

by necessary implication requires a holding to the contrary, I have the view that the legislature had the same intent with respect to the fines and forfeitures resulting from the trial in a county court of violations of the Uniform Traffic Code committed within the territorial limits of a municipality as it did with respect to "other fines and forfeitures received by a county court that are required to be paid to that municipality as otherwise provided by law"—that is, that they are required to be paid to the municipality only after it has abolished its municipal court.

Accordingly, your question is answered in the negative.

073-203—June 7, 1973

### COUNTY COURTS

#### TRIAL OF VIOLATIONS OF MUNICIPAL ORDINANCES OR TRAFFIC OFFENSES WITHIN MUNICIPAL LIMITS

To: *Elsie S. Sanders, Bradford County Court Judge, Starke*

Prepared by: *Rebecca Bowles Hawkins, Assistant Attorney General*

#### QUESTIONS:

1. May violations of municipal ordinances and traffic offenses committed within the territorial limits of a municipality be tried in the county court prior to the effective date of a municipal ordinance abolishing the municipal court?
2. If so, should the fines and forfeitures received from trials of such offenses in the county court be distributed to the municipality?

#### SUMMARY:

When a city has adopted an ordinance abolishing its municipal court under §168.031, F. S. (1972 Supp.), the office of municipal judge is vacant, and adequate courtroom facilities and personnel are available to assume the case load of the municipal court, the chief judge of the circuit may, under Rule 1.020, RCP, authorize the county court to try violations of municipal ordinances even though the date upon which the municipal court will stand formally abolished has not yet occurred, and the fines and forfeitures arising from the trial of violations of municipal ordinances and traffic offenses committed within the municipality should be paid monthly to the municipality, as required by §§34.191 and 316.0261, F. S.

#### AS TO QUESTION 1:

I have recently ruled in AGO 073-201 that §34.191, F. S., requiring the payment to the municipality of fines and forfeitures received from violations of municipal ordinances tried in the county court, "contemplates the trial routinely in a county court of violations of municipal ordinances *following the abolition of its municipal court.*" Accord: Attorney General Opinion 073-202, holding that the fines and forfeitures resulting from the trial of traffic offenses committed within a municipality in a county court are payable to the municipality under §316.0261, *id.*, only after it has abolished its municipal court. However, the questions posed by you were not presented nor decided.

The procedure for the abolition of municipal courts, as authorized by revised Art. V, §20(d)(4), State Const., is found in §168.031, F. S. (1972 Supp.). The ordinance abolishing the municipal court must be adopted not less than thirty days prior to the convening of a regular session of the legislature and will become effective as of the sixtieth day after the adjournment sine die of that session. The

statute requires a municipality to give notice of its intention to abolish its municipal court to the chief judge of the circuit not less than ninety days prior to the adoption of the ordinance, and to notify the chief justice of the Supreme Court within ten days after its adoption. It provides also that

[i]f the chief judge of such circuit certifies to that municipality and to the chief justice of the supreme court within sixty days from said certification of intention that the county does not have adequate courtroom space to meet the needs arising from the increased case load to be created from the abolition of such municipal court, then such municipality must provide adequate courtroom space to the satisfaction of the chief judge of such circuit *before passing and adopting any such ordinance under subsection (2).* (Emphasis supplied.)

It seems clear that the reason for the various "time lags" prescribed by the statute in establishing the procedure to be followed by a municipality in abolishing its municipal court is to provide ample time to set up the courtroom space and personnel, administrative as well as judicial, that will be needed to carry the additional case load resulting from the abolition of the municipal court. You state that the City of Starke has already adopted an ordinance abolishing its municipal court, to be effective at the end of the 1973 Regular Session of the Legislature, and that the office of municipal judge is vacant. It may be assumed that the county court's courtroom facilities have been found by the chief judge of the circuit to be adequate to meet the needs arising from the increased case load and that, if needed, an additional county court judge has been or will be provided, as authorized by revised Art. V, §9, State Const.

Under §34.01, F. S. (adopted by Ch. 72-404, Laws of Florida), a county court has jurisdiction, among others, of "all violations of *municipal* and county ordinances . . . ." (Emphasis supplied.) This provision was, of course, necessary in order to provide a forum for the trial of violations of municipal ordinances in cities whose municipal courts were abolished as of January 1, 1973, under the authority of Ch. 72-406, Laws of Florida, as well as in cities whose courts are subsequently abolished under §168.031, *supra*. And I do not interpret the applicable statutes as *requiring* a county court to take jurisdiction of violations of municipal ordinances prior to the time that the municipal court has been formally and effectively abolished.

