

Navigating the Juvenile Justice System: The ABCs of Juvenile Law



Objectives

- To foster an understanding of the structure and procedural requirements for handling youth in the juvenile justice system.
- To highlight the statutory connection between the municipal courts and the juvenile justice system.



Juvenile Population Profile



JUVENILES OFFENDERS IN TEXAS

- Age 15-16;
- Primarily Male;
- Lives with single parent or relative;
- Poor academic performance;
- Prior interventions;
- Often come from unsuitable home situations;
- Homes plagued by violence and substance abuse;
- Homes perceived as lacking structure, nurturance, and social normalcy;

Philosophical Comparison

Juvenile & Adult Systems

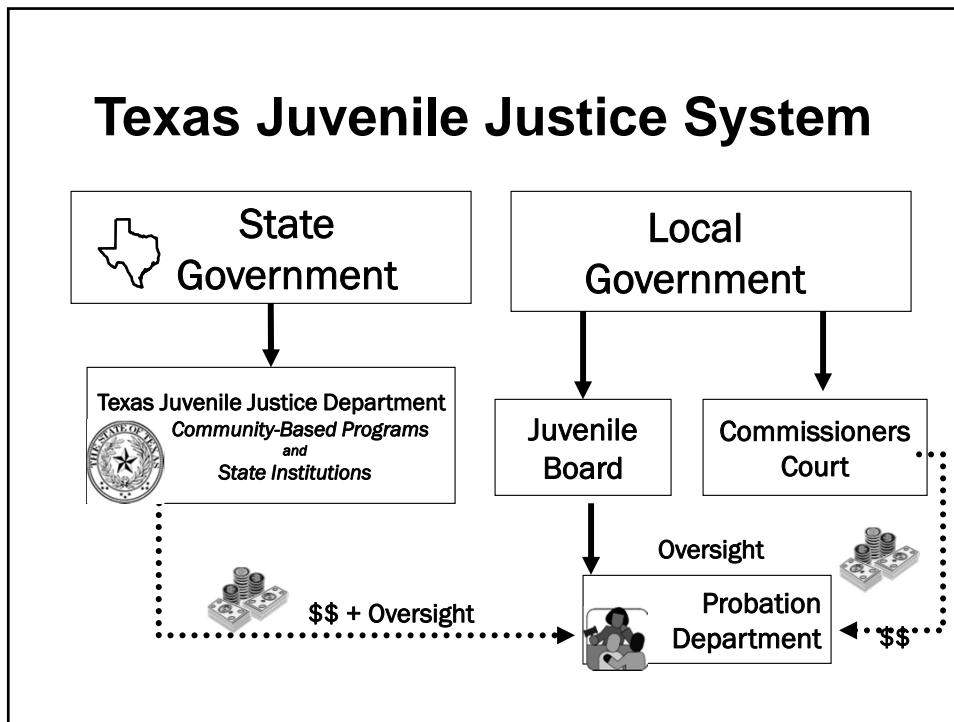
- The objective of the **Adult** Criminal System is to ensure public safety by imposing penalties *proportionate to the crime*; to deter criminal behavior through correctional and rehabilitative measures.
- A primary objective of the **Juvenile** Justice System is to promote the concept of punishment for criminal acts. The system also strives *to remove the taint of criminality*, provide treatment, training and rehabilitation.

Juvenile Justice System

Structure



Texas Juvenile Justice System



Juvenile Probation Departments

Human Resources Code Title 12

Juvenile Probation Departments

- 165 Probation Depts.
- 50 Pre-Adjudication Detention Facilities
- 33 Post-Adjudication Secure Correctional Facilities
- 11 Post-Adjudication Non-secure Facilities
- Approx. 2,900 JPOs
- Approx. 4,100 JSOs

Programs & Services

- Probation Services
- Specialized Offender Caseloads
- Family Preservation Programs
- JJAEPs & Education Programs
- Counseling, Life Skills, Parenting Programs
- Community Service Restitution Programs
- Operation Outreach
- Prevention Programs

Juvenile Justice System

Local Level Entities

Commissioners Court

Juvenile Prosecutor

(District or County Attorney)

Law Enforcement

Service Providers

Non-Profits & Organizations

State Institutions & Halfway Houses

Six (6) State Institutions

TJJD youth are placed in state-level correctional institutions according to risk, treatment needs and proximity to home.

