

THE TEXAS JUVENILE JUSTICE SYSTEM

WHAT YOU NEED TO KNOW



**The Texas Juvenile Justice
System — What You
Need to Know**

Disclaimer: Please note that this guide is solely intended to provide general information only and is not a substitute for legal counsel. If you have a specific legal problem, we suggest that you consult an attorney. The laws discussed in this Guide may be subject to change.

A very special thanks to the following individuals who were contributing authors of this publication:

Judge Cyndi Wheless, 417th Judicial District Court, Collin County, Texas

Angel Marksberry, Court Coordinator of the 417th Judicial District Court, Collin County, Texas

Karen Arias, Attorney At Law

TYLA Executive Committee

Kristy Blanchard, President

Cameron J. Cox, Chair

Victor Villarreal, Vice President

Priscilla D. Camacho, Secretary

C. Barrett Thomas, Treasurer

Rebekah Steely Brooker, President-elect

Dustin M. Howell, Chair-Elect

C.E. Rhodes, Immediate Past President

Family Law Committee

Chairs

Patrice B. Childress

Soraya Yanar Hanshew

Baili B. Rhodes

Baylor Wortham

Vice Chairs

Zeke Fortenberry

L. Brook Stuntebeck

Copyright 2014

TEXAS LAWYERS ASSOCIATION

Materials created by the Texas Young Lawyers Association. All rights reserved. No part of these materials may be reproduced in any form or for any other purpose without the written consent of the Texas Young Lawyers Association.

TABLE OF CONTENTS

Important Terms You Should Know	1
Police, Arrest and Interrogation	4
What Should You Do If You Get Arrested?	4
Outline of the Juvenile Justice Process & Settings	6
The Detention Hearing	6
The First Appearance	7
The Transfer Hearing/Certification Hearing	7
The Competency Hearing (Fitness to Proceed)	8
The Adjudication Hearing/Final Trial	8
The Disposition Hearing	9
Resets of Hearings	9
The Appeal	9
Punishment Options	10
Steps You Can Take to Help Your Case	11
Commonly Asked Questions from Juveniles	12
Commonly asked Questions from Families of Juveniles	13
Useful Resources	19

The Texas Juvenile Justice System — What You Need to Know

The Texas juvenile justice system can be confusing and complicated if you are not familiar with the court process and how it works. This guide provides youth and their parents and guardians a basic understanding about the court process and procedures, the rights and options available, penalties, answers to the most frequently asked questions, and resources. We hope this guide will be a valuable resource in guiding you through the Texas Juvenile Justice System.

Important Terms You Should Know

Adjudicated delinquent – When a juvenile has been adjudicated delinquent, this means that the crimes alleged against the juvenile have been found to be true by a judge or jury.

Adjudicated not delinquent – When a juvenile has not been adjudicated after a trial, this means the allegations against the juvenile have been found to be not true by a judge or jury.

Adjudication hearing/final trial – An adjudication is a final trial where the judge or jury will decide whether the allegations made against the juvenile are true or not true. The adjudication hearing will only occur if the juvenile is pleading “not true” (not guilty) to the crime he or she is charged with.

Case – A case is the lawsuit that has been filed by the State or the District Attorney’s Office against the juvenile. The case refers to the charges that have been brought against the juvenile. The case is the way the government brings charges against the juvenile in court.

Child/juvenile – Both of these terms refer to the child who is involved in the case. The child must be ten (10) years old or older and under seventeen (17) to be subject to the jurisdiction of a juvenile court.

Child in need or services (CINS) – A child in need of services is a juvenile that has been found true by the judge of committing a status offense.

Confession – The juvenile is making a confession when they tell the police or prosecutor what happened in the incident in question. Anything the child tells the police

or prosecutors will be considered a confession and can be used against them in the case. The juvenile has the right to have their lawyer present when making any statement and it is important for the juvenile to be careful in what they say.

Counsel/lawyer/attorney – All of these terms refer to the lawyer or person who will be representing the juvenile in the court proceeding and who will be giving the juvenile legal advice in the case. The lawyer will be speaking for the juvenile and representing the juvenile's interests to the court and the prosecutor or individuals who are taking part in the case filed against the juvenile. The juvenile will either be required to hire a lawyer or a lawyer may be appointed to represent the juvenile. It is very important for the juvenile and his or her parents or guardian to hire a lawyer as soon as possible once the case against them is started, either after arrest or as soon as a notice to appear is served on the child and/or parent(s).

Disposition – Disposition is the result or punishment that is obtained by the juvenile in the suit filed against them. If the charges against the juvenile are found to be true (the juvenile is found guilty), the disposition can include the child being sentenced to serve time in a facility, attend treatment, pay restitution set by the court, perform community service, participate in a probation period, etc. If the juvenile charges against the juvenile are found to be not true (juvenile is found to be not guilty of the charges brought against them), the disposition will be that the juvenile is cleared of any charges brought against them and the charges will be dismissed. The disposition of the juvenile's case will be decided by the judge.

