

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?

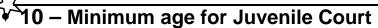




- §51.02(2), F.C. Definition of Child
 - -10 years of age and under 17; or
 - -17 or older and under 18; and
 - Alleged or found to have committed DC/CINS before turning 17.
- §201.001(a)(2)(B), H.R.C. Definitions
 - 10 years or older and under 19; and
 - Committed to TJJD.



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. <u>Since 2009</u>, 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



- 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





- §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





- §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.
- <u>In 2007</u>, Inhalation became a Sanctions Level II offense to encourage higher level of intervention, programs and services.

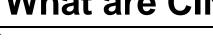


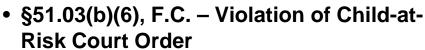


- §51.03(b)(5), F.C. Violating Standards of **Student Conduct**
- Expulsion for violation of a written standard of student conduct under §37.007(c), E.C. is CINS.
- §52.041, F.C. A School District that expels a child must refer the child to Juvenile Court.



What are CINS Offenses?





- §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.



- §51.03(b)(7), F.C. Prostitution (§43.02, P.C.)
- Class B if committed by adult but CINS for juveniles.
- <u>B.W.</u> 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





- 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.







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