

VERNON'S TEXAS STATUTES AND CODES ANNOTATED
FAMILY CODE
TITLE 3. JUVENILE JUSTICE CODE
CHAPTER 51. GENERAL PROVISIONS
Current through the end of the 2004 Fourth Called Session

§ 51.01. Purpose and Interpretation

This title shall be construed to effectuate the following public purposes:

- (1) to provide for the protection of the public and public safety;
- (2) consistent with the protection of the public and public safety:
 - (A) to promote the concept of punishment for criminal acts;
 - (B) to remove, where appropriate, the taint of criminality from children committing certain unlawful acts; and
 - (C) to provide treatment, training, and rehabilitation that emphasizes the accountability and responsibility of both the parent and the child for the child's conduct;
- (3) to provide for the care, the protection, and the wholesome moral, mental, and physical development of children coming within its provisions;
- (4) to protect the welfare of the community and to control the commission of unlawful acts by children;
- (5) to achieve the foregoing purposes in a family environment whenever possible, separating the child from the child's parents only when necessary for the child's welfare or in the interest of public safety and when a child is removed from the child's family, to give the child the care that should be provided by parents; and
- (6) to provide a simple judicial procedure through which the provisions of this title are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced.

§ 51.02. Definitions

In this title:

- (1) "Aggravated controlled substance felony" means an offense under Subchapter D, Chapter 481, Health and Safety Code, [\[FNI\]](#) that is punishable by:
 - (A) a minimum term of confinement that is longer than the minimum term of confinement for a felony of the first degree; or
 - (B) a maximum fine that is greater than the maximum fine for a felony of the first degree.
- (2) "Child" means a person who is:
 - (A) ten years of age or older and under 17 years of age; or
 - (B) seventeen years of age or older and under 18 years of age 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.

- (3) "Custodian" means the adult with whom the child resides.
- (4) "Guardian" means the person who, under court order, is the guardian of the person of the child or the public or private agency with whom the child has been placed by a court.
- (5) "Judge" or "juvenile court judge" means the judge of a juvenile court.
- (6) "Juvenile court" means a court designated under [Section 51.04](#) of this code to exercise jurisdiction over proceedings under this title.
- (7) "Law-enforcement officer" means a peace officer as defined by [Article 2.12, Code of Criminal Procedure](#).
- (8) "Nonoffender" means a child who:
- (A) is subject to jurisdiction of a court under abuse, dependency, or neglect statutes under Title 5 [\[FN2\]](#) for reasons other than legally prohibited conduct of the child; or
 - (B) has been taken into custody and is being held solely for deportation out of the United States.
- (9) "Parent" means the mother or the father of a child, but does not include a parent whose parental rights have been terminated.
- (10) "Party" means the state, a child who is the subject of proceedings under this subtitle, or the child's parent, spouse, guardian, or guardian ad litem.
- (11) "Prosecuting attorney" means the county attorney, district attorney, or other attorney who regularly serves in a prosecutory capacity in a juvenile court.
- (12) "Referral to juvenile court" means the referral of a child or a child's case to the office or official, including an intake officer or probation officer, designated by the juvenile board to process children within the juvenile justice system.
- (13) "Secure correctional facility" means any public or private residential facility, including an alcohol or other drug treatment facility, that:
- (A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in the facility; and
 - (B) is used for the placement of any juvenile who has been adjudicated as having committed an offense, any nonoffender, or any other individual convicted of a criminal offense.
- (14) "Secure detention facility" means any public or private residential facility that:
- (A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in the facility; and
 - (B) is used for the temporary placement of any juvenile who is accused of having committed an offense, any nonoffender, or any other individual accused of having committed a criminal offense.
- (15) "Status offender" means a child who is accused, adjudicated, or convicted for conduct that would not, under state law, be a crime if committed by an adult, including:
- (A) truancy under [Section 51.03\(b\)\(2\)](#);
 - (B) running away from home under [Section 51.03\(b\)\(3\)](#);

(C) a fineable only offense under [Section 51.03\(b\)\(1\)](#) transferred to the juvenile court under [Section 51.08\(b\)](#), but only if the conduct constituting the offense would not have been criminal if engaged in by an adult;

(D) failure to attend school under [Section 25.094, Education Code](#);

(E) a violation of standards of student conduct as described by [Section 51.03\(b\)\(5\)](#);

(F) a violation of a juvenile curfew ordinance or order;

(G) a violation of a provision of the Alcoholic Beverage Code applicable to minors only; or

(H) a violation of any other fineable only offense under [Section 8.07\(a\)\(4\)](#) or [\(5\), Penal Code](#), but only if the conduct constituting the offense would not have been criminal if engaged in by an adult.

(16) "Traffic offense" means:

(A) a violation of a penal statute cognizable under Chapter 729, Transportation Code, except for:

(i) conduct constituting an offense under [Section 521.457, Transportation Code](#);

(ii) conduct constituting an offense under [Section 550.021, Transportation Code](#);

(iii) conduct constituting an offense punishable as a Class B misdemeanor under [Section 550.022, Transportation Code](#);

(iv) conduct constituting an offense punishable as a Class B misdemeanor under [Section 550.024, Transportation Code](#); or

(v) conduct constituting an offense punishable as a Class B misdemeanor under [Section 550.025, Transportation Code](#); or

(B) a violation of a motor vehicle traffic ordinance of an incorporated city or town in this state.

(17) "Valid court order" means a court order entered under [Section 54.04](#) concerning a child adjudicated to have engaged in conduct indicating a need for supervision as a status offender.

[\[FN1\] V.T.C.A., Health & Safety Code § 481.101](#) et seq.

[\[FN2\] V.T.C.A., Family Code § 101.001](#) et seq.

