

Note from the Attorney General's Office:

1982 Op. Att'y Gen. No. 82-062 was overruled by
1987 Op. Att'y Gen. No. 87-023.

OPINION NO. 82-062**Syllabus:**

Fines imposed upon juvenile traffic offenders pursuant to R.C. 2151.356(A) must be paid to the general fund of the county treasury pursuant to R.C. 2949.11 rather than to the county law library association pursuant to R.C. 3375.52 or R.C. 3375.53. (1943 Op. Att'y Gen. No. 6406, p. 547, approved and followed in part.)

To: Thomas E. Ferguson, Auditor of State, Columbus, Ohio
By: William J. Brown, Attorney General, September 28, 1982

I have before me your request for my opinion concerning the disposition of fines imposed upon juvenile traffic offenders.¹ Specifically, you ask whether fines imposed upon juvenile traffic offenders pursuant to R.C. 2151.356(A) are to be paid to the county law library association pursuant to either R.C. 3375.52 or R.C. 3375.53. The former section provides that all moneys arising from fines levied "on account of offenses and misdemeanors brought for prosecution in such [common pleas and probate] courts in the name of the state" shall be paid to the board of trustees of the law library association. R.C. 3375.53 provides that fifty percent of all moneys arising from fines levied "on account of offenses brought for prosecution in any court in such county under Chapters 4301. and 4303. of the Revised Code and the state traffic laws" shall be paid to the board of trustees of the county law library association.

One of my predecessors concluded in syllabus one of 1943 Op. Att'y Gen. No. 6406, p. 547 that:

Fines imposed by a juvenile court upon a juvenile delinquent under authority of Section 1639-30, General Code [now R.C. 2151.35], are not fines imposed for offenses or misdemeanors prosecuted in the name of the state, as referred to in Section 3056-2, General Code [now R.C. 3375.52], and therefore are not payable to the trustees of the law library association, but are to be paid, pursuant to the provisions of Section 13454-4, General Code [now R.C. 2949.11], into the treasury of the county.

My predecessor reasoned that a juvenile court, which has exclusive original jurisdiction concerning a child alleged to be delinquent, R.C. 2151.23(A)(1), has no authority to prosecute and convict a juvenile of a criminal offense. "Delinquency has not been declared a crime in Ohio, and the Ohio juvenile act is neither criminal nor penal in its nature. . . while the commission of a crime may set the machinery of the juvenile court in motion, the accused was not tried in that court for his

¹"Juvenile traffic offender" is the designation for a "child who violates any traffic law, traffic ordinance, or traffic regulation of this state, the United States, or of any political subdivision of this state." R.C. 2151.021.

crime, but for incorrigibility." (Citations omitted.) 1943 Op. No. 6406 at 550. Accordingly, it was concluded that fines imposed upon juveniles do not fall within the terms of what is now R.C. 3375.52 requiring payment of such fines to the law library association.

