safety in Austin, identified with your child's driver's license number or social security number and birth date. Courts are also required to report juveniles who fail to appear for court or who fail to pay their fines, resulting in an administration suspension of the juvenile's driver's license.

An ongoing juvenile record of Class C referrals is kept by the Juvenile Probation Department, but it is not used against a young offender to establish guilt or innocence. It is considered when recommending appropriate penalties after conviction. It is not used in criminal proceedings against that person when he or she becomes an adult.

A word of caution: While not all juvenile records are open to the public, most Class C misdemeanors are public record. For example, if your son or daughter enters the military or seeks a security clearance, the possibility exists of an independent investigation revealing one or more Class C misdemeanor convictions on the public record. Whether or not that would be a problem depends on the outlook of the prospective employer, the type of offense (*e.g., possession of drug paraphernalia vs. speeding*), the level of security clearance sought, whether or not the application was truthful, etc. It is possible to have certain types of juvenile criminal records sealed or expunged under special circumstances. (Code of Criminal Procedure 45.0216). See also "Expunction" below.

WHAT DOES "EXPUNCTION" MEAN?

Expunction is a procedure available to a juvenile convicted of a crime, where the offense is removed from the juvenile's record at the point the law no longer applies (for example, a child convicted of a single alcohol-related offense, could apply to the court to have the conviction removed when the child turns 21). This process is available for a *single conviction* for *each* of the following: Tobacco-, alcohol-, school attendance-, penal code-related offenses (such as theft).

The child who is now an adult for purposes of the statute (see definition of "Child, Minor and Juvenile" above) must make a written request under oath to have the records expunged and the request must contain the person's statement that the person was not convicted while the person was a child of any offense described by Section 8.07(a)(4) or (5), Penal Code, other than the offense the person seeks to have expunged. There is a \$30 fee. If the court grants the request, the court will order all agencies having a record of the offense to expunge-purge the record or obliterate the name-their records.

If, after notice of an order of expunction, a person or agency reveals the conviction to a third-party, the defendant may file a motion to hold the third-party in contempt of the court's order, which could result in a money sanction, or confinement in jail.

CAN MY CHILD HAVE A COURT APPOINTED ATTORNEY TO REPRESENT HIM/HER?

No. Courts do not appoint counsel for any Class C offender, regardless of age, since there is no jail penalty associated with the offense. You are free to hire your lawyer if you choose to do so, but there is no requirement that our child have legal counsel.

CAN I SPEAK FOR MY CHILD AT TRIAL AND CROSS-EXAMINE WITNESSES?

No. While a parent has many rights, and may certainly give a child parental advice, a person who is not licensed to practice law cannot represent someone in court-even their own child. This is called the unauthorized practice of law. You may give good advice, but it is not legal advice.

WHAT IS INVOLVED IN COMMUNITY SERVICE WORK?

Community service is credited against the fine at the rate of \$6.25 per hour (\$50 for an 8-hour day). An appropriate number of community service hours are assigned to be served at a governmental or non-profit agency. The supervising agency should keep track of the hours. Once the hours are completed it is the parent's and child's responsibility to return the proper documentation to the Court.

WILL MY CHILD GO TO THE DETENTION CENTER?

The Justice Court does not have the ability to refer to a juvenile to a Juvenile Detention Center. The Justice Court has jurisdiction of Class C misdemeanors only, which are crimes for which the possible penalty is fine only, or a fine and rehabilitative sanction or educational program. Confinement in jail is not part of the penalty for a Class C misdemeanor (although a person aged 17 or older can be jailed for failing to pay a Class C fine to a justice or municipal court).

IS THIS JUVENILE COURT?

No. The Juvenile Court is a special designation given to a County or District Court, where the Texas Family Code applies to juvenile offenses.

Information you should know: If a juvenile has two or more Class C misdemeanors convictions, other than a traffic offense or public intoxication, the Justice Court SHALL waive original jurisdiction and refer the child to the Juvenile Court. Texas Family Code 51.08.

WHERE CAN I FIND AN ALCOHOL OR TOBACCO CLASS?

Court-ordered alcohol and tobacco classes must be certified by the State of Texas.

To find an alcohol awareness course near you go on-line at: http://www.dshs.state.tx.us/offendered/oe_rosters.shtm.

To find a tobacco awareness course near you go on-line at: <http://www.dshs.state.tx.us/tobacco/tytap.shtm>.

THEY TOLD ME MY DRIVER'S LICENSE MIGHT BE SUSPENDED!

Juveniles under at 18 hold "provisional" driving licenses. The license can be suspended or revoked for the following reasons:

- ★ Conviction of 2 or more traffic violations
- ★ Failure to appear in court in response to a summons to appear.
- ★ Failure to pay a fine.
- ★ Failure to complete required community service.
- ★ Failure to complete a required substance-abuse education course.
- ★ Failure to obey any order of a justice or municipal court.
- ★ Any alcohol-related offense.
- ★ Failure to attend school.

Also, parents can cancel a minor's driver's license at any time if they do so in writing at a Department of Public Safety licensing office.