§ 51.03. Delinquent Conduct; Conduct Indicating a Need for Supervision

(a) Delinquent conduct is:

(1) conduct, other than a traffic offense, that violates a penal law of this state or of the United States punishable by imprisonment or by confinement in jail;

(2) conduct that violates a lawful order of a court under circumstances that would constitute contempt of that court in:

(A) a justice or municipal court; or

(B) a county court for conduct punishable only by a fine;

(3) conduct that violates [Section 49.04](#), [49.05](#), [49.06](#), [49.07](#), or [49.08, Penal Code](#); or

(4) conduct that violates [Section 106.041, Alcoholic Beverage Code](#), relating to driving under the influence of alcohol by a minor (third or subsequent offense).

(b) Conduct indicating a need for supervision is:

(1) subject to Subsection (f), conduct, other than a traffic offense, that violates:

(A) the penal laws of this state of the grade of misdemeanor that are punishable by fine only; or

(B) the penal ordinances of any political subdivision of this state;

(2) the absence of a child on 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period from school;

(3) the voluntary absence of a child from the child's home without the consent of the child's parent or guardian for a substantial length of time or without intent to return;

(4) conduct prohibited by city ordinance or by state law involving the inhalation of the fumes or vapors of paint and other protective coatings or glue and other adhesives and the volatile chemicals itemized in [Section 484.002, Health and Safety Code](#);

(5) an act that violates a school district's previously communicated written standards of student conduct for which the child has been expelled under [Section 37.007\(c\), Education Code](#); or

(6) conduct that violates a reasonable and lawful order of a court entered under [Section 264.305](#).

(c) Nothing in this title prevents criminal proceedings against a child for perjury.

(d) It is an affirmative defense to an allegation of conduct under Subsection (b)(2) that one or more of the absences required to be proven under that subsection have been excused by a school official or should be excused by the court or that one of the absences was involuntary. The burden is on the respondent to show by a preponderance of the evidence that the absence has been or should be excused or that the absence was involuntary. A decision by the court to excuse an absence for purposes of this subsection does not affect the ability of the school district to determine whether to excuse the absence for another purpose.

(e) For the purposes of Subsection (b)(3), "child" does not include a person who is married, divorced, or widowed.

(f) Except as provided by Subsection (g), conduct described under Subsection (b)(1), other than conduct that violates [Section 49.02, Penal Code](#), prohibiting public intoxication, does not constitute conduct indicating a need for supervision unless the child has been referred to the juvenile court under [Section 51.08\(b\)](#).

(g) In a county with a population of less than 100,000, conduct described by Subsection (b)(1)(A) that violates [Section 25.094, Education Code](#), is conduct indicating a need for supervision.

§ 51.031. Habitual Felony Conduct

(a) Habitual felony conduct is conduct violating a penal law of the grade of felony, other than a state jail felony, if:

(1) the child who engaged in the conduct has at least two previous final adjudications as having engaged in delinquent conduct violating a penal law of the grade of felony;

(2) the second previous final adjudication is for conduct that occurred after the date the first previous adjudication became final; and

(3) all appeals relating to the previous adjudications considered under Subdivisions (1) and (2) have been exhausted.

(b) For purposes of this section, an adjudication is final if the child is placed on probation or committed to the Texas Youth Commission.

(c) An adjudication based on conduct that occurred before January 1, 1996, may not be considered in a disposition made under this section.

§ 51.04. Jurisdiction

(a) This title covers the proceedings in all cases involving the delinquent conduct or conduct indicating a need for supervision engaged in by a person who was a child within the meaning of this title at the time the person engaged in the conduct, and, except as provided by Subsection (h), the juvenile court has exclusive original jurisdiction over proceedings under this title.

(b) In each county, the county's juvenile board shall designate one or more district, criminal district, domestic relations, juvenile, or county courts or county courts at law as the juvenile court, subject to Subsections (c) and (d) of this section.

(c) If the county court is designated as a juvenile court, at least one other court shall be designated as the juvenile court. A county court does not have jurisdiction of a proceeding involving a petition approved by a grand jury under [Section 53.045](#) of this code.

(d) If the judge of a court designated in Subsection (b) or (c) of this section is not an attorney licensed in this state, there shall also be designated an alternate court, the judge of which is an attorney licensed in this state.

(e) A designation made under Subsection (b) or (c) of this section may be changed from time to time by the authorized boards or judges for the convenience of the people and the welfare of children. However, there must be at all times a juvenile court designated for each county. It is the intent of the legislature that in selecting a court to be the juvenile court of each county, the selection shall be made as far as practicable so that the court designated as the juvenile court will be one which is presided over by a judge who has a sympathetic understanding of the problems of child welfare and that changes in the designation of juvenile courts be made only when the best interest of the public requires it.

(f) If the judge of the juvenile court or any alternate judge named under Subsection (b) or (c) is not in the county or is otherwise unavailable, any magistrate may make a determination under [Section 53.02\(f\)](#) or may conduct the detention hearing provided for in [Section 54.01](#).

(g) The juvenile board may appoint a referee to make determinations under [Section 53.02\(f\)](#) or to conduct hearings under this title. The referee shall be an attorney licensed to practice law in this state and shall comply with [Section 54.10](#). Payment of any referee services shall be provided from county funds.

(h) In a county with a population of less than 100,000, the juvenile court has concurrent jurisdiction with the justice and municipal courts over conduct engaged in by a child that violates [Section 25.094, Education Code](#).

§ 51.041. Jurisdiction After Appeal

(a) The court retains jurisdiction over a person, without regard to the age of the person, for conduct engaged in by the person before becoming 17 years of age if, as a result of an appeal by the person or the state under Chapter 56 or by the person under [Article 44.47, Code of Criminal Procedure](#), of an order of the court, the order is reversed or modified and the case remanded to the court by the appellate court.