Guardian ad Litem (GAL) – A guardian is a person who has been given legal rights to a child by a court. A juvenile normally has a legal guardian when their biological parents are not alive or have given up their parental rights to the juvenile through a court proceeding. The guardian normally has decision-making powers over the juvenile and is responsible for taking care of the juvenile. In a juvenile case, the GAL is an attorney who is responsible for making a recommendation to the court regarding what is in the child's best interest.

Hearing – A hearing is an appearance that is made by the juvenile, the juvenile's parents and the juvenile's lawyer in front of the court. It is important for the juvenile and their parent or guardian to be present at each hearing with the lawyer representing the juvenile. A hearing is like a trial and normally the judge is making a decision at the hearing regarding the juvenile in the case. A hearing normally takes place at the courthouse but may be held in other locations such as the juvenile detention center where the juvenile is being held.

Interrogation – An interrogation is when the police or any prosecutor asks the juvenile questions. Normally the interrogation happens right after the incident in question happens or when the juvenile is arrested or taken into custody. The juvenile has the right to have their lawyer present when they are being interrogated by anyone. Anything that is said by the juvenile during the interrogation can be used against them in the case that is brought against them.

Offense – An offense is the crime that the juvenile is being accused of committing by the police or the prosecution.

Plea/Plea bargain – A plea is when the juvenile makes an admission of true (guilty) or not true (not guilty) of the crime they are charged with to the court. Sometimes a juvenile will plead true in a plea to an offense in exchange for an agreed punishment that is recommended by the prosecutor to the court in the case. When this happens the juvenile enters into a plea bargain with the prosecutor and the juvenile will have a trial based only on their plea without any factual witnesses.

Petition – A petition is a written document that is filed by the prosecution that contains the accusations that are made against the juvenile. The document must state with reasonable particularity the time, place and manner of the acts alleged that the juvenile is being charged with. It is the charge that is being brought against the juvenile and the juvenile must be given a written copy of the petition containing this information.

Right – A right is a freedom a juvenile has by law. A juvenile cannot get in trouble for using their rights and they should know what rights they have so that they can make educated decisions when going through the juvenile justice process. It is important for a juvenile and his or her parents or guardians to speak with a lawyer about the juvenile's rights so that the juvenile takes all steps necessary to protect those rights.

Status offense/status offender – A status offense occurs when a child (younger than 18) does something they are not old enough to do. Examples of these offenses include: smoking cigarettes, drinking alcohol, driving a car, running away, violating a curfew, not going to school, etc. A status offense is not always as serious as a crime but the juvenile can get in trouble for doing it and be required to go through court proceedings.

Summons – A summons is a notice that the juvenile and his or her parents or guardian receives that informs them of the charges have been filed against the juvenile and that the case is going to a juvenile court.

True/Nor true – The juvenile process does not use the language of “guilty or not guilty”—juveniles are found “True or Not True” in relation to the allegations that have been made against them. A juvenile will elect to plead “Not True” when they are saying they did not commit the crimes that are alleged against them and are requesting an adjudication trial. If a juvenile pleads “true” then the court will find the allegations to be true and proceed on to a disposition.

Witness – A witness is a person who saw the incident in question or heard any information regarding the incident for which the juvenile is being charged.

Police, Arrest and Interrogation

When a child is detained and taken into custody, police must notify the parent of the child’s action and the reason for taking the child into custody. The officer may take the child to (1) a parent or other responsible person who promises to bring the child back before the juvenile court, (2) juvenile processing office, (3) a detention facility, (4) medical facility, or (5) back to school if the school agrees to take the child.

A probable cause determination must be made by a judge within 24 hours. The child is entitled to a detention hearing no later than the first working day after detention. If the detention occurs on Friday or Saturday, then it must be by the first working day. The parent/guardian/custodian must be given reasonable notice, either oral or written.

Before making a written confession, the child must receive warnings from a magistrate that the child may remain silent, the child has a right to an attorney, and the child can terminate the interview at any time. After the magistrate determines the child wishes to waive their rights and wants to give a statement, the police may obtain a written statement from the child. That statement must be signed in the presence of the magistrate with no law enforcement officer or prosecuting attorney present.

What Should You Do If You Get Arrested?

It is important for the juvenile to remember that the police have many different roles they must play in their profession. Their duties and roles will greatly differ depending on the service they are providing. If you have been accused of a crime, their role is to investigate, ask questions, and to obtain any evidence they can to prove that the crime was committed. Therefore, if you are being questioned by a police officer, it is important that the juvenile understand that nothing that is said to the officer will remain confidential

and everything will be used by the officer to gain a confession in the case or to obtain evidence to prove that the crime was committed by the person who is the suspect of the crime.