The analysis found in 1943 Op. No. 6406 remains valid. There has been no subsequent statutory amendment or judicial interpretation which would give cause to change the conclusion of 1943 Op. No. 6406. The General Assembly has not amended R.C. 3375.52 subsequent to the interpretation placed on that section by this office. Cf. Seeley v. Expert, Inc., 26 Ohio St. 2d 61, 72, 269 N.E.2d 121, 129 (1971) ("[i]n interpreting the meaning of legislative language, it is not unimportant that the General Assembly has failed to amend the legislation subsequent to a prior interpretation thereof by this court"). G.C. 3056-2 and G.C. 3056-3 were enacted into the Revised Code in 1953 as R.C. 3375.52 and R.C. 3375.53, respectively, yet no change was made in the language of those statutes which would indicate that the General Assembly disagreed with the conclusion reached in 1943 Op. No. 6406. Cf. Seeley v. Expert, Inc., 26 Ohio St. 2d at 72-73, 269 N.E.2d at 129 ("[a] reenactment of legislation, without modification after judicial interpretation, is a further indication of implied legislative approval of such interpretation"). Courts still maintain that, with a few exceptions involving the prosecution of adult offenders, see R.C. 2151.43, proceedings in juvenile court are not criminal in nature, even though a juvenile may be before the court on account of an act which would constitute a crime if committed by an adult. See R.C. 2151.358(H); State ex rel. Williams v. Court of Common Pleas, 42 Ohio St. 2d 433, 329 N.E.2d 680 (1975); In Re Agler, 19 Ohio St. 2d 70, 249 N.E.2d 808 (1969); Cope v. Campbell, 175 Ohio St. 475, 196 N.E.2d 457 (1964); In Re Darnell, 173 Ohio St. 335, 182 N.E.2d 321 (1962); State v. Reed, 54 Ohio App. 2d 193, 376 N.E.2d 609 (Coshoccon County 1977); In Re TLK, 2 Ohio Op. 3d 324 (Juv. Ct. Ross County 1976); In Re C., 43 Ohio Misc. 98, 334 N.E.2d 545 (Juv. Ct. Ross County 1975); In Re James L., 25 Ohio Op. 2d 369, 194 N.E.2d 797 (Juv. Ct. Cuyahoga County 1963). A juvenile court holds status determination hearings under which a child may be adjudged to be, inter alia, a delinquent, or a juvenile traffic offender, and thus in need of the state's intervention. See Cope v. Campbell; In Re James L. However, a child may not be deemed to be a criminal by reason of any juvenile court adjudication, and does not suffer any of the civil disabilities ordinarily resulting from conviction of a crime. R.C. 2151.358(H). The purpose of Ohio's juvenile code is to protect juvenile offenders from the criminal consequences of their behavior, and to provide such offenders care and rehabilitation rather than punishment. R.C. 2151.01; R.C. 2151.358; In Re Agler; In Re James L.

1943 Op. No. 6406 does not specifically consider the application of R.C. 3375.53 to fines imposed upon juvenile offenders who have been found to have committed traffic violations, since at that time there was no specific designation for juvenile traffic offenders. See 1956-57 Ohio Laws 547-48, 550 (Am. H.B. 161, eff. Sept. 14, 1957). I have, however, considered this issue, and it is my opinion that this statute was not intended to apply to fines imposed upon juvenile traffic offenders. The scope of R.C. 3375.53 is limited, in pertinent part, to fines imposed on account of offenses brought for prosecution under state traffic laws. The process that results in a determination that a juvenile is a juvenile traffic offender is a prosecution in the sense that the state commences and proceeds with an action against the juvenile in a court of law. See generally Vogt v. Rush D. Hiller Co., 44 Ohio App. 244, 184 N.E. 34 (Stark County 1932); Public Service Traffic Bureau Inc. v. Haworth Marble Co., 40 Ohio App. 255, 178 N.E. 703 (Cuyahoga County 1931). However, as discussed more fully above, proceedings in juvenile court do not take the form of criminal prosecutions. 1943 Op. No. 6406 interpreted R.C. 3375.52 as applicable only to fines arising from criminal prosecutions, and I have no reason to interpret R.C. 3375.53 differently. Thus, I conclude that, because R.C. 3375.52 and R.C. 3375.53 apply only to fines arising from criminal prosecutions, neither of these sections governs the disposition of fines imposed upon juvenile traffic offenders pursuant to R.C. 2151.356(A).

Since neither R.C. 3375.52 or R.C. 3375.53 applies in this instance, the disposition of fines collected pursuant to R.C. 2151.356(A) is governed by R.C. 2949.11, which reads, in pertinent part that, "[u]nless otherwise required by sections 3375.50 to 3375.52, inclusive, of the Revised Code, an officer who collects a fine

shall pay it into the treasury of the county in which such fine was assessed. . .to the credit of the county general fund."

In conclusion, it is my opinion, and you are advised, that fines imposed upon juvenile traffic offenders pursuant to R.C. 2151.356(A) must be paid to the general fund of the county treasury pursuant to R.C. 2949.11 rather than to the county law library association pursuant to R.C. 3375.52 or R.C. 3375.53. (1943 Op. Att'y Gen. No. 6406, p. 547, approved and followed in part.)