(b) If the respondent is at least 18 years of age when the order of remand from the appellate court is received by the juvenile court, the juvenile court shall proceed as provided by [Sections 54.02\(o\)-\(r\)](#) for the detention of a person at least 18 years of age in discretionary transfer proceedings. Pending retrial of the adjudication or transfer proceeding,

the juvenile court may:

- (1) order the respondent released from custody;
- (2) order the respondent detained in a juvenile detention facility; or
- (3) set bond and order the respondent detained in a county adult facility if bond is not made.

§ 51.09. Waiver of Rights

Unless a contrary intent clearly appears elsewhere in this title, any right granted to a child by this title or by the constitution or laws of this state or the United States may be waived in proceedings under this title if:

- (1) the waiver is made by the child and the attorney for the child;
- (2) the child and the attorney waiving the right are informed of and understand the right and the possible consequences of waiving it;
- (3) the waiver is voluntary; and
- (4) the waiver is made in writing or in court proceedings that are recorded.

§ 51.0411. Jurisdiction for Transfer or Release Hearing

The court retains jurisdiction over a person, without regard to the age of the person, who is referred to the court under [Section 54.11](#) for transfer to the Texas Department of Criminal Justice or release under supervision.

§ 51.0412. Jurisdiction Over Incomplete Proceedings

The court retains jurisdiction over a person, without regard to the age of the person, who is a respondent in an adjudication proceeding, a disposition proceeding, or a proceeding to modify disposition if:

- (1) the petition or motion to modify was filed while the respondent was younger than 18 years of age;
- (2) the proceeding is not complete before the respondent becomes 18 years of age; and
- (3) the court enters a finding in the proceeding that the prosecuting attorney exercised due diligence in an attempt to complete the proceeding before the respondent became 18 years of age.
 - (a) A child who objects to the jurisdiction of the court over the child because of the age of the child must raise the objection at the adjudication hearing or discretionary transfer hearing, if any.
 - (b) A child who does not object as provided by Subsection (a) waives any right to object to the jurisdiction of the court because of the age of the child at a later hearing or on appeal.

§ 51.042. Objection to Jurisdiction Because of Age of the Child

(a) A child who objects to the jurisdiction of the court over the child because of the age of the child must raise the objection at the adjudication hearing or discretionary transfer hearing, if any.

(b) A child who does not object as provided by Subsection (a) waives any right to object to the jurisdiction of the court because of the age of the child at a later hearing or on appeal.

§ 51.045. Juries in County Courts at Law

If a provision of this title requires a jury of 12 persons, that provision prevails over any other law that limits the

number of members of a jury in a particular county court at law. The state and the defense are entitled to the same number of peremptory challenges allowed in a district court.

§ 51.05. Court Sessions and Facilities

(a) The juvenile court shall be deemed in session at all times. Suitable quarters shall be provided by the commissioners court of each county for the hearing of cases and for the use of the judge, the probation officer, and other employees of the court.

(b) The juvenile court and the juvenile board shall report annually to the commissioners court on the suitability of the quarters and facilities of the juvenile court and may make recommendations for their improvement.

§ 51.06. Venue

(a) A proceeding under this title shall be commenced in

(1) the county in which the alleged delinquent conduct or conduct indicating a need for supervision occurred; or

(2) the county in which the child resides at the time the petition is filed, but only if:

(A) the child was under probation supervision in that county at the time of the commission of the delinquent conduct or conduct indicating a need for supervision;

(B) it cannot be determined in which county the delinquent conduct or conduct indicating a need for supervision occurred; or

(C) the county in which the child resides agrees to accept the case for prosecution, in writing, prior to the case being sent to the county of residence for prosecution.

(b) An application for a writ of habeas corpus brought by or on behalf of a person who has been committed to an institution under the jurisdiction of the Texas Youth Commission and which attacks the validity of the judgment of commitment shall be brought in the county in which the court that entered the judgment of commitment is located.

§ 51.07. Transfer to Another County

(a) When a child has been found to have engaged in delinquent conduct or conduct indicating a need for supervision under [Section 54.03](#) of this code, the juvenile court, with the consent of the child and appropriate adult given in accordance with [Section 51.09](#) of this code, may transfer the case and transcripts of records and documents to the juvenile court of the county where the child resides for disposition of the case under [Section 54.04](#) of this code.

(b) When a child who is on probation moves with his family from one county to another, the juvenile court may transfer the case to the juvenile court in the county of the child's new residence if the transfer is in the best interest of the child. In all other cases of transfer, consent of the receiving court is required. The transferring court shall forward transcripts of records and documents in the case to the judge of the receiving court.

§ 51.08. Transfer from Criminal Court

(a) If the defendant in a criminal proceeding is a child who is charged with an offense other than perjury, a traffic offense, a misdemeanor punishable by fine only other than public intoxication, or a violation of a penal ordinance of a political subdivision, unless he has been transferred to criminal court under [Section 54.02](#) of this code, the court exercising criminal jurisdiction shall transfer the case to the juvenile court, together with a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case, and shall order that the child be taken to the place of detention designated by the juvenile court, or shall release him to the custody of his parent, guardian, or custodian, to be brought before the juvenile court at a time designated by that court.

