



Juvenile Law for Juvenile Case Managers

Delinquent Conduct & Conduct Indicating a Need for Supervision

Class Objectives

- Review and Understand:
 - Jurisdictional Age Limits
 - Diversion Programs
 - 4 types of Delinquent Conduct
 - 8 types of Conduct Indicating a Need for Supervision (CINS)
 - Determinate Sentence & Certification



Who is a Child?

- **§51.02(2), F.C. – Definition of Child**
 - 10 years of age and under 17; or
 - 17 or older and under 18; and
 - Alleged or found to have committed DC/CINS before turning 17.
- **§201.001(a)(2)(B), H.R.C. – Definitions**
 - 10 years or older and under 19; and
 - Committed to TJJD.



Jurisdictional Age Limits

- **10 – Minimum age for Juvenile Court**
- **14 – Minimum age for Certification**
 - Capital; 1st Degree; Agg. C. Substance Felony
- **15 – Minimum age for Certification**
 - All other Felonies
- **17 – Begins Criminal Court jurisdiction**
- **18 – Maximum age for Juvenile Court control**
 - 19 – Determinate Sentence probation.
- **19 – Maximum age for TJJD control.**



Intake Decisions



- **§53.01(a), F.C. – Preliminary Investigation**

- Upon referral of the person or their case:

- Is the person a child?
- Is there probable cause to believe the person committed Delinquent Conduct or CINS?

- **§53.01(b), F.C. – “If it is determined that the person is not a child or there is no probable cause, the person shall immediately be released.”**



Pre-Trial Diversion



- **§52.03, F.C. – Disposition w/o Referral to Juvenile Court**

- **Law Enforcement may dispose of case without referral to Juvenile Court if:**

- Juvenile Board guideline exists;
- Disposition is authorized by guideline;
- Officer makes a written report.

- **No detention of or reporting by child.**



Pre-Trial Diversion



- **§52.031, F.C. – First Offender Program**
 - May be established by Juvenile Board.
 - Operated by Law Enforcement agency.
 - Only CINS and nonviolent State Jail Felonies.
- **Completely voluntary; no detention.**
- **Failure to complete FOP or custody w/in 90 days = referral to Juvenile Court.**



Pre-Trial Diversion



- **§53.03, F.C. – Deferred Prosecution**
 - Up to 6 months;
 - Completely voluntary;
 - No detention permitted.
- **Prosecutor may defer prosecution but not for alcohol-related offenses.**
- **Juvenile Court may defer prosecution “at any time” and extend for up to 1 year.**



TCJPD Deferred Prosecution Programs

- **Sole Sanction – Counseling and 16 hrs CSR**
- **Neighborhood Conference Committee**
- **Community Mentoring – Prevent further contact with Law Enforcement**
- **Mediation Program – For Crime Victims**
- **Pot of Gold – Restitution Program**
- **STOP Program – 6-week Family Violence Counseling**



What's Delinquent Conduct?

- **§51.03(a)(1), F.C. – Delinquent Conduct**
 - **Conduct, other than a traffic offense, that violates a state or federal law punishable by imprisonment or confinement in jail.**
- **Translation:**
 - **Delinquent Conduct = Felonies and jailable misdemeanors (Class B and above).**
 - **Reference to violations of federal law allows Texas juvenile justice system to handle cases referred by federal authorities.**



What's Delinquent Conduct?



- §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 juvy 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.



What's Delinquent Conduct?



- §51.03(a)(3), F.C. – Alcohol Offenses
 - §49.04, P.C. – Driving While Intoxicated
 - §49.05, P.C. – Flying While Intoxicated
 - §49.06, P.C. – Boating While Intoxicated
 - §49.07, P.C. – Intoxication Assault
 - §49.08, P.C. – Intoxication Manslaughter
- Art. 4.11 & 4.14, C.C.P. – Since 2009, juvenile Public Intoxication (PI) cases are handled exclusively in Muni and JP Courts.



What's Delinquent Conduct?

- §51.03(a)(4), F.C. – DUIM 3rd Offense
- Under 21-year-old driving with any detectible alcohol in his/her system.
- Without this provision, DUIM 3rd would transfer to Juvenile Court from Muni or JP Court as CINS.
- Instead, if committed before age 17, DUIM 3rd = Delinquent Conduct.



Typical Dispositions

- Class A or B misdemeanor – 6 mos. probation.
- Since 2007, no TJJD for misdemeanants.
- State Jail Felony – 6 to 12 mos. probation.
- 2nd or 3rd Degree Felony – 6 to 12 mos. regular or ISP probation; or
 - Intermediate Sanctions Center (ISC).



Typical Dispositions

- 1st Degree Felony – 12 mos. ISP probation or ISC for serious felonies, Determinate Sentence or sex offenses.
- §54.04(p), F.C. – 2-year minimum probation for juveniles placed on probation for a felony sex offense committed against a victim younger than 17.
 - Probation still expires at age 18, unless Determinate Sentence probation (19).