If you do get arrested, the following are a few guidelines to follow:

- Be respectful and polite. It will never help your case if you are rude or hostile toward any officers who are investigating the charges that have been brought against you. It is important that you remain calm and be courteous to any police officers who are questioning you or taking you into custody.
- You have a right to remain silent. You have the right to remain silent and anything you say could and will be used against you. You should truthfully answer any basic questions about your identity for the police. However, you should be cautious about giving any other information until you have had the opportunity to speak with a lawyer. Also, you should refrain from speaking to anyone else about the crime you have been charged with except for your lawyer. Keep in mind, anyone you speak to can be used as a witness against you, including other detainees or friends.
- Get a lawyer. The law requires that police have to provide you with a lawyer if you have requested one during an interrogation. After you have made a request for a lawyer, the police cannot ask you any further questions. So, if you want to exercise your right to a lawyer, ask for a lawyer and do not answer any further questions until you have had the opportunity to consult with your lawyer.
- Inform your parents or guardian. It is important that you notify your parents or guardian that you have been arrested. The police are required by law to notify your parents of your arrest.
- Make sure you understand anything you sign. It is important that you not sign any written statements or agreements that you do not fully understand. It may be best that you have the opportunity to speak with a lawyer first to ensure that you understand what you are signing or agreeing to.
- Know what you are being charged with. You have the right to be given written notice of any charges that are being brought against you. The law requires that any charges against you be brought or a hearing held within two business days of your arrest.

Outline of the Juvenile Justice Process & Settings

The following is an outline and explanation of the Juvenile Justice Process and the settings that will take place in that process:

- **The Detention Hearing**

The detention hearing is usually the first appearance a juvenile will make before the court if they are being detained at a juvenile detention center. This hearing must take place within one working day of the juvenile being detained or the first business day of the juvenile is detained on a weekend. Texas Family Code § 54.01(a). A business day is defined as Monday through Friday, unless any of these days fall on a holiday. In the event that occurs, the hearing will be held on the next business day following the holiday. If the juvenile continues to be detained after this first hearing date, there must be a hearing held every 10 business days (2 calendar weeks) thereafter for the court to determine whether or not they will continue to detain the juvenile.

At this hearing the court must consider the following factors in making a decision whether to:

- (1) release the juvenile to his parents, guardian, relative pending resolution of the case;
or
- (2) hold the juvenile for two (2) weeks (10 business days) until another hearing is held to review the same five factors to then determine if the juvenile is eligible to be released.

This hearing does not determine whether or not the allegations are true that is decided through the adjudication and disposition process. The seven (7) factors being considered at this hearing are:

- (1) whether the juvenile is likely to abscond or runaway from the jurisdiction of the court;
- (2) whether the juvenile has appropriate or suitable supervision at home and/or if the juvenile is not responding to appropriate supervision;
- (3) whether the juvenile has been previously found to be a delinquent child;
- (4) whether the juvenile is likely to abscond or runaway from the jurisdiction of the court;
- (5) whether the juvenile has a parent or guardian able to return them (the child) to court when required;
- (6) whether the juvenile is a danger to himself or threatens the safety of the public;
and
- (7) whether the juvenile has previously been found to be delinquent and if he were released might commit a new offense.

- **The First Appearance**

It is important for the juvenile to have a lawyer at their first appearance before the court. If the juvenile has a lawyer, the lawyer will have the opportunity at this hearing to speak with the prosecutor and look through the case file of the prosecutor and probation officer. The lawyer can also discuss settlement agreements with the prosecutor for the case and began working toward a final resolution. If the juvenile does not have a lawyer at this hearing, the court will advise the juvenile and his or her parents or guardian that they are required to obtain a lawyer and will grant a certain period of time for the juvenile's parents or guardian to secure a lawyer for the juvenile. The case will then have to be reset to a later date when that lawyer can appear. A juvenile is required to have a lawyer at every appearance before the court as further explained later in this guide under the "*Is a Lawyer Required*" section.

There is generally no actual "hearing" at this setting meaning that the juvenile and parents will most likely not see the judge. If the juvenile has a lawyer, then offense reports and predisposition reports (PDR) are received by the juvenile's lawyer at this appearance for their review. Generally, a new hearing date will be given to the juvenile at this appearance that is set approximately 2-4 weeks later.