(b) A court in which there is pending a complaint against a child alleging a violation of a misdemeanor offense punishable by fine only other than a traffic offense or public intoxication or a violation of a penal ordinance of a political subdivision other than a traffic offense:

(1) except as provided by Subsection (d), shall waive its original jurisdiction and refer a child to juvenile court if the child has previously been convicted of:

(A) two or more misdemeanors punishable by fine only other than a traffic offense or public intoxication;

(B) two or more violations of a penal ordinance of a political subdivision other than a traffic offense; or

(C) one or more of each of the types of misdemeanors described in Paragraph (A) or (B) of this subdivision; and

(2) may waive its original jurisdiction and refer a child to juvenile court if the child:

(A) has not previously been convicted of a misdemeanor punishable by fine only other than a traffic offense or public intoxication or a violation of a penal ordinance of a political subdivision other than a traffic offense; or

(B) has previously been convicted of fewer than two misdemeanors punishable by fine only other than a traffic offense or public intoxication or two violations of a penal ordinance of a political subdivision other than a traffic offense.

(c) A court in which there is pending a complaint against a child alleging a violation of a misdemeanor offense punishable by fine only other than a traffic offense or public intoxication or a violation of a penal ordinance of a political subdivision other than a traffic offense shall notify the juvenile court of the county in which the court is located of the pending complaint and shall furnish to the juvenile court a copy of the final disposition of any matter for which the court does not waive its original jurisdiction under Subsection (b) of this section.

(d) A court that has implemented a juvenile case manager program under [Article 45.056, Code of Criminal Procedure](#), may, but is not required to, waive its original jurisdiction under Subsection (b)(1).

§ 51.116. Right to Reemployment

(a) An employer may not terminate the employment of a permanent employee because the employee is required under [Section 51.115](#) to attend a hearing.

(b) An employee whose employment is terminated in violation of this section is entitled to return to the same employment that the employee held when notified of the hearing if the employee, as soon as practical after the hearing, gives the employer actual notice that the employee intends to return.

(c) A person who is injured because of a violation of this section is entitled to reinstatement to the person's former position and to damages, but the damages may not exceed an amount equal to six months' compensation at the rate at which the person was compensated when required to attend the hearing.

(d) The injured person is also entitled to reasonable attorney's fees in an amount approved by the court.

(e) It is a defense to an action brought under this section that the employer's circumstances changed while the employee attended the hearing so that reemployment was impossible or unreasonable. To establish a defense under this subsection, an employer must prove that the termination of employment was because of circumstances other than the employee's attendance at the hearing.

§ 51.09. Waiver of Rights

Unless a contrary intent clearly appears elsewhere in this title, any right granted to a child by this title or by the constitution or laws of this state or the United States may be waived in proceedings under this title if:

- (1) the waiver is made by the child and the attorney for the child;
- (2) the child and the attorney waiving the right are informed of and understand the right and the possible consequences of waiving it;
- (3) the waiver is voluntary; and
- (4) the waiver is made in writing or in court proceedings that are recorded.

§ 51.095. Admissibility of a Statement of a Child

(a) Notwithstanding [Section 51.09](#), the statement of a child is admissible in evidence in any future proceeding concerning the matter about which the statement was given if:

(1) the statement is made in writing under a circumstance described by Subsection (d) and:

(A) the statement shows that the child has at some time before the making of the statement received from a magistrate a warning that:

(i) the child may remain silent and not make any statement at all and that any statement that the child makes may be used in evidence against the child;

(ii) the child has the right to have an attorney present to advise the child either prior to any questioning or during the questioning;

(iii) if the child is unable to employ an attorney, the child has the right to have an attorney appointed to counsel with the child before or during any interviews with peace officers or attorneys representing the state; and

(iv) the child has the right to terminate the interview at any time;

(B) and:

(i) the statement must be signed in the presence of a magistrate by the child with no law enforcement officer or prosecuting attorney present, except that a magistrate may require a bailiff or a law enforcement officer if a bailiff is not available to be present if the magistrate determines that the presence of the bailiff or law enforcement officer is necessary for the personal safety of the magistrate or other court personnel, provided that the bailiff or law enforcement officer may not carry a weapon in the presence of the child; and

(ii) the magistrate must be fully convinced that the child understands the nature and contents of the statement and that the child is signing the same voluntarily, and if a statement is taken, the magistrate must sign a written statement verifying the foregoing requisites have been met;

(C) the child knowingly, intelligently, and voluntarily waives these rights before and during the making of the statement and signs the statement in the presence of a magistrate; and

(D) the magistrate certifies that the magistrate has examined the child independent of any law enforcement officer or prosecuting attorney, except as required to ensure the personal safety of the

magistrate or other court personnel, and has determined that the child understands the nature and contents of the statement and has knowingly, intelligently, and voluntarily waived these rights;

(2) the statement is made orally and the child makes a statement of facts or circumstances that are found to be true and tend to establish the child's guilt, such as the finding of secreted or stolen property, or the instrument with which the child states the offense was committed;

(3) the statement was res gestae of the delinquent conduct or the conduct indicating a need for supervision or of the arrest;

(4) the statement is made:

(A) in open court at the child's adjudication hearing;

(B) before a grand jury considering a petition, under [Section 53.045](#), that the child engaged in delinquent conduct; or

(C) at a preliminary hearing concerning the child held in compliance with this code, other than at a detention hearing under [Section 54.01](#); or

(5) the statement is made orally under a circumstance described by Subsection (d) and the statement is recorded by an electronic recording device, including a device that records images, and:

(A) before making the statement, the child is given the warning described by Subdivision (1)(A) by a magistrate, the warning is a part of the recording, and the child knowingly, intelligently, and voluntarily waives each right stated in the warning;

(B) the recording device is capable of making an accurate recording, the operator of the device is competent to use the device, the recording is accurate, and the recording has not been altered;

(C) each voice on the recording is identified; and

(D) not later than the 20th day before the date of the proceeding, the attorney representing the child is given a complete and accurate copy of each recording of the child made under this subdivision.

(b) This section and [Section 51.09](#) do not preclude the admission of a statement made by the child if:

(1) the statement does not stem from interrogation of the child under a circumstance described by Subsection (d); or

(2) without regard to whether the statement stems from interrogation of the child under a circumstance described by Subsection (d), the statement is voluntary and has a bearing on the credibility of the child as a witness.