Nine (9) Halfway Houses

TJJD halfway house treatment facilities assist youth in making a gradual transition home.

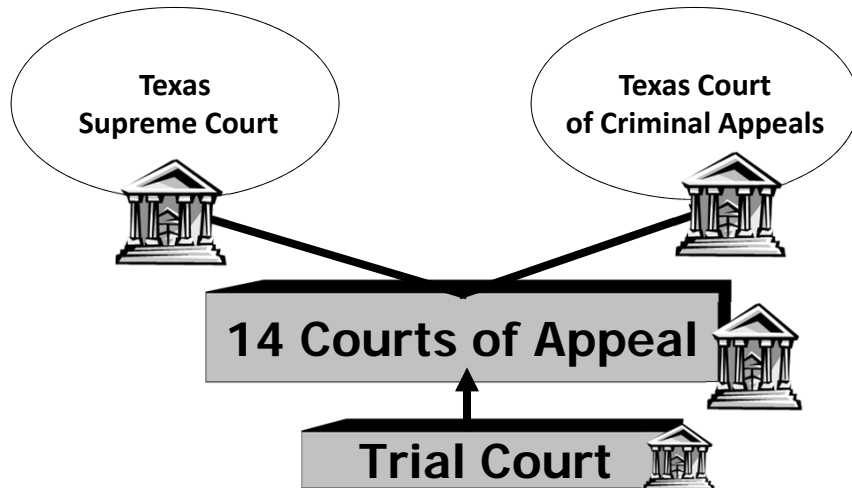


Courts

Juvenile Justice System



Texas Court System



Juvenile Courts under Title 3

TFC §51.04

Courts Eligible for Designation

- District
 - Criminal District
 - Domestic Relations
 - County Court
 - County Court at Law
- If county court is designated, must have an alternate court
 - County court may not hear determinate sentence cases
- Designation may change, but must always have a juvenile court in each county



Justice & Municipal Courts

The Shadow Juvenile Justice System

- Municipal and justice courts are considered a “shadow” juvenile system because of the procedural differences designed to protect minor children.

The Juvenile Justice Process

Overview



Jurisdictional Age

- **Code Definitions of Child, Juvenile & Minor**
 - Family Code
 - Alcoholic Beverage Code
 - Education Code
 - Health & Safety Code
 - Transportation Code
 - Penal Code

JUVENILE JUSTICE CODE

Texas Family Code
§51.02(2)
DEFINITION OF CHILD

- 10 years of age and under 17
- 17 or older and under 18 and alleged/found to have committed conduct before turning 17.

Also -- Sec. 201.001(a)(2)(B), Human Resources Code

- 10 years or older and under 19 and
- Committed to TJJD.

AGE LIMITS

7	Minimum Age for STAR Program <i>Services to At-Risk Youth – TFC 264.301</i>
10	Minimum Age Juvenile Court Jurisdiction
14	Minimum Age for Certification as Adult <i>Capital, 1st Degree, Agg. C. Substance Felony</i>
15	Minimum Age for Certification <i>All other Felonies</i>
17	Minimum Age for Adult Criminal Prosecution <i>Criminal Court Jurisdiction Begins</i> <i>PC 8.07</i>
18	Maximum Age of Juvenile Court Control <i>*Exception: TFC §§51.0412; 54.02; 54.049, 54.051</i>
19	Maximum Age of TJJD Control & Determinate Sentence Probation <i>TFC 54.04(q) - Age 21 under old law; TFC 54.0451</i>

Age & Attendance Offenses



TRUANCY

Family Code 51.03(e-1)

For juvenile court truancy offenses only –

The definition of a CHILD is:

- 10 and up
- Under 18

FAILURE TO ATTEND

Education Code 25.094

The justice and municipal courts have jurisdiction over failure to attend cases involving children ages--

- 12 and up
- Under 18



The juvenile court has jurisdiction over 10 and 11-year-olds.
Family Code 54.021

Minors & Jurisdiction

Minors & Alcohol

- **MINOR means a person**
 - **under 21 years of age.**

Alcoholic Beverage Code §106.001

Minors & Tobacco

- **JP/Municipal courts have jurisdiction over person 18 or younger who:**
 - Possesses, purchases, consumes or accepts a tobacco product.
 - **JUVENILE COURT has NO jurisdiction to hear these cases.**
- Health & Safety Code §161.257