- **The Transfer Hearing/Certification Hearing**

A transfer/certification hearing will take place if the prosecutor wants to transfer the juvenile to adult court to be tried as an adult. A hearing is required and the prosecutor must show that it is likely the juvenile committed the offense and meets the legal requirements for the transfer. Legal requirements for the transfer include:

1. the child is alleged to have committed a felony;
2. the child was 14 years old or older at the time the alleged offense was committed and the alleged offense is a capital felony, aggravated controlled substance felony, or a first degree felony;
3. the child was 15 years old or older at the time the alleged offense was committed and the alleged offense is a second, third, or state jail felony; and
4. the juvenile court determines that there is probable cause to believe that the child committed the offenses alleged and the seriousness of the alleged offense or the background of the child, the welfare of the community requires criminal proceedings. Texas Family Code § 54.02.

During the certification hearing, the court must find that there is probable cause for the certification and all hearsay evidence is admissible. This is a judge only hearing and the court will consider a complete diagnostic study, social evaluation, and a full investigation of the child, circumstances of the child, and the circumstance of the alleged offense. The court must determine whether, because of the nature of the offense or because of the youth's background, the safety and protection of the community require that the child be tried as an adult.

If the juvenile court transfers the case to the adult criminal court, the prosecuting attorney must still seek an indictment against the offender from the grand jury. If the grand jury does not return an indictment, the case must be dismissed and the case may not be remanded, or returned, to the juvenile court.

A juvenile may not be transferred if they are under 14 years of age or if they were accused of committing a misdemeanor.

Instead of proceeding with a certification hearing, a prosecutor can in some cases pursue a determinate sentence. Under a determinate sentence a juvenile is committed to the Texas Juvenile Justice Department (TJJJD) until their 19th birthday and then transferred to the adult system for the remainder of their punishment.

- **The Competency Hearing (Fitness to Proceed)**

If the juvenile has a history of mental illness or mental retardation, or if the court deems it necessary, there may be a competency hearing to determine the juvenile's competency to stand trial. At this hearing, the court will determine if the juvenile is able to understand what is happening in their case and is capable of participating in his or her defense. Before this hearing, it is very important for the juvenile or his or her parent or guardian to disclose to the lawyer any history of mental illness and to gather and provide the lawyer with any medical and mental health records of the juvenile.

- **The Adjudication Hearing/Final Trial**

If the juvenile is not going to plead "true" (guilty) to the crime his or she is charged with, this hearing will be held where the judge or jury will decide if the charges brought against the juvenile are "true" or "not true".

The Juvenile process does not use the language of “guilty or not guilty”—juveniles are found “True or Not True” in relation to the allegations. A juvenile will elect to plead “Not True” when requesting an adjudication trial. If a juvenile pleads “true”, then the court will find the allegations to be true and proceed on to the disposition hearing.

- **The Disposition Hearing**

If the allegations against the juvenile are found to be “true” by a judge or a jury, the judge will have a hearing to decide what form of punishment will be given to the juvenile. This hearing is very similar to the punishment phase of an adult criminal trial.

If a juvenile elects to plead true or is found true after a trial by judge or jury then the court will determine disposition (punishment). The appropriate Juvenile Probation Department will have prepared a Predisposition Report (PDR) that makes a recommendation for disposition (punishment) based on the sanction guideline levels.

- **Resets of Hearings**

Throughout the juvenile’s case, it is normal for any of the hearings summarized above to have to be reset to another date. This is a normal occurrence and typically happens if the court’s docket is too busy that day to accommodate the hearing scheduled, the juvenile was unable to be transported by the detention center staff to the courthouse to attend the hearing, the lawyers on the case had a conflict of some kind preventing them from attending the hearing, a witness such as the probation officer or case worker was unable to attend the hearing due to a conflict, or a number of other factors occurred that required the hearing to be reset to a later date. If any hearings in the case have to be reset, make note of the new date of the hearing and make sure you appear on the new date.

- **The Appeal**

The lawyer for the juvenile can appeal the decision he or she receives from a judge or jury to a higher court to review the outcome. If the juvenile enters into a plea bargain agreement, an appeal will be very difficult and will likely be unsuccessful. Therefore, it is very important that the juvenile and his or her parent or guardian understand and agree with the plea bargain agreement before the juvenile takes this agreement. Once the agreement is entered into, it can only be changed in certain, limited circumstances.