(c) An electronic recording of a child's statement made under Subsection (a)(5) shall be preserved until all juvenile or criminal matters relating to any conduct referred to in the statement are final, including the exhaustion of all appeals, or barred from prosecution.

(d) Subsections (a)(1) and (a)(5) apply to the statement of a child made:

(1) while the child is in a detention facility or other place of confinement;

(2) while the child is in the custody of an officer; or

(3) during or after the interrogation of the child by an officer if the child is in the possession of the

Department of Protective and Regulatory Services and is suspected to have engaged in conduct that violates a penal law of this state.

(e) A juvenile law referee or master may perform the duties imposed on a magistrate under this section without the approval of the juvenile court if the juvenile board of the county in which the statement of the child is made has authorized a referee or master to perform the duties of a magistrate under this section.

§ 51.10. Right to Assistance of Attorney; Compensation

(a) A child may be represented by an attorney at every stage of proceedings under this title, including:

- (1) the detention hearing required by [Section 54.01](#) of this code;
- (2) the hearing to consider transfer to criminal court required by [Section 54.02](#) of this code;
- (3) the adjudication hearing required by [Section 54.03](#) of this code;
- (4) the disposition hearing required by [Section 54.04](#) of this code;
- (5) the hearing to modify disposition required by [Section 54.05](#) of this code;
- (6) hearings required by Chapter 55 of this code;
- (7) habeas corpus proceedings challenging the legality of detention resulting from action under this title; and
- (8) proceedings in a court of civil appeals or the Texas Supreme Court reviewing proceedings under this title.

(b) The child's right to representation by an attorney shall not be waived in:

- (1) a hearing to consider transfer to criminal court as required by [Section 54.02](#) of this code;
- (2) an adjudication hearing as required by [Section 54.03](#) of this code;
- (3) a disposition hearing as required by [Section 54.04](#) of this code;
- (4) a hearing prior to commitment to the Texas Youth Commission as a modified disposition in accordance with [Section 54.05\(f\)](#) of this code; or
- (5) hearings required by Chapter 55 of this code.

(c) If the child was not represented by an attorney at the detention hearing required by [Section 54.01](#) of this code and a determination was made to detain the child, the child shall immediately be entitled to representation by an attorney. The court shall order the retention of an attorney according to Subsection (d) or appoint an attorney according to Subsection (f).

(d) The court shall order a child's parent or other person responsible for support of the child to employ an attorney to represent the child, if:

- (1) the child is not represented by an attorney;
- (2) after giving the appropriate parties an opportunity to be heard, the court determines that the parent or other person responsible for support of the child is financially able to employ an attorney to represent the child; and

(3) the child's right to representation by an attorney:

(A) has not been waived under [Section 51.09](#) of this code; or

(B) may not be waived under Subsection (b) of this section.

(e) The court may enforce orders under Subsection (d) by proceedings under [Section 54.07](#) or by appointing counsel and ordering the parent or other person responsible for support of the child to pay a reasonable attorney's fee set by the court. The order may be enforced under [Section 54.07](#).

(f) The court shall appoint an attorney to represent the interest of a child entitled to representation by an attorney, if:

(1) the child is not represented by an attorney;

(2) the court determines that the child's parent or other person responsible for support of the child is financially unable to employ an attorney to represent the child; and

(3) the child's right to representation by an attorney:

(A) has not been waived under [Section 51.09](#) of this code; or

(B) may not be waived under Subsection (b) of this section.

(g) The juvenile court may appoint an attorney in any case in which it deems representation necessary to protect the interests of the child.

(h) Any attorney representing a child in proceedings under this title is entitled to 10 days to prepare for any adjudication or transfer hearing under this title.

(i) Except as provided in Subsection (d) of this section, an attorney appointed under this section to represent the interests of a child shall be paid from the general fund of the county in which the proceedings were instituted according to the schedule in [Article 26.05 of the Texas Code of Criminal Procedure, 1965](#). For this purpose, a bona fide appeal to a court of civil appeals or proceedings on the merits in the Texas Supreme Court are considered the equivalent of a bona fide appeal to the Texas Court of Criminal Appeals.

(j) The juvenile board of a county may make available to the public the list of attorneys eligible for appointment to represent children in proceedings under this title as provided in the plan adopted under [Section 51.102](#). The list of attorneys must indicate the level of case for which each attorney is eligible for appointment under [Section 51.102\(b\)\(2\)](#).

(k) Subject to Chapter 61, the juvenile court may order the parent or other person responsible for support of the child to reimburse the county for payments the county made to counsel appointed to represent the child under Subsection (f) or (g). The court may:

(1) order payment for each attorney who has represented the child at any hearing, including a detention hearing, discretionary transfer hearing, adjudication hearing, disposition hearing, or modification of disposition hearing;

(2) include amounts paid to or on behalf of the attorney by the county for preparation time and investigative and expert witness costs; and

(3) require full or partial reimbursement to the county.

(l) The court may not order payments under Subsection (k) that exceed the financial ability of the parent or other person responsible for support of the child to meet the payment schedule ordered by the court.

§ 51.101. Appointment of Attorney and Continuation of Representation

(a) If an attorney is appointed at the initial detention hearing and the child is detained, the attorney shall continue to represent the child until the case is terminated, the family retains an attorney, or a new attorney is appointed by the juvenile court. Release of the child from detention does not terminate the attorney's representation.

(b) If there is an initial detention hearing without an attorney and the child is detained, the attorney appointed under [Section 51.10\(c\)](#) shall continue to represent the child until the case is terminated, the family retains an attorney, or a new attorney is appointed by the juvenile court. Release of the child from detention does not terminate the attorney's representation.