Minors & Jurisdiction

Age & School Attendance

- CHILD shall ATTEND SCHOOL who is:
 - At least 6 years of age or enrolled in 1st grade prior to age 6
 - Not yet 18
 - Laws apply if enrolled after 18
 - 16/17 if child has NOT obtained or is attending GED w/ permission or court order

Education Code §25.085

Traffic Offenses

- JP/MUNICIPAL Courts have jurisdiction over a person younger than 17 years of age:
 - Operating a Motor Vehicle in Violation of Traffic Laws

Juvenile Court

- Exception TFC §51.02(16)(A)

Transportation Code Ch. 729

Criminal Prosecution

- Prohibits prosecution for offenses committed when younger than 15 or prior to turning 17:

– EXCEPT:

Penal Code §8.07

- Perjury (Concurrent Jurisdiction)
- Chapter 729 Transportation Code Offenses
- Municipal Traffic Violations
- Fine Only Misdemeanors
- Certification Transfers

OFFENSES & OFFENDERS

- **Non-Offender**
- **Status Offender**
- **Juvenile Delinquent**
- **Child in Need of Supervision**



Non-Offender

TFC Section 51.02(8)

- **Subject to court's jurisdiction under TFC Title 5**
 - **Abuse, Dependency, Neglect**
 - **Reasons Other Than Legally Prohibited Conduct**
- **Held for Deportation out of the U.S.**

Status Offender

TFC Section 51.02(8)

- **Child accused, adjudicated or convicted for conduct that would not be a crime if committed by an adult.**
- **What are some examples of status offenses?**

Delinquent Conduct

TFC Section 51.03

- **Delinquent Conduct is conduct OTHER THAN A TRAFFIC OFFENSE, that violates a penal law of Texas or the United States punishable by imprisonment or confinement in jail.**

Conduct Indicating a Need for Supervision

TFC Section 51.03

- **Conduct Indicating a Need For Supervision (CINS) is conduct, OTHER THAN A TRAFFIC OFFENSE, that is a**
 - **Class C Misdemeanor Offense**
 - **Penal ordinance violation of any Texas political subdivision**

Conduct Indicating a Need for Supervision

Family Code 51.03(b)(7)

Two new offenses are considered CINS conduct:

- **Prostitution Penal Code 43.02(a)(1) and (2)**
- **Electronic Transmission of Certain Visual Material Depicting Minor aka “Sexting”
Penal Code 43.261**

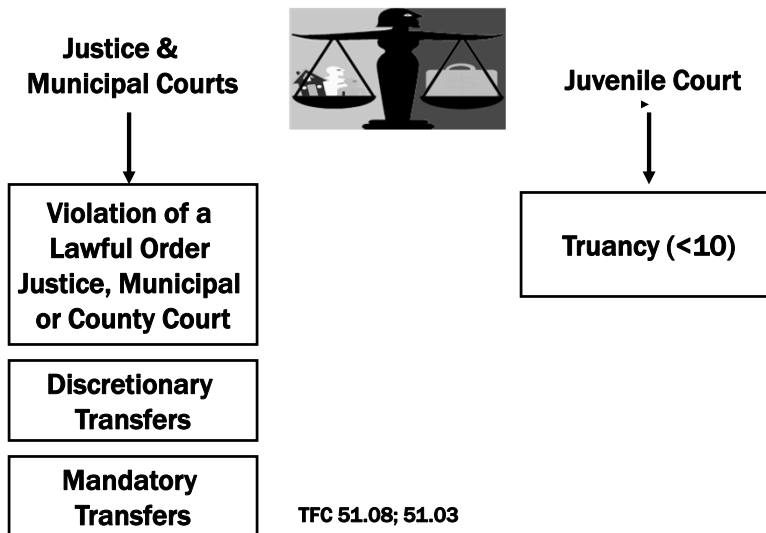


Transfers & Contempt

Juvenile and Municipal/JP Courts



Jurisdictional Transfers



Discretionary & Mandatory Transfers

51.08 Family Code

- **TRANSFERS FROM CRIMINAL COURT**
 - DISCRETIONARY Transfer to Juvenile Court on 1st or 2nd Offense
 - MANDATORY Transfer on 3rd and Subsequent Offenses;
 - “Sexting” Offense Class C Offense under 43.261 (2011)
 - NOT TRANSFERABLE
Tobacco Offenses and Traffic Offenses
- Discretionary and mandatory transfers are handled as:
 - CINS Cases in Juvenile Court

