

Opinion No. 57-218

September 9, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Fred M. Calkins, Jr.,
Assistant Attorney General

TO: Mr. Glenn B. Neumeyer, Assistant District Attorney, Office of the District Attorney,
Second Floor Court House, Las Cruces, New Mexico

QUESTION

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1. Must a petition be filed for every juvenile traffic violator, or can they be cited into juvenile court by a traffic citation which contains the juvenile's name, the offense charged, the exact day and hour at which they are to appear before the juvenile court and the signature of the juvenile officer?
2. Will it be necessary to cite the parents of the juvenile into court on a traffic violation, and if so must a special citation be used or will the traffic citation to the juvenile himself be sufficient?

CONCLUSIONS

1. Yes, a petition must be filed.
2. It will be necessary to cite the parents into court as in any other juvenile offense.

OPINION

ANALYSIS

Section 13-8-26, N.M.S.A., 1953 Comp., was amended by the 1957 Legislature by the inclusion of a proviso which states that juveniles may, in the discretion of the juvenile court, be treated as adults where the juvenile has violated state traffic laws or traffic ordinances or regulations of any of the political subdivisions thereof. Inasmuch as § 13-8-26, supra, relates to the original jurisdiction of the juvenile court, the question has arisen as to whether juvenile traffic offenders may be cited into court by the use of a traffic citation rather than by adherence to the procedure ordinarily used when a juvenile is cited into the juvenile court.

We are of the opinion that the customary procedure which is usually followed must be adhered to in the cases of traffic citations. As indicated in our Attorney General Opinion No. 57-106, written May 16, 1957, the above mentioned proviso in our opinion merely provides that penalties normally assessed against an adult traffic violator may now be

assessed against a juvenile, should such be the proper course of action in the opinion of the juvenile judge. We do not feel that the proviso waives any of the necessary procedural steps in regard to a hearing, as provided by the Juvenile Code, and our research on this matter has failed to indicate otherwise.

In answer to question two, the above mentioned proviso neither in the title nor in the body of the Act specifically states or mentions that the usual method of citing parents of the juvenile into court as is stated in the Juvenile Code was repealed, superceded or waived.

In view of the above, we feel it will be necessary to cite the parents in the usual manner as is generally used in citing the parents for any other juvenile offense.

By way of conclusion, we believe that the proviso added to § 13-8-26 merely allows the juvenile court to assess penalties against juvenile traffic violators as are usually assessed against adult violators, and does not in any manner alter the procedure to be used regarding the filing of a petition or notice and citation to the parents.