

Opinion No. 45-4683

April 2, 1945

BY: C. C. McCULLOH, Attorney General

TO: Mr. Peter M. Gonzales Member, House of Representatives State Capitol Santa Fe, New Mexico

{*42} You have requested an opinion of this office concerning the handling of juvenile delinquents who may commit crimes.

Your letter of March 27, 1945 indicates that there is some confusion in your district concerning this question, and therefore you wish an opinion for the purpose of determining whether additional legislation is necessary.

Under Section 44-101 of the Supplement to the 1941 Compilation, a juvenile delinquent is declared to be anyone under the age of eighteen years who has violated any law of the state, or any ordinance or regulation of a political subdivision thereof, among other things.

Under the provisions of our Juvenile Court Law, as amended by Chapter 40, Laws of 1943, a juvenile delinquent becomes a ward of the court and may either be sent to the Industrial School at Springer, if a boy, or otherwise paroled by the Juvenile Court. (See Section 44-111 of the Supplement to the New Mexico 1941 Compilation.)

However, Sec. 44-107 of the Supplement to the 1941 Compilation specifically provides as follows:

"but nothing in this act shall be construed to prevent any person, of whatever age, from being charged with the commission of a felony under the laws of this state and prosecuted therefor in the district courts of this state, and upon conviction may be sentenced to the State Penitentiary in conformity with the criminal laws of the state in the same manner as any person."

Section 44-110 of the Supplement provides that a district court shall have power to cause any case against a juvenile to be transferred to the Juvenile Court docket.

In view of the above provisions of our laws, it is noted that a criminal action may be brought against a juvenile, unless the district judge, who is also the juvenile court judge, should transfer such cause to the juvenile court docket, in which event the juvenile court judge has full power to effectively dispose of the matter for the benefit of society.

By HARRY L. BIGBEE,

Asst. Atty. General