(c) The juvenile court shall determine, on the filing of a petition, whether the child's family is indigent if:

- (1) the child is released by intake;
- (2) the child is released at the initial detention hearing; or
- (3) the case was referred to the court without the child in custody.

(d) A juvenile court that makes a finding of indigence under Subsection (c) shall appoint an attorney to represent the child on or before the fifth working day after the date the petition for adjudication or discretionary transfer hearing was served on the child. An attorney appointed under this subsection shall continue to represent the child until the case is terminated, the family retains an attorney, or a new attorney is appointed by the juvenile court.

(e) The juvenile court shall determine whether the child's family is indigent if a motion or petition is filed under [Section 54.05](#) seeking to modify disposition by committing the child to the Texas Youth Commission or placing the child in a secure correctional facility. A court that makes a finding of indigence shall appoint an attorney to represent the child on or before the fifth working day after the date the petition or motion has been filed. An attorney appointed under this subsection shall continue to represent the child until the court rules on the motion or petition, the family retains an attorney, or a new attorney is appointed.

§ 51.102. Appointment of Counsel Plan

(a) The juvenile board in each county shall adopt a plan that:

- (1) specifies the qualifications necessary for an attorney to be included on an appointment list from which attorneys are appointed to represent children in proceedings under this title; and
- (2) establishes the procedures for:
 - (A) including attorneys on the appointment list and removing attorneys from the list; and
 - (B) appointing attorneys from the appointment list to individual cases.

(b) A plan adopted under Subsection (a) must:

- (1) to the extent practicable, comply with the requirements of [Article 26.04, Code of Criminal Procedure](#), except that:
 - (A) the income and assets of the child's parent or other person responsible for the child's support must be used in determining whether the child is indigent; and
 - (B) any alternative plan for appointing counsel is established by the juvenile board in the county; and

(2) recognize the differences in qualifications and experience necessary for appointments to cases in which:

(A) the allegation is:

(i) conduct indicating a need for supervision or delinquent conduct, and commitment to the Texas Youth Commission is not an authorized disposition; or

(ii) delinquent conduct, and commitment to the Texas Youth Commission without a determinate sentence is an authorized disposition; or

(B) determinate sentence proceedings have been initiated or proceedings for discretionary transfer to criminal court have been initiated.

§ 51.11. Guardian Ad Litem

(a) If a child appears before the juvenile court without a parent or guardian, the court shall appoint a guardian ad litem to protect the interests of the child. The juvenile court need not appoint a guardian ad litem if a parent or guardian appears with the child.

(b) In any case in which it appears to the juvenile court that the child's parent or guardian is incapable or unwilling to make decisions in the best interest of the child with respect to proceedings under this title, the court may appoint a guardian ad litem to protect the interests of the child in the proceedings.

(c) An attorney for a child may also be his guardian ad litem. A law-enforcement officer, probation officer, or other employee of the juvenile court may not be appointed guardian ad litem.

§ 51.115. Attendance at Hearing: Parent or Other Guardian

(a) Each parent of a child, each managing and possessory conservator of a child, each court-appointed custodian of a child, and a guardian of the person of the child shall attend each hearing affecting the child held under:

(1) [Section 54.02](#) (waiver of jurisdiction and discretionary transfer to criminal court);

(2) [Section 54.03](#) (adjudication hearing);

(3) [Section 54.04](#) (disposition hearing);

(4) [Section 54.05](#) (hearing to modify disposition); and

(5) [Section 54.11](#) (release or transfer hearing).

(b) Subsection (a) does not apply to:

(1) a person for whom, for good cause shown, the court waives attendance;

(2) a person who is not a resident of this state; or

(3) a parent of a child for whom a managing conservator has been appointed and the parent is not a conservator of the child.

(c) A person required under this section to attend a hearing is entitled to reasonable written or oral notice that includes a statement of the place, date, and time of the hearing and that the attendance of the person is required. The notice may be included with or attached to any other notice required by this chapter to be given the person. Separate notice is not required for a disposition hearing that convenes on the adjournment of an adjudication hearing. If a person required under this section fails to attend a hearing, the juvenile court may proceed with the hearing.

(d) A person who is required by Subsection (a) to attend a hearing, who receives the notice of the hearing, and who fails to attend the hearing may be punished by the court for contempt by a fine of not less than \$100 and not more than \$1,000. In addition to or in lieu of contempt, the court may order the person to receive counseling or to attend an educational course on the duties and responsibilities of parents and skills and techniques in raising children.

§ 51.116. Right to Reemployment

(a) An employer may not terminate the employment of a permanent employee because the employee is required under [Section 51.115](#) to attend a hearing.

(b) An employee whose employment is terminated in violation of this section is entitled to return to the same employment that the employee held when notified of the hearing if the employee, as soon as practical after the hearing, gives the employer actual notice that the employee intends to return.

(c) A person who is injured because of a violation of this section is entitled to reinstatement to the person's former position and to damages, but the damages may not exceed an amount equal to six months' compensation at the rate at which the person was compensated when required to attend the hearing.

(d) The injured person is also entitled to reasonable attorney's fees in an amount approved by the court.

(e) It is a defense to an action brought under this section that the employer's circumstances changed while the employee attended the hearing so that reemployment was impossible or unreasonable. To establish a defense under this subsection, an employer must prove that the termination of employment was because of circumstances other than the employee's attendance at the hearing.

§ 51.12. Place and Conditions of Detention

(a) Except as provided by Subsection (h), a child may be detained only in a:

- (1) juvenile processing office in compliance with [Section 52.025](#);
- (2) place of nonsecure custody in compliance with [Article 45.058, Code of Criminal Procedure](#);
- (3) certified juvenile detention facility that complies with the requirements of Subsection (f);
- (4) secure detention facility as provided by Subsection (j); or
- (5) county jail or other facility as provided by Subsection (l).