However, when, as here, a municipality has completed the formalities prescribed by §168.031 for the abolition of its court, the office of municipal judge is vacant, and adequate courtroom facilities and personnel are available in the county court system to assume the municipal court's case load, I see no reason why the chief judge of the circuit, under Rule 1.020, RCP, could not authorize the county court to try all violations of municipal ordinances. (The county court already has jurisdiction of violations of the Uniform Traffic Code, Ch. 316, F. S., committed within the territorial limits of the municipality—although, as noted in AGO 073-202, the fines and forfeitures resulting from such violations are not remitted to the city unless it has abolished its municipal court.)

#### AS TO QUESTION 2:

Section 34.191, F. S., requires the county court clerk to deposit all fines and forfeitures in a special trust account and to pay *monthly* to the city those that were received from violations of municipal ordinances committed within a municipality within the territorial jurisdiction of the county court. A similar provision is contained in §316.0261, *id.*, as to fines and forfeitures received from violations of traffic offenses committed within a municipality.

As noted in AGO 073-202, such fines and forfeitures were made payable to municipalities to avoid penalizing them by the abolition of their courts, and the remittances thereof to the cities "are tied to and contemplate the abolition of their municipal courts."

However, in the circumstances here, the municipal court has, for all practical purposes, been abolished even though the date upon which it will technically stand abolished—sixty days after the end of the regular legislative session—has not yet occurred. In these circumstances, I have the view that the fines and forfeitures resulting from the trial in the county court of violations of municipal ordinances and traffic offenses committed within the municipality may be paid monthly to the city under §§34.191 and 316.0261, *supra*.

073-204—June 7, 1973

#### ADULT RIGHTS LAW

#### PARENTS NOT RESPONSIBLE FINANCIALLY FOR ADULT CHILDREN

To: F. Eugene Tubbs, Representative, 45th District, Tallahassee

Prepared by: Jan Dunn, Assistant Attorney General

#### QUESTION:

Does Ch. 73-21, Laws of Florida, the Adult Rights Law, emancipate parents from being legally responsible, financially, for their children who are eighteen, nineteen, or twenty years of age?

#### SUMMARY:

The Adult Rights Law, Ch. 73-21, Laws of Florida, emancipates the parents of an eighteen, nineteen, or twenty-year-old from being legally responsible, financially, for their child. This law takes effect July 1, 1973.

Your question is answered in the affirmative.

The Adult Rights Law [§1.01(14), F. S.] changes the definition of minor from a person under twenty-one years of age to a person under eighteen years of age. Florida law has consistently held that a parent is responsible for the support of minor children only. In *Perla v. Perla*, 58 So.2d 689 (Fla. 1952), the court stated that “[g]enerally, the obligation of a parent to support a child ceases when the child reaches majority. . . .” (The exception to this is for a child who is mentally or physically dependent.) *Accord*: *Fincham v. Levin*, 155 So.2d 883, 884 (1 D.C.A. Fla., 1963), in which the court quoted *Perla*, *supra*, and mentioned the annotation in 1 A.L.R.2d at p. 914 in support of the proposition that “the common law went no further than to impose on parents the duty of supporting their minor children, and that as a general rule there is no obligation on the part of a parent to support an adult child.” The court went on to say that “[t]his is unquestionably the rule with respect to able-bodied children.”

Under §62.011(1) and (3), F. S., the so-called “emancipation” statute, the court could remove the disabilities of nonage for a person over eighteen. This statute provides that

. . . the court shall remove his disabilities of nonage and authorize him to assume the management and control of his estate, to contract and be contracted with, to sue and be sued, and to perform all acts, matters and things that he could do if he were twenty-one years of age.

It was used by the court in *Carmody v. Carmody*, 230 So.2d 40 (1 D.C.A. Fla., 1970), in resolving the issue of awarding child support for an emancipated child. The court held: “as to the question of child support, we affirm. The oldest child was by operation of law, *sui juris*, and not entitled to parental support as a matter of law.” *Carmody* at 41.