

DETERMINATE SENTENCING

In 1987, legislation was enacted to deal with violent offenses committed by juveniles under the minimum certification age of 14. If the State is seeking a determinate sentence, the child has the added right to have a jury determine disposition. If the court or jury finds at the conclusion of an adjudication hearing that the child committed one of the specified offenses, the child may be committed to the Texas Youth Commission with a possible transfer to the Texas Department of Criminal Justice for up to 40 years, depending on the offense or the child may be put on probation for up to 10 years.



TYC COMMITMENT

A child may be committed to the Texas Youth Commission in certain circumstances: 1) if the child is adjudicated for a felony offense or violates probation for a felony

offense; 2) if the child is adjudicated for a third misdemeanor offense or violates probation on the second misdemeanor adjudication; and 3) if the child has been adjudicated for a misdemeanor offense and has previously been adjudicated for any felony offense. All commitments to the TYC, except under the determinate sentence act, are for an indeterminate term not to extend beyond the child's 21st birthday.

JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAMS (JJAEP)

Juvenile boards in a county whose population exceeds 125,000 shall develop a juvenile justice alternative education program (JJAEP) and those counties with a population below 125,000 may develop a JJAEP at their discretion. Any student expelled for an offense that requires expulsion shall be placed in the program. Each program must be approved by the Texas Juvenile Probation Commission to ensure the program follows the minimum statutory guidelines and quality standards contained in Texas Administrative Code, Chapter 348.



SEX OFFENDER REGISTRATION

Juveniles adjudicated for certain sexual offenses are legally required to register with law enforcement in the area where they reside unless the juvenile court makes a finding that registration is not necessary. Information in the sex offender database maintained by the Texas Department of Public Safety is open to the public and is available on the Internet. Juvenile court judges may order a juvenile sex offender to register but may restrict the public access to this information in appropriate circumstances.

JUVENILE JUSTICE INFORMATION SYSTEM, FILES AND RECORDS

The Juvenile Justice Information System (JJIS) is a statewide computerized database created and maintained by the Department of Public Safety (DPS). The JJIS contains juvenile offense history as well as fingerprint and photographs of juvenile offenders taken into custody for a Class B Misdemeanor or higher. At the local level, files and records concerning juveniles are found in the possession of law enforcement, juvenile probation, prosecutor's offices, and the court. Historically, these records are considered confidential and continue to be confidential, with few exceptions. Only certain individuals or entities authorized by law may have access to juvenile information unless the court grants an exception. The law sets out certain time frames, after discharge or the last official court action in a case, in which a juvenile may be eligible for automatic restricted access and/or sealing. Either of these methods can be used to limit or prohibit disclosure of an eligible juvenile's files and records. Contact the Texas Juvenile Probation Commission for more comprehensive information and a full brochure regarding the *Automatic Restriction of Access to Records*.

This brochure provides a cursory overview of the Texas juvenile justice system, but numerous resources and publications are available to assist persons who seek further or more extensive information on the Texas juvenile justice system. *Texas Juvenile Law, 6th Edition* written by Dr. Robert O. Dawson is the foremost reference book regarding the Texas juvenile justice system. To purchase a copy of *Texas Juvenile Law*, please contact the Texas Juvenile Probation Commission. You may also contact the following agencies for additional information, statistical reports, annual reports and other publications:

Texas Juvenile Probation Commission

4900 North Lamar Blvd., 5th Floor East
P.O. Box 13547, Austin, Texas 78711
Phone (512) 424-6700
www.tjpc.state.tx.us

Texas Youth Commission

4900 North Lamar Blvd., 2nd Floor East
P.O. Box 4260, Austin, Texas 78765
Phone (512) 424-6130
www.tyc.state.tx.us

Texas Department of State Health Services

1100 West 49th Street
P.O. Box 12040, Austin, Texas 78711
Phone (512) 458-7111
www.dshs.state.tx.us

Texas Department of Aging and Disability Services

701 West 51st Street
Austin, Texas 78714
Phone (512) 438-3011
www.dads.state.tx.us

Texas Department of Family and Protective Services

701 West 51st Street
P.O. Box 149030, Austin, Texas 78714
Phone (512) 438-4800
www.dfps.state.tx.us

Texas Department of Public Safety

5805 North Lamar Blvd.
P.O. Box 4087, Austin, Texas 78773
Phone (512) 424-2000
www.txdps.state.tx.us

Juvenile Law and the Justice System



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April 2006

The juvenile justice system in the state of Texas can best be described as consisting of two major components: a state-level component and a local-level component. Each component has distinct functions, duties, and responsibilities. Together these components make up one of the most progressive and modern juvenile justice systems in the nation. Many states look to Texas for innovative and creative approaches to difficult juvenile justice issues and problems. The system emphasizes protection for the state's citizens and holds juvenile offenders, and frequently parents, accountable for their actions, while efforts are made to rehabilitate the child to be a productive member of society.

STATE-LEVEL AGENCIES

The Texas juvenile justice system consists of two primary state-level agencies devoted to juvenile justice functions including the Texas Juvenile Probation Commission and Texas Youth Commission. Many other state agencies are active in the Texas juvenile justice system in various ways including the Texas Department of State Health Services, Texas Department of Aging and Disability Services, Texas Department of Family and Protective Services, and Texas Department of Public Safety.