An Exception

51.08(d) Family Code

- **JUVENILE CASE MANAGERS**
 - Exception to mandatory transfer;
 - Courts with a juvenile case manager program may, but are not required, to waive original jurisdiction.
[Also, CCP 45.056]
 - 43.261, P.C. “Sexting” 1st Offense must still be transferred.

Truancy Transfers

Transfer to County, JP or Municipal Court: Truancy

Permits transfer of Truancy cases from Juvenile Court if:

- Person is 12 or older;
 - Juvenile Court waives its jurisdiction; and
 - FTAS complaint is filed.
- County, JP or Muni Courts must agree.

TFC 54.021

Delinquent Conduct & Contempt

- **§51.03(a)(2), F.C. – Contempt of Court**
 - Violation of lawful court order in Muni, JP or County Court for fine-only conduct.
 - §52.01(a)(3), F.C. – Child may be taken into custody and transported to juvenile detention.
 - Art. 45.050(b)(2), C.C.P. – Muni or JP Court may not order confinement for contempt.
 - §54.04(o)(3), F.C. – Child may not be placed in secure correctional facility or TJJD.

Pre-Adjudication Proceedings

The Flow of a Juvenile Case



Initiation of a Juvenile Case

- Commission of Offense by “Child”

 - Law Enforcement Involvement

 - Diversion of child
 - Referral of child in custody
 - Referral of child not in custody

 - Juvenile Court Intake – Referral Plan

 - 3 Basic Options**

 - Disposition without referral to court (i.e., Diversion)
 - Informal Proceedings
 - Formal Court Proceedings

 - Case Processing

Preliminary Investigation

WHO CONDUCTS?

- Intake officer
 - Probation Officer / Intake Unit
 - Other Person Authorized by Juvenile Board

Information Accompanying Referral

- Identifying Information on Child
- Statement of Delinquent Conduct or CINS
- Statement of Circumstances of Taking Child into Custody
- All Prior Contact, if Law Enforcement
TFC §52.04

FINDINGS REQUIRED

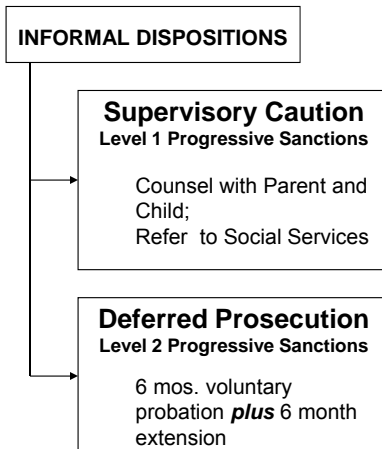
Is the Person a Child?

Is there Probable Cause?

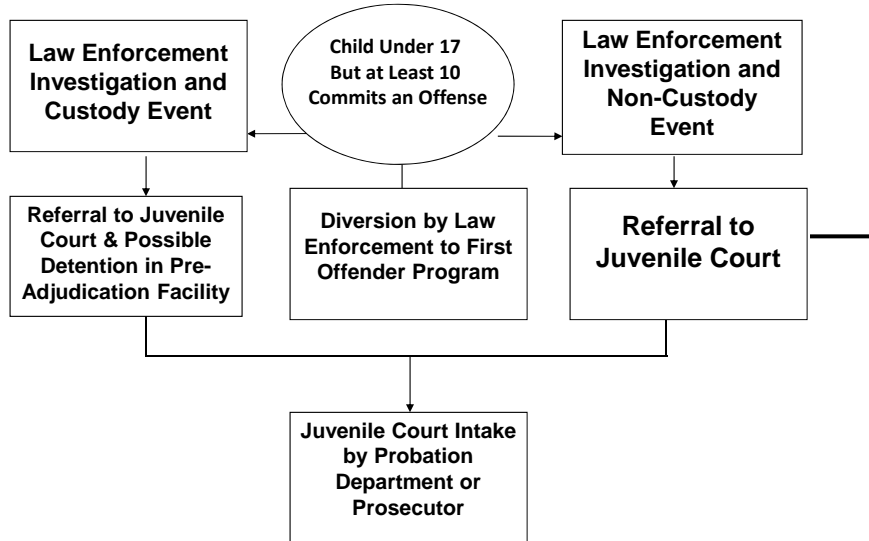
- Delinquency / CINS
- Non-Offender held for Deportation