Punishment Options

If the allegations against a juvenile are found to be true, the court has many disposition (punishment) options for the child. These include:

- TJJD – Texas Juvenile Justice Department (formerly known as “TYC”) is the state agency that provides for the care, custody, treatment, and rehabilitation of the most serious juvenile offenders.
- TJPC – Texas Juvenile Probation Commission is the state agency responsible for overseeing juvenile probation services in Texas. The Juvenile Probation Department for your county can supervise juveniles as follows:
 - o **Deferred prosecution** – Is a voluntary alternative to adjudication, and typically the child, parent, prosecuting attorney and the juvenile probation department all agree to certain probation conditions. Deferred prosecution can be offered by the Juvenile Probation Department before a juvenile is formally charged by the prosecutor, can be agreed to by plea negotiations between a lawyer and the prosecutor or can be granted by the judge of the juvenile court. This option is generally reserved for juveniles who commit less serious offenses and who are not habitual offenders and can last from 6-12 months.
 - o **Regular probation** – This probation allows juveniles to stay living with their families while completing the terms and conditions of probation. Juveniles will either be required to report to their probation officer once or twice a month but it can also be as frequent as every week.
 - o **Long Term Detention** (Post Adjudication Detention/PAD) – If a juvenile is unable to be successful on probation at home, then the juvenile can be ordered to complete a long term program, averaging 6-9 months, in their county detention facility or any other facility deemed appropriate by the court.
- Drug court – Juvenile Drug Courts help at-risk youth and their families become successful in leading drug-free, law-abiding, productive lives. The program offers eligible youth a voluntary opportunity to receive substance abuse treatment as an alternative to being placed on formal probation for the law violation.

What should I expect if I am on probation?

Under court ordered probation, a child can be required to attend school, abide by curfews, attend counseling, participate in specified programs, and make restitution. Community service is a mandatory condition of probation, subject only to limited exceptions. A juvenile may be placed on probation for any term, but in most cases not past their 18th birthday. Other conditions may include random drug tests and driver's license suspensions.

Steps You Can Take to Help Your Case

If you have been charged with a crime or if you have a child that is involved in a juvenile case, the following are a few steps you can take to help with the juvenile's case:

- Hire a lawyer as soon as possible!
- Provide the lawyer with as much information as possible about the alleged crime committed and any mental and physical conditions the child suffers from (including any medical records or mental health records).
- Cooperate with the lawyer and provide them with anything they have requested in a timely manner.
- Follow any instructions given to you by the lawyer, court, probation officer, case worker or anyone working on the juvenile's case.
- Be informed and involved in the juvenile's case. Take notes and find out whatever information you can from the child's probation officer, case worker, or anyone else providing services to the juvenile. Stay in touch with these individuals and make sure they have your information so they may contact you with any information about the juvenile's case and progress.
- Be organized and keep everything you receive from anyone involved in the case in a safe and convenient location so you can easily access it.
- Be patient, kind, and supportive of the juvenile and the professionals helping the juvenile.
- Be respectful of the court when you make appearances and do not talk when you are not asked to talk.
- Always address the judge as "Your Honor" and address all other court staff and participants as "sir" and "ma'am."
- Dress appropriately when you make appearances before the court. Boys should dress in a nice shirt, tie and slacks, and girls should dress in conservative dresses or slacks and a shirt. Avoid jeans, shorts, hats of any kind, cut off shirts or skirts, flip flops or anything else that would not be considered

office-type attire. If you are not sure if certain clothing is appropriate, ask the lawyer involved in the case.

- Attend all of the hearings and appearances set in the juvenile's case.
- Always tell the truth! You should always be honest with any answers you give in court.
- Don't ever speak in court unless you are asked a direct question by someone and always speak with your lawyer about testifying before you speak in open court. You do not have to testify in court and you should never make the decision to testify without first speaking with your lawyer and discussing the ramifications of your testimony.

Commonly Asked Questions from Juveniles

- **Is a lawyer required?**

In a juvenile justice proceeding, the juvenile must be represented by a lawyer. If the child does not have a lawyer, the court must order the parents or guardian to employ a lawyer to represent the juvenile if the court determines that the child is not already represented by a lawyer, the court determines that the parent or guardian is financially able to employ a lawyer for the child, and the child's right to a lawyer has not been or cannot be waived. Texas Family Code § 51.10.

- **What if I don't have money to hire a lawyer?**

If the court determines that the child's parents or guardian are financially unable to pay for a lawyer for the child, the court will appoint a lawyer to represent the child. Texas Family Code § 51.10.

- **Do I have to go to trial?**

If the alleged crimes against the juvenile are not dismissed by the prosecutor or the juvenile does not enter into a plea bargain agreement, the juvenile will have to attend a final trial. The final trial will be decided by the judge or jury and the juvenile, his or her lawyer, and the juvenile's parents, guardian, or custodian will be required to attend.

- **Will this be on my record?**

Records of the juvenile's arrest and the disposition of the case will be available to the juvenile and criminal courts for review. However, a juvenile may have his or her records

sealed if certain requirements are met. There are generally two ways a juvenile's records can be sealed. The first option is after the juvenile has served either misdemeanor or deferred adjudication probation successfully and stayed out of trouble, the juvenile becomes eligible to seal his records. The second option is after serving felony probation successfully and staying out of trouble and attained the age of nineteen. Both options require the juvenile filing a motion with the juvenile court in the county in which they served their probation. Generally speaking, this filing requires the juvenile to hire a lawyer to file the motion with the court.