What's a Status Offense?

- §51.02(15), F.C. – Conduct that if committed by an adult would not be a crime.
- Examples include:
 - Truancy
 - Running away
 - Transferred fine-only, non-criminal cases
 - Expulsion – Referred to Juvenile Court



What are CINS Offenses?

- §51.03(b)(1), F.C. – Fine-only Offenses
- Any fine-only offense, other than a traffic offense, if:
 - Mandatory transfer from Muni or JP Court to Juvenile Court. (§51.08(b)(1), F.C.)
 - Since 2011, mandatory transfer for Class C “Sexting” under §43.261, P.C.
 - Discretionary transfer from Muni or JP Court, even for first filing. (§51.08(b)(2), F.C.)



What are CINS Offenses?

- §51.03(b)(2), F.C. – Truancy
- Until 2011, contained same elements as Failure to Attend School under §25.094, E.C.
- §51.03(e-1), F.C. – New Definition of “Child” for Truancy:
 - 10 years of age or older;
 - Alleged/committed before turning 18; and
 - Must attend school under §25.085, E.C.



Failure to Attend School

- §25.094(a), E.C. – FTAS
- Individual commits offense if:
 - 12 years of age or older and younger than 18;
 - Required to attend school under §25.085; and
 - Fails to attend school for requisite days or parts of days during the same school year.



Truancy Transfer

- §54.021, F.C. – 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



What are CINS Offenses?

- §51.03(b)(3), F.C. – Runaway
- Child’s voluntary absence from home w/o consent:
 - For “substantial length of time;” or
 - Without intent to return home.
- Opinion No. JC-0229 (2000)
 - “Missing” 17-year-old can’t be Runaway but Law Enforcement must return youth home.



What are CINS Offenses?

- §51.03(b)(4), F.C. – Paint & Glue Inhalation
- Class B if committed by adult but CINS for juveniles; not Delinquent Conduct.
- In 2007, Inhalation became a Sanctions Level II offense to encourage higher level of intervention, programs and services.



What are CINS Offenses?

- §51.03(b)(5), F.C. – Violating Standards of Student Conduct
- Expulsion for violation of a written standard of student conduct under §37.007(c), E.C. is CINS.
- §52.041, F.C. – A School District that expels a child must refer the child to Juvenile Court.



What are CINS Offenses?

- §51.03(b)(6), F.C. – Violation of Child-at-Risk Court Order
- §264.306, F.C. – Sanctions
 - A child who violates a court order to participate in at-risk services offered by DFPS commits CINS and must be referred to Juvenile Court.



What are CINS Offenses?

- §51.03(b)(7), F.C. – Prostitution (§43.02, P.C.)
- Class B if committed by adult but CINS for juveniles.
- B.W. – In 2010, TX Supreme Court held kids under 14 can't commit prostitution because they lack the ability to consent to sex.
- Focus on human trafficking; attempt to help child victims who turn to prostitution.



What are CINS Offenses?

- §51.03(b)(7), F.C. – Electronic Transmission of Certain Visual Material Depicting Minor
- “Sexting” under §43.261, P.C.
- “Minor” means a person younger than 18.
- 1st offense = Class C but CINS if committed by a juvenile.
- §54.0404, F.C. – Court may order child to attend/complete educational program.



TCJPD Programs for DC/CINS Offenders

- **Substance Abuse Treatment – Both in- and out-patient.**
- **Special Needs Diversionary Program – For youth w/ serious emotional, behavioral or MH disorders at-risk of removal from home.**
- **Family Preservation – In-home therapy services.**
- **Specialized Sex Offender Treatment**



Determinate Sentence

- **§53.045, F.C. – Violent or Habitual Offenders**
- **List of 17 serious Felony offenses.**
- **Requires Grand Jury approval.**
- **“Hybrid” punishment that starts in the juvenile justice system, either probation or TJJD, with possible transfer to TDCJ.**
- **Up to 40 years for most serious felonies.**



Determinate Sentence Punishment



- **§54.04(q), F.C. – Up to 10 years probation with possible discharge or transfer to adult probation at age 19.**
- **§54.04(d)(3), F.C. – Commitment to TJJD with possible transfer to TDCJ:**
 - Up to 40 yrs for Capital; 1st Degree; Agg.C.S.
 - Up to 20 yrs for 2nd Degree Felony;
 - Up to 10 yrs for 3rd Degree Felony.



Certification



- **§54.02, F.C. – Waiver of Jurisdiction and Discretionary Transfer to Criminal Court**
 - 14 to 16-year-olds facing serious felonies.
 - Prosecutor's election to seek Certification.
 - Court considers: Offense type; maturity; prior history; prospects for rehabilitation.
 - Certified youth is treated as an adult but...
 - **§54.02(h), F.C. – Youth may be held in juvenile detention facility to await trial.**





Chris Hubner
General Counsel
Travis County Juvenile
Probation Department
(512) 854-7109
chris.hubner@co.travis.tx.us