FC §53.01 (b) and (d)

Informal Dispositions



Flow of a Juvenile Case



Juvenile Detention



Presumption of Release

- The law favors release to parent, guardian or responsible adult.
- Responsible adult agrees to jurisdiction of the juvenile court and to be held in contempt for failing to return a child to court for a hearing.

FC 52.02(a)

The Detention Hearing

Purpose of the Hearing

Hearing to determine whether probable cause exists that child committed an offense and whether the child should remain in custody pending trial.

Key Players

- Presiding Judge or Magistrate
- Juvenile Respondent
- Prosecutor and Defense Counsel
- Parent, Guardian or Custodian
- Juvenile Probation and Court Staff

What is Detention?

- Temporary secure placement intended to restrict the movement and activities of juveniles and other individuals held in lawful custody.
 - Pre-adjudication Facility – Placement for accused individuals awaiting court action, administrative hearing or transfer.
 - Post-adjudication Facility – Placement for the treatment and rehabilitation of youth who have been adjudicated.

Juvenile Detention Criteria

- Likely to Abscond or Be Removed
- No Suitable Care
- No Parent Able to Return to Court
- Danger to Self or Threat to Public
- Prior Delinquency and Likely to Commit a New Offense if Released
 - Also - Firearm Offense Referral Criteria

TFC §§53.02(b), 54.01(e)

Adjudication & Disposition

Judicial Proceedings



Key Court Hearings

- **Detention Hearing:** *Hearing to determine whether probable cause exists that child committed an offense and child should remain in custody pending trial.*
- **Adjudication Hearing:** *The initial phase of a juvenile trial to determine guilt or innocence.*
- **Disposition Hearing:** *Separate distinct hearing to determine appropriate rehabilitation or punishment.*
- **Modification Hearing:** *Hearing to modify or change the original disposition of the court.*

Adjudication Hearing Requirements

Hearing Required TFC §54.03(a)

- Waiver of Hearing Prohibited
- Stipulation of Evidence

Judicial Admonitions to Child

- Allegations
- Nature & Consequences; Including Admissibility of Record
- Privilege Against Self-Incrimination
- Right to Trial and to Confront Witnesses
- Right to Jury Trial
- Right to an Attorney TFC §54.03(b)

Adjudication Hearing – Jury

Jury Trial

Unless Child and Attorney Waive Right
TFC §§54.03(c); 51.09

Unanimous Verdict Required

Size of Jury

District Court	12 (Petit & Grand)
District Court	6 (Misdemeanor Cases)
Determinate Sentence	12
County Court	6 (Non-Determinate Sentence)

Burden of Proof

Proof Beyond a Reasonable Doubt
TFC §54.03(f)

