

# OFFICE OF THE CITY ATTORNEY

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## Legal Opinion 2019-005

**TO:** Mayor John Engen, Dale Bickell, Donna Gaukler, Mike Brady, Scott Hoffman, Mike Colyer, Chris Odlin, Richard Stepper, Laurie Clark, Jeff Brandt, Ginny Merriam, Leigh Griffing, Mke Haynes, Steven Johnson, Ellen Buchanan, Dennis Bowman, Marty Rehbein, Kirsten Hands, Gordy Hughes, Brad Davis, Tiffany Brander, Department Attorney

**FROM:** Jim Nugent, City Attorney

**DATE** March 5, 2019

**RE:** With respect to youth violations of laws or ordinances, Municipal Court has jurisdiction of traffic as well as fish and game law violations and Municipal Court also has concurrent jurisdiction with Youth Court over all alcoholic beverage, tobacco products, and gambling violations.

### FACTS:

March 5, 2019, a discussion arose at the Mayor's Policy Advisory Team meeting pertaining to what violations of law a youth could be charged with in Municipal Court. This discussion arose out of a discussion that was occurring pertaining to city parks and recreation's initial draft proposed amendments to City of Missoula Municipal Code pertaining to parks and recreation ordinances.

### ISSUE:

What jurisdiction limitations are set forth in Montana state law with respect to what violations of law or ordinance committed by a youth under the age of 18 may be processed in Municipal Court?

### CONCLUSION:

Pursuant to section 41-5-203 MCA of Montana's Youth Court Act, a Municipal Court has jurisdiction to process violations of laws or ordinances committed by youth under the age of 18 that pertain to traffic or fish and game laws as well as Municipal Court possesses concurrent jurisdiction with Youth Court over all alcoholic beverage, tobacco products, and gambling violations alleged to have been committed by youth.

### LEGAL DISCUSSION:

Title 41, chapter 5 Montana Code Annotated is entitled "YOUTH COURT ACT". Subsection 41-3-103(45) MCA defines the term "youth" as meaning:

“(45) ‘Youth’ means an individual who is less than 18 years of age without regard to sex or emancipation.”

Title 41, chapter 5, part 2 Montana Code Annotated is entitled “YOUTH COURT- JURISDICTION-RECORDS”. Subsections 41-5-203(1) and (2) MCA provides as follows:

“41-5-203. JURISDICTION OF COURT. (1) Except as provided in subsection(2) and for cases filed in district court under 41-5-206, THE COURT HAS EXCLUSIVE ORIGINAL JURISDICTION of all proceedings under the Montana Youth Court Act in which a youth is alleged to be a delinquent youth or a youth in need of intervention or concerning any person under 21 years of age charged with having violated any law of the state or any ordinance of the city or town OTHER THAN A TRAFFIC OR FISH AND GAME LAW PRIOR TO HAVING BECOME 18 YEARS OF AGE.

(2) justices’, MUNICIPAL, and city courts HAVE CONCURRENT JURISDICTION WITH THE YOUTH COURT OVER ALL ALCOHOLIC BEVERAGE, TOBACCO PRODUCTS, AND GAMBLING VIOLATIONS ALLEGED TO HAVE BEEN COMMITTED BY A YOUTH.” (emphasis added).

**CONCLUSION:**

Pursuant to section 41-5-203 MCA of Montana’s Youth Court Act, a Municipal Court has jurisdiction to process violations of laws or ordinances committed by youth under the age of 18 that pertain to traffic or fish and game laws as well as Municipal Court possesses concurrent jurisdiction with Youth Court over all alcoholic beverage, tobacco products, and gambling violations alleged to have been committed by youth.

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/s/ Jim Nugent

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Jim Nugent, City Attorney  
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