(b) The proper authorities in each county shall provide a suitable place of detention for children who are parties to proceedings under this title, but the juvenile board shall control the conditions and terms of detention and detention supervision and shall permit visitation with the child at all reasonable times.

(c) In each county, each judge of the juvenile court and a majority of the members of the juvenile board shall personally inspect the juvenile pre-adjudication secure detention facilities and any public or private juvenile secure correctional facilities used for post-adjudication confinement that are located in the county and operated under authority of the juvenile board at least annually and shall certify in writing to the authorities responsible for operating and giving financial support to the facilities and to the Texas Juvenile Probation Commission that they are suitable or unsuitable for the detention of children in accordance with:

- (1) the requirements of Subsections (a), (f), and (g); and
- (2) minimum professional standards for the detention of children in pre-adjudication or post-adjudication secure confinement promulgated by the Texas Juvenile Probation Commission or, at the election of the juvenile board, the current standards promulgated by the American Correctional Association.

(d) Except as provided by Subsections (j) and (l), a child may not be placed in a facility that has not been certified under Subsection (c) as suitable for the detention of children and registered under Subsection (i). Except as provided by Subsections (j) and (l), a child detained in a facility that has not been certified under Subsection (c) as suitable for the detention of children or that has not been registered under Subsection (i) shall be entitled to immediate release from custody in that facility.

(e) If there is no certified place of detention in the county in which the petition is filed, the designated place of detention may be in another county.

(f) A child detained in a building that contains a jail, lockup, or other place of secure confinement, including an alcohol or other drug treatment facility, shall be separated by sight and sound from adults detained in the same building. Children and adults are separated by sight and sound only if they are unable to see each other and conversation between them is not possible. The separation must extend to all areas of the facility, including sally ports and passageways, and those areas used for admission, counseling, sleeping, toileting, showering, dining, recreational, educational, or vocational activities, and health care. The separation may be accomplished through architectural design.

(g) Except for a child detained in a juvenile processing office, a place of nonsecure custody, a secure detention facility as provided by Subsection (j), or a facility as provided by Subsection (l), a child detained in a building that contains a jail or lockup may not have any contact with:

(1) part-time or full-time security staff, including management, who have contact with adults detained in the same building; or

(2) direct-care staff who have contact with adults detained in the same building.

(h) This section does not apply to a person:

(1) after transfer to criminal court for prosecution under [Section 54.02](#); or

(2) who is at least 17 years of age and who has been taken into custody after having:

(A) escaped from a juvenile facility operated by or under contract with the Texas Youth Commission; or

(B) violated a condition of release under supervision of the Texas Youth Commission.

(i) Except for a facility operated or certified by the Texas Youth Commission or a facility as provided by Subsection (l), a governmental unit or private entity that operates or contracts for the operation of a juvenile pre-adjudication secure detention facility or a juvenile post-adjudication secure correctional facility in this state shall:

(1) register the facility annually with the Texas Juvenile Probation Commission; and

(2) adhere to all applicable minimum standards for the facility.

(j) After being taken into custody, a child may be detained in a secure detention facility until the child is released under [Section 53.01](#), [53.012](#), or [53.02](#) or until a detention hearing is held under [Section 54.01\(a\)](#), regardless of whether the facility has been certified under Subsection (c), if:

(1) a certified juvenile detention facility is not available in the county in which the child is taken into custody;

(2) the detention facility complies with:

(A) the short-term detention standards adopted by the Texas Juvenile Probation Commission; and

(B) the requirements of Subsection (f); and

(3) the detention facility has been designated by the county juvenile board for the county in which the facility is located.

(k) If a child who is detained under Subsection (j) or (l) is not released from detention at the conclusion of the detention hearing for a reason stated in [Section 54.01\(e\)](#), the child may be detained after the hearing only in a certified juvenile detention facility.

(l) A child who is taken into custody and required to be detained under [Section 53.02\(f\)](#) may be detained in a county jail or other facility until the child is released under [Section 53.02\(f\)](#) or until a detention hearing is held as required by [Section 54.01\(p\)](#), regardless of whether the facility complies with the requirements of this section, if:

(1) a certified juvenile detention facility or a secure detention facility described by Subsection (j) is not available in the county in which the child is taken into custody or in an adjacent county;

(2) the facility has been designated by the county juvenile board for the county in which the facility is located;

(3) the child is separated by sight and sound from adults detained in the same facility through architectural design or time-phasing;

(4) the child does not have any contact with management or direct-care staff that has contact with adults detained in the same facility on the same work shift;

(5) the county in which the child is taken into custody is not located in a metropolitan statistical area as designated by the United States Bureau of the Census; and

(6) each judge of the juvenile court and a majority of the members of the juvenile board of the county in which the child is taken into custody have personally inspected the facility at least annually and have certified in writing to the Texas Juvenile Probation Commission that the facility complies with the requirements of Subdivisions (3) and (4).

§ 51.13. Effect of Adjudication or Disposition

(a) Except as provided by Subsection (d), an order of adjudication or disposition in a proceeding under this title is not a conviction of crime. Except as provided by Chapter 841, Health and Safety Code, an order of adjudication or disposition does not impose any civil disability ordinarily resulting from a conviction or operate to disqualify the child in any civil service application or appointment.

(b) The adjudication or disposition of a child or evidence adduced in a hearing under this title may be used only in subsequent:

(1) proceedings under this title in which the child is a party;

(2) sentencing proceedings in criminal court against the child to the extent permitted by the Texas Code of Criminal Procedure, 1965; or

(3) civil commitment proceedings under Chapter 841, Health and Safety Code.