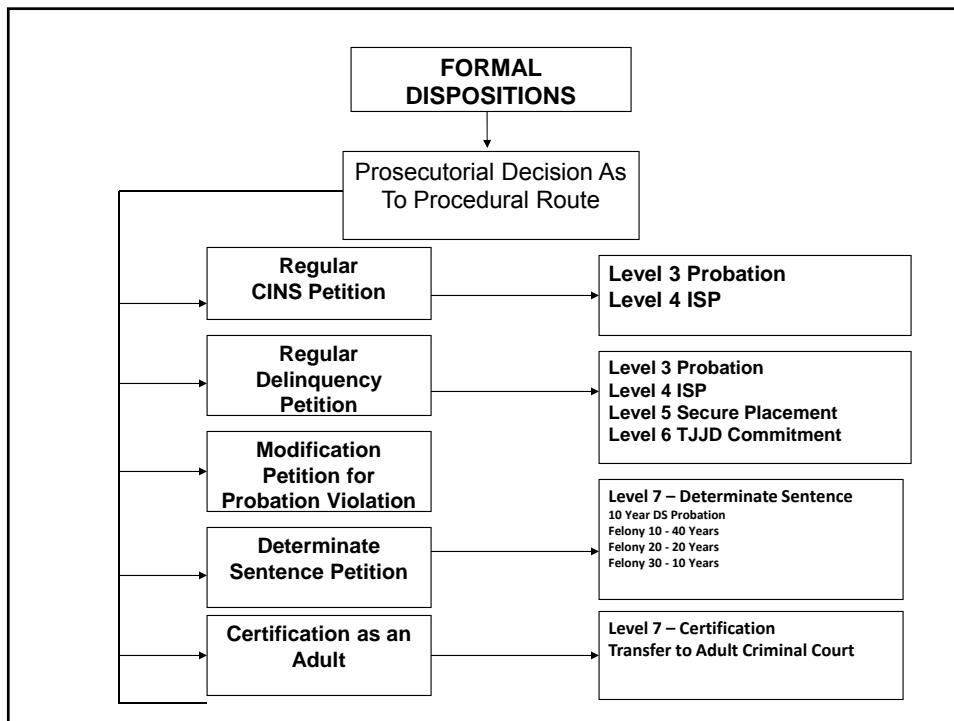
Authorized Dispositions

- After the juvenile court makes its findings, it may employ the following authorized dispositions:

TFC §54.04(c), (i)

Key Dispositional Powers

- Probation TFC §54.04
- TJJD Commitment TFC §54.04
- Driver's License Suspension TFC §54.042
- Orders Affecting Parents TFC §§54.06, 54.041, 54.061
- Restitution TFC §54.048
- Sex Offender Registration CCP Ch. 62
- HIV Testing TFC §54.033



Modification of Dispositions

- ANY disposition, except a TJJD state commitment, may be modified by the juvenile court until —
 - the child reaches his/her 18th birthday;
 - the child's 19th birthday, if placed on DS Probation
 - the child is discharged by the court;
 - by operation of law; or upon
 - the expiration of a truancy/FTA dispositional order
- All dispositions automatically terminate when the child reaches his 18th birthday, except for commitments to TJJD and Determinate Sentence Probation.

TFC §54.05



Determinate Sentencing

- Determinate sentencing is an expanded punishment option for certain felony offenses;
- Used in lieu of normal delinquency proceedings or waiver of jurisdiction and transfer to criminal court.
- Nationally, referred to as “blended sentencing.”
- Determinate Sentence Probation is authorized up to 10 years and may be transferred to the district court under adult community supervision.

Violent & Habitual Offenses

Determinate Sentence Offenses
include:

**Violent offenses listed in
TFC §53.045**

**Habitual felony defined in
TFC §51.031**

Including ...

- **Capital Murder**
- **Murder**
- **Attempted Capital Murder**
- **Aggravated Kidnapping**
- **Aggravated Sexual Assault**
- **Attempted Murder**
- **Sexual Assault**
- **Aggravated Robbery; and**
- **Other Offenses**

Determinate Sentence Probation



AGE CHANGE

- In 2011, the legislature **EXTENDED** DS Probation jurisdiction from 18 to **AGE 19**.

Family Code 54.04(q)



Certification as an Adult

- **Certification** is a judicial determination to transfer a juvenile to adult criminal court.
Also called,
 - **discretionary transfer**
 - **waiver of jurisdiction**
- Ends constitutional protections available in the juvenile system.
- Case is transferred to the adult criminal system for prosecution.
- Appealed only after conviction

Certifications



14-Year-Old:

- Capital Felony
- First Degree Felony
- Aggravated Controlled Substance Felony

15- or 16-Year-Old:

- All other felonies

Criteria for Transfer:

- Offense against person or property
- Sophistication & maturity of child
- Record & previous history of child
- Prospects for public protection & rehabilitation in juvenile system

Where to Get More Information

Juvenile Law Section, State Bar of Texas
www.juvenilelaw.org

Texas Juvenile Justice Department
www.tjjd.texas.gov

TJJD Legal Help Desk
512-424-6721 legalhelp@tjjd.texas.gov



Texas Juvenile Justice Department

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