Texas Juvenile Probation Commission

The Texas Juvenile Probation Commission (TJPC) was created to bring consistency and quality to juvenile probation services in the state. TJPC works in partnership with local juvenile boards and juvenile probation departments to support and enhance juvenile probation services throughout the state by providing funding, technical assistance, and training; establishing and enforcing standards; collecting, analyzing and disseminating information; and facilitating communications between state and local entities.

Texas Youth Commission

The Texas Youth Commission (TYC) is the state agency that operates the institutional component of the juvenile justice system. TYC provides for the care, custody, rehabilitation, and reestablishment in society of juveniles who are committed by the courts for having engaged in delinquent conduct. TYC operates both institutional and

community-based residential programs and provides supervision for juveniles upon their release into the community. Additionally, TYC contracts with private sector residential and non-residential service providers.

Mental Health and Retardation Services

Juveniles who are not competent to stand trial or are found to be not responsible for their conduct as a result of mental illness or mental retardation may seek additional services from two separate state agencies. Services for juveniles with mental illness can be accessed through the Texas Department of State Health Services (TDSHS). Mental retardation services can be accessed through Texas Department of Aging and Disability Services (TDADS). Both of these agencies provide a range of community-based services to juveniles and their families.

Texas Department of Family and Protective Services

The DFPS provides services to abused, neglected or exploited children, who are often the same children who commit crimes as juveniles. DFPS also offers services to children and families that are at risk.

Texas Department of Public Safety

The Texas Department of Public Safety (DPS) is a major player in the juvenile justice system. DPS operates the Juvenile Justice Information System (JJIS), which is a computer database that collects statewide data regarding the arrest, adjudication and disposition of juvenile offenders, including fingerprints of the child. DPS also maintains the database of registered juvenile sex offenders.

LOCAL-LEVEL AGENCIES

The juvenile justice system in Texas could not function without the local-level component that consists of numerous entities. Each of these entities plays a critical role in the operation of the juvenile system including the juvenile boards, juvenile court judges, juvenile probation departments, commissioner's court, juvenile prosecutors, justice and municipal court judges, law enforcement, and volunteers.



JUVENILE LAW AND PROCEDURES

Texas juvenile law is governed primarily by Title III of the Texas Family Code. The main goals of the juvenile justice system in Texas are to provide for the safety and protection of the public, promote the concept of punishment and accountability, and provide treatment and rehabilitation of the juvenile offender in the community. To invoke the jurisdiction of the juvenile court, an alleged juvenile offender must be a person who is at least 10 years of age and not yet 17, or a person who is 17 years of age or older and under 18 who is alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed before becoming 17 years of age.



DELINQUENT CONDUCT

Generally speaking, *delinquent conduct* refers to the more serious category of criminal offenses. *Delinquent conduct* is defined to be 1) conduct that violates a penal law of Texas or the United States that is punishable by imprisonment or by confinement in jail; 2) conduct that violates a municipal or justice court order under circumstances that would constitute contempt of court; 3) conduct that violates Section 49.04, 49.05, 49.06, 49.07, or 49.08, Penal Code; and 4) the third or subsequent offense of driving under the influence of alcohol by a minor.

CONDUCT INDICATING A NEED FOR SUPERVISION (CINS)

The less severe offenses and status offenses are found in the conduct indicating a need for supervision category. *Conduct indicating a need for supervision (CINS)* is defined as conduct, other than jailable traffic offenses, that violates: 1) penal laws punishable by fine only or penal ordinances of any political subdivision of the state; 2) truancy; 3) runaway; 4) inhalant abuse; 5) public intoxication; 6) an act that violates a school districts previously communicated written standards of student conduct for which the student has been expelled; or 7) conduct that violates a court order for a child declared at risk.

DETENTION HEARINGS

The office designated to conduct intake must initially determine if the person taken into custody meets the definition of "child" and whether probable cause exists to believe the child engaged in the offense. If a child is detained, a detention hearing must be held so that the court can make a determination on whether the child should remain in detention or be released to a responsible adult.

DISPOSITION OPTIONS

Disposition options for juvenile offenders fall into one of three categories: 1) dispositions without referral to court; 2) informal proceedings; or 3) formal court proceedings. Juvenile probation departments, prosecutors and judges have the discretion to consider the Progressive Sanctions Model guidelines in determining which dispositional option is appropriate. Many local communities use diversion programs such as law enforcement first offender programs to divert juvenile cases from formal court proceedings or informal proceedings. Informal proceedings include supervisory caution and deferred prosecution. These programs are normally reserved for first time offenders and less serious offenses.

PROBATION

A child may be placed on probation for any term not to exceed the child's 18th birthday, except under the determinate sentence act. The court may choose from three types of probation placements which include (a) in the child's home or in the custody of a relative or other fit person; (b) in a suitable foster home; or (c) in a suitable institution, except the Texas Youth Commission.

CERTIFICATION AS AN ADULT

If a child is certified to stand trial as an adult, the child faces the same range of punishment that an adult would face for the same crime, except that a juvenile cannot receive the death penalty for an offense committed before turning 17 years of age. Depending on the offense, a child may be certified as an adult at the age of 14.