(c) A child may not be committed or transferred to a penal institution or other facility used primarily for the execution of sentences of persons convicted of crime, except:

(1) for temporary detention in a jail or lockup pending juvenile court hearing or disposition under conditions meeting the requirements of [Section 51.12](#) of this code;

(2) after transfer for prosecution in criminal court under [Section 54.02](#) of this code; or

(3) after transfer from the Texas Youth Commission under [Section 61.084, Human Resources Code](#).

(d) An adjudication under [Section 54.03](#) that a child engaged in conduct that occurred on or after January 1, 1996, and that constitutes a felony offense resulting in commitment to the Texas Youth Commission under [Section 54.04\(d\)\(2\)](#), [\(d\)\(3\)](#), or [\(m\)](#) or [54.05\(f\)](#) is a final felony conviction only for the purposes [of Sections 12.42\(a\)](#), [\(b\)](#), [\(c\)\(1\)](#), and [\(e\), Penal Code](#).

§ 51.14. Repealed by Acts 1995, 74th Leg., ch. 262, § 100(a), eff. Jan. 1, 1996

§ 51.15. Repealed by Acts 1995, 74th Leg., ch. 262, § 100(a), eff. Jan. 1, 1996

§ 51.151. Polygraph Examination

If a child is taken into custody under [Section 52.01](#) of this code, a person may not administer a polygraph examination to the child without the consent of the child's attorney or the juvenile court unless the child is transferred to criminal court for prosecution under [Section 54.02](#) of this code.

§ 51.16. Repealed by Acts 1995, 74th Leg., ch. 262, § 100(a), eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 165, § 10.05(b), eff. Sept. 1, 1997

§ 51.17. Procedure and Evidence

(a) Except for the burden of proof to be borne by the state in adjudicating a child to be delinquent or in need of supervision under [Section 54.03\(f\)](#) or otherwise when in conflict with a provision of this title, the Texas Rules of Civil Procedure govern proceedings under this title.

(b) Discovery in a proceeding under this title is governed by the Code of Criminal Procedure and by case decisions in criminal cases.

(c) Except as otherwise provided by this title, the Texas Rules of Evidence applicable to criminal cases and Chapter 38, Code of Criminal Procedure, apply in a judicial proceeding under this title.

(d) When on the motion for appointment of an interpreter by a party or on the motion of the juvenile court, in any proceeding under this title, the court determines that the child, the child's parent or guardian, or a witness does not understand and speak English, an interpreter must be sworn to interpret for the person as provided by [Article 38.30, Code of Criminal Procedure](#).

(e) In any proceeding under this title, if a party notifies the court that the child, the child's parent or guardian, or a witness is deaf, the court shall appoint a qualified interpreter to interpret the proceedings in any language, including sign language, that the deaf person can understand, as provided by [Article 38.31, Code of Criminal Procedure](#).

(f) Any requirement under this title that a document contain a person's signature, including the signature of a judge or a clerk of the court, is satisfied if the document contains the signature of the person as captured on an electronic device or as a digital signature. [Article 2.26, Code of Criminal Procedure](#), applies in a proceeding held under this title.

§ 51.18. Election Between Juvenile Court and Alternate Juvenile Court

(a) This section applies only to a child who has a right to a trial before a juvenile court the judge of which is not an attorney licensed in this state.

(b) On any matter that may lead to an order appealable under [Section 56.01](#) of this code, a child may be tried before either the juvenile court or the alternate juvenile court.

(c) The child may elect to be tried before the alternate juvenile court only if the child files a written notice with that court not later than 10 days before the date of the trial. After the notice is filed, the child may be tried only in the alternate juvenile court. If the child does not file a notice as provided by this subsection, the child may be tried only in the juvenile court.

(d) If the child is tried before the juvenile court, the child is not entitled to a trial de novo before the alternate juvenile court.

(e) The child may appeal any order of the juvenile court or alternate juvenile court only as provided by [Section 56.01](#) of this code.

§ 51.19. Limitation Periods

(a) The limitation periods and the procedures for applying the limitation periods under Chapter 12, Code of Criminal Procedure, and other statutory law apply to proceedings under this title.

(b) For purposes of computing a limitation period, a petition filed in juvenile court for a transfer or an adjudication hearing is equivalent to an indictment or information and is treated as presented when the petition is filed in the proper court.

(c) The limitation period is two years for an offense or conduct that is not given a specific limitation period under Chapter 12, Code of Criminal Procedure, or other statutory law.

§ 51.20. Physical or Mental Examination

(a) At any stage of the proceedings under this title, the juvenile court may order a child who is referred to the juvenile court or who is alleged by a petition or found to have engaged in delinquent conduct or conduct indicating a need for supervision to be examined by a disinterested expert, including a physician, psychiatrist, or psychologist, qualified by education and clinical training in mental health or mental retardation and experienced in forensic evaluation, to determine whether the child has a mental illness as defined by [Section 571.003, Health and Safety Code](#), or is a person with mental retardation as defined by Section 591.003, Health and Safety Code. If the examination is to include a determination of the child's fitness to proceed, an expert may be appointed to conduct the examination only if the expert is qualified under Subchapter B, Chapter 46B, Code of Criminal Procedure, to examine a defendant in a criminal case, and the examination and the report resulting from an examination under this subsection must comply with the requirements under Subchapter B, Chapter 46B, Code of Criminal Procedure, for the examination and resulting report of a defendant in a criminal case.

(b) If, after conducting an examination of a child ordered under Subsection (a) and reviewing any other relevant information, there is reason to believe that the child has a mental illness or mental retardation, the probation department shall refer the child to the local mental health or mental retardation authority for evaluation and services, unless the prosecuting attorney has filed a petition under [Section 53.04](#).