If a juvenile is successful in having their records sealed, they will then have the right to deny that they have ever been found delinquent by a court. Further, law enforcement agencies are required to report that the juvenile does not have a record if the records have been sealed.

Commonly asked Questions from Families of Juveniles

- **Does the child's parent or guardian have to attend the appearances before the court?**

Yes. Each parent, custodian, and guardian of the child must attend each hearing of the child unless the court waives attendance. Texas Family Code § 51.115. If a parent, custodian or guardian of a child fails to attend a hearing, they could be punished by the court for contempt by a fine in an amount of up to \$1,000 or the court could order the attendance of counseling or educational courses. Texas Family Code § 51.115.

- **What am I obligated to pay for and why?**

Parents are legally responsible for their children until a child reaches the age of 18. This means a parent is required to pay for an attorney (if a parent can afford an attorney) for the child. Also, a parent may be required to pay for fees for services for the child, probation fees (including any restitution fees), and court costs, as applicable. Even if the parents are separated, the Court will want to investigate the ability for either parent to pay and may hold both parents responsible for expenses, costs, and fees incurred for or on behalf of the child.

- **Why should I provide a lawyer for my child?**

If your child is in a situation where she is charged with any offense punishable via the juvenile system, your child needs a lawyer for guidance and information. A lawyer

will help your child get the best deal possible and explain the options and choices stemming from the charges against your child. Even if you think you know what the situation is for your child, a lawyer may know more about the underlying law and quite possibly can help prevent future problems stemming from this particular situation.

A lawyer does not do the same job as the probation officer, case worker, social worker, doctor, police officer or prosecutor. A lawyer for your child is responsible for helping your child make decisions about her case and explaining all of the options. A lawyer should try to get your child the best outcome possible, and must strongly represent your child's interests and defend your child as best as possible.

As a parent, you can contact the Texas Task Force on Indigent Defense by email at FairDefense@courts.state.tx.us or at (512) 936-6994 to find out what the qualifications for handling juvenile cases are in your county. You should know that a state law called "Texas Fair Defense Act" mandates that every Texas County establish specific requirements an attorney has to meet to be able to practice juvenile law.

If you are paying for the lawyer, you will be allowed to choose to hire the lawyer who represents your child. If the Court is appointing a lawyer for your child, you cannot choose. However, even an appointed lawyer should be qualified and shall be reasonably paid. Remember, a lawyer will represent the child, even if the parents are footing the lawyer's bill. The child is ultimately responsible for her decisions. Even if the child and the parents disagree, the lawyer will follow the decision of the child. Nonetheless, without a lawyer, the decisions your child make will be less informed and without proper guidance.

No lawyer can guarantee any outcome for a child's case. A lawyer should explain all of the possible outcomes of your child's case and give educated guesses about ultimate results based on experience and the understanding of the law. This advice is extremely valuable for your child, even without a guarantee.

- **What can I do if I am having trouble with my child?**

**** Available Programs through the Texas Department of Family and Protective Services**

Community Youth Development (CYD)

The CYD program contracts with community-based organizations to develop juvenile-delinquency prevention programs in ZIP codes with high juvenile crime rates for youth ages 6 to 17 (with a focus on youth

ages 10 through 17). Approaches used by communities to prevent delinquency have included mentoring, youth-employment programs, career preparation, and alternative recreational activities. Communities prioritize and fund specific prevention services according to local needs. CYD services are available in 15 targeted Texas ZIP codes.

Services to At-Risk Youth (STAR)

The STAR program contracts with community agencies to offer family crisis intervention counseling, short-term emergency respite care, and individual and family counseling. Youth up to age 17 and their families are eligible if they are dealing with conflict at home, truancy or delinquency, or have a youth who runs away from home. STAR services are available in all Texas counties. Each STAR contractor also provides universal child abuse prevention services, ranging from local media campaigns to informational brochures and parenting classes.

**** Call Police**

Only in extreme circumstances should you call the police. The Juvenile System may require your child to spend more time behind bars than he would if charged as an adult. Many juvenile records do not get erased. If you are having trouble with your child, you should consult with a lawyer to obtain advice on options for handling your child without getting your child into trouble. Use the police and the juvenile system as a last resort for controlling your child.

- **Will I lose custody of my child?**

If the Judge finds that you, as a parent, are unable to care for your child appropriately, you may lose custody of your child.

The Court can make a finding that the child's probation should take place outside of the home if it is found to be in the child's best interest. And, if the Court finds that reasonable efforts already have been made to prevent the removal of the child from the child's home without success, the child may need to be placed outside the home during probation. Finally, if the child, in the child's home, cannot be provided the quality of care and level of support and supervision that the child needs to meet the conditions of probation, the child will be placed outside of the home, each instance resulting in the parent losing custody of the child during that period.

- **What should I expect when visiting my child in Detention or Lock up?**

You should expect this visit to be difficult. Your child may be in shackles and handcuffs, dressed in detention clothing, and may just be upset with you because of her situation. No matter what happens, make your best effort to be caring and supportive at this time. It will be a challenging time for both you and your child.

It is important that you obtain a copy of the rules and regulations for the facility in which your child is held. You should review the disciplinary rules and they should be applied equally to all detainees in the facility. Note that solitary confinement should be prohibited but a child can be confined to her room or cell sparingly and in certain situations. Physical restraints and chemicals should be used only as a last resort and should be carefully controlled by the facility.

If your child is in an unlocked (non-secure) facility, reiterate the importance to your child of remaining in the facility. Your child could be charged with a new offense if she ran away. A non-secure facility should allow your child to wear her own clothing and use her own bathroom supplies. Find out the rules for your child's facility and you follow them. Encourage your child to do the same.

If your child is in a more secure facility, such as a detention or correctional facility (TJJD), your child should receive education, medical treatment, mental healthcare, and rehabilitation. Keep track of your child in this facility and that her needs are being met. No matter the difficulty, visit your child. Talk to the caseworker for your child and the other staff working with your child. Keep track of whom you speak with, when you talk to them, and what you have learned. When you are unable to visit, stay in touch with your child. Write to your child and make sure your phone number is on the approved list for your child. Remind your child about having private conversations with anyone, as these facilities will monitor communications. You should remember not to talk to your child about her charges over the phone. In fact, it may be best not to discuss the charges against your child at all. The more support your child receives from you, her parent, the more likely she will be refrain from going back to detention, TJJD, or adult prison in the future.

- **What happens to my child's medication while incarcerated?**

It is your responsibility to immediately notify the staff that your child is on medication. Depending on the rules of the facility, which you will need to determine, you may or

may not be able to bring the medication to the facility. Nonetheless, your child has a right to medical treatment while detained, and keep in mind this does not mean that your child will get the best or all of the care he needs. But, the facility shall provide your child with reasonable access to medical treatment and medicine. The facility cannot use any excuses not to provide medical treatment to juveniles who are detained.

- **Who should I talk to about my child's case?**

The biggest consideration is to proceed with caution. Talking with your child about his case can be very uncomfortable, but also it can be legally compromising. Texas does not recognize any confidential privilege between parents and children. As a parent of a child charged with an offense, you could be called to testify either for or against your child. You may want to speak with a lawyer before discussing the case involving your child with any family member. You do not have to talk to a police officer or prosecutor about your child's case, even if they contact you. If you are called to testify, you should avoid talking to other witnesses, jurors, or potential jurors about your child's case. If you think you know something about your child's case that could help him, you should talk to your child's lawyer. Your child's lawyer will help traverse this information as to how it will best help your child. Try to open the lines of communication with your child's lawyer from the very beginning of the case, before any court appearances. Most lawyers will try to keep parents in the loop throughout representation, but there are times when the lawyer cannot communicate with the parents because the child has requested such. In that event, remember that the lawyer ultimately represents your child and the attorney/client privilege exists between the child and attorney.

- **What can the Court order ME to do?**

A parent can be ordered to do all kinds of things in a case against his or her child, including paying fees, paying court costs, attending hearings, attending counseling, pay child support if your child is in long term detention and further prohibiting any behavior by the parent that may be injurious to the child. Moreover, if the Court orders a parent to do something and the parent refuses or fails to accomplish the task ordered, the Court can hold the parent in contempt and could fine up to \$500 or order county jail time for the parent for up to 6 months. A Court order for any task is important, and failure to comply is serious. This applies to an order for either parent or child to do any task deemed necessary by the Court.

- **What can I do to speed up my child's case and/or reduce the number of settings we have to attend?**

Even though the disposition of the case will be decided by judge or jury, you can take steps to assist your child in ending the case against him in the best possible way. Getting a lawyer for your child should be your first goal upon learning that your child has been arrested. If you can prove that you are unable to work or to hire a lawyer for your child, the Court will probably appoint a lawyer for your child's case. Listen carefully to the guidance and advice of the lawyer. If you can gather and bring any medical and mental health records to your child's hearing or to your child's lawyer's office prior to the hearing, it will prove to be very helpful.

- **What else should I know about my child's case?**

The juvenile justice system is complicated and can be overwhelming. Showing support for your child is of utmost importance at this time. Make sure you and anyone willing to appear in support of your child comes to court. Dress nicely, be respectful and attentive to the proceedings, and show not only the court but also your child that you care. Ultimately, your continued support will help your child's case and it also will help your child to know that you are there for her. Make sure you get all contact information for the probation officer, case worker, and anyone else involved in your child's case, and have your contact information readily available so that you may be reached. Ultimately, you are the responsible adult in this situation, and you should be well informed and involved in your child's case to help ensure the best possible outcome. Pay attention to dates and times for court appearances. Take notes, find out all information that you can learn, and be organized. Stay in touch with your child's lawyer until disposition, follow through with your child's probation officer after disposition, and provide whatever information they need or request. The more cooperative and organized you are, and the easier you can gather information as requested, the smoother the process will go for your child. And, most importantly, be patient with and supportive of your child every step of the process.

Useful Resources

- **Legal**
 - o The Texas Young Lawyers Association – www.tyla.org
 - o National Juvenile Defender Center – www.abanet.org/crimjust/juvjus
(202) 662-1501
 - o Office of Juvenile Justice and Delinquency Prevention – www.ojjdp.gov
 - o Texas Association of Drug Court Professionals – www.tadcp.org
 - o Juvenile law Section of the Texas Bar Association –
www.juvenilelaw.org (512)463-1463
 - o Texas Juvenile Probation Commission – www.tjpc.state.tx.us
(512)424-6700
 - o Texas Department of Mental Health and Mental Retardation –
www.mhmr.state.tx.us (512) 454-3761
 - o Advocacy, Inc. – www.advocacyinc.org
 - o Texas Family Code Sections 51-61 – www.statutes.legis.state.tx.us
 - o State Bar of Texas Lawyer Referral & Information Services –
www.texasbar.com/iris, 00-252-9690
 - o Texas Advocacy Project, Inc. – www.texasadvocacyproject.org,
512-476-5377
 - o Family Violence Legal Hotline – 800-374-4673

- **Counseling/Assistance Services**
 - o BSAFE – Battling Substance Abuse for Everyone –
www.tyla.com/BSAFE
 - o Partnership for a Drug-Free America: Teen Drug Intervention –
www.timetoact.drugfree.org, www.findtreatment.samhsa.gov,
800-662-4357
 - o Crime Victims Compensation – free counseling – 1-800-983-9933
 - o Governor’s Citizen Assistance Office – 1-800-252-9600
 - o Mothers Against Drunk Driving – www.madd.org, 1-800-382-0372
 - o Runaway Hotline – www.texasrunaway.org, www.texasyouth.org,
888-580-4357, 800-989-6884
 - o Al-Anon – www.al-anon.org
 - o Alcoholics Anonymous – www.aa.org
 - o Betty Ford Center for Children’s Program – www.bettyfordcenter.org
 - o Cedar Crest Hospital – www.cedarcresthospital.com
 - o Camp Conquer – www.campconquer.com

- o Christian Works for Children – www.christian-works.org
- o Contact Counseling and Crisis Line – www.contactcrisisline.org,
www.teencontact.org
- o Texas Youth Commission – www.tyc.state.tx.us
- o Drug Test Your Teen – www.drugtestyourteen.com
- o Cancer Support Texas – www.cancersupporttexas.org
- o Hazeldon Center for Youth and Family – 800-257-7810
- o Homeward Bound – www.homewardboundinc.org
- o House of Isaih – 903-887-1791
- o Imagine Program – 972-985-1599
- o Journey Home recovery Center, Inc. – 225-667-3933
- o La Hacienda Outreach Center – 800-749-6160
- o Medicaid Hotline – 800-252-8263
- o Medicare Hotline – 800-663-4227
- o Meridell Achievement Center – 800-366-8656
- o Millwood Hospital – www.millwoodhospital.com
- o Phoenix House – www.phoenixhouse.org
- o San Marcos Treatment Center – www.sanmarcostc.com,
800-251-0059
- o Star Light Recovery Center – 800-292-0148
- o Summer Sky Treatment Center – www.summersky.us, 888-857-8857
- o Sundown Ranch – www.sundownranchinc.com
- o Big Brothers/Big Sisters – www.bbbstx.org
- o Serenity High School – www.serenity.mckinney.net
- o Seaborne Challenge Corps – 866-732-2676

- **Transportation Services**

- o Medicaid Transportation – 855-687-3255

- **Childcare**

- o Childcare Aware – www.childcareaware.org, 1-800-424-2246

- **Troubled Children's Homes**

- o Pleasant Hills Children's Home –
www.pleasanthillchildrenshome.org, 903-389-2641
- o Happy Hills Farm – www.happyhillfarm.org, 254-897-4822

Prepared as a Public Service by the
Texas Young Lawyers Association
and Distributed by the State Bar of Texas

For Additional Copies Please Contact:

Public Information Department

State Bar of Texas

P.O. Box 12487

Austin, Texas 78711-2487

(800) 204-2222, Ext. 1800

tyla.org



BE AN UNCOMMON